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

ELIZABETH HEALEY, *et al.*, Plaintiffs, v. STATE OF MISSOURI, *et al.*, Defendants.	Case No. 2516-CV31273 Division 8

PLAINTIFFS' SUGGESTIONS IN OPPOSITION TO STATE DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE FOR TRANSFER OF VENUE

Plaintiffs challenge House Bill 1 ("HB 1"), which enacts a new, mid-cycle congressional map in violation of the procedural and substantive requirements of the Missouri Constitution. Plaintiffs are voters from across Missouri, including Kansas City, who seek injunctive and declaratory relief against Missouri and the Secretary of State (collectively, the "State Defendants"), as well as the Kansas City Board of Election Commissioners, the Jackson County Board of Election Commissioners, and their respective directors and commissioners (collectively, the "Board Defendants").

The State Defendants do not raise any arguments as to the merits of Plaintiffs' claims. Rather, they raise a litany of reasons as to why this case must be decided in Cole County, rather than Jackson County. Each argument fails.

First, venue in Jackson County is appropriate in this case. State Defendants are simply wrong that the Missouri Constitution or state law requires this case to be filed in Cole County. The relevant constitutional provision governing congressional redistricting does not contain any venue requirements, and the default venue provision that would govern this case allows Plaintiffs to file in any county in which a defendant resides, including Jackson County.

Second, State Defendants argue for an unprecedented and ungrounded extension of the abatement doctrine, which has only ever been applied to curtail plaintiffs from filing a second suit when they are already parties in a first suit raising similar issues. Plaintiffs in this case are not parties to *any* other case challenging HB 1, and as such, the abatement doctrine has no application. State Defendants' attempt to argue otherwise merely highlights why prudential considerations counsel in favor of maintaining this suit in Jackson County.

Finally, Board Defendants are proper parties to this case and the State Defendants' various arguments to the contrary must be rejected. As a preliminary matter, State Defendants may not assert misjoinder defenses on behalf of other defendants. But even if they could, because Board Defendants are statutorily required to implement HB 1, an injunction against those parties will redress Plaintiffs' injuries of voting in unlawfully drawn congressional districts. Plaintiffs

have therefore sufficiently asserted a claim against Board Defendants to justify venue in Jackson County.

For these reasons, State Defendants' motion should be denied in full.

BACKGROUND

The Missouri Constitution provides that the General Assembly shall divide the state into congressional districts "[w]hen the number of representatives to which the state is entitled" after each decennial census "is certified to the governor." Mo. Const. art. III, § 45. The new districts "shall be composed of contiguous territory as compact and as nearly equal in population as may be." *Id.* The Missouri Supreme Court has long understood that congressional maps drawn by the General Assembly after census results are certified will "remain in place for the next decade or until a Census shows that the districts should change." *Pearson v. Koster*, 359 S.W.3d 35, 37–38 (Mo. banc 2012). Missouri lawmakers have similarly understood that congressional maps are drawn upon the release of census data once per decade, not at the whim of politicians every so often. *See, e.g.*, Pet. ¶¶ 40, 53.

Yet on Sunday, September 28, 2025, Missouri enacted its *second* congressional map since the 2020 Census, HB 1. *See id.* ¶ 76. In so doing, the General Assembly resurrected a map configuration that had been overwhelmingly rejected in 2022—one that divides up Kansas City into three separate portions, each combined in a different district with rural counties hundreds of miles away. *Id.* ¶ 4.

Plaintiffs initiated this lawsuit the same day, arguing that HB 1 violated the Missouri Constitution's prohibition on mid-cycle redistricting (Count I) and its compactness requirement (Count II). *See id.* ¶¶ 92–119 & Prayer for Relief.

Plaintiffs, who are registered voters across Missouri, will be impacted by the changes made by HB 1 to their respective congressional districts, with many being shuffled from one congressional district to another under the new map. *Id.* ¶¶ 10–26, 91. The most significant changes are borne by residents of Kansas City, which has historically been contained in Congressional District ("CD") 5. *Id.* ¶¶ 11–15, 78, 91. Voters in this district have been split into three different districts—linking fragments of Kansas City with the far-flung corners of Missouri, over 200 miles away. *Id.* ¶¶ 78–90.

Plaintiffs brought suit to halt the implementation of HB 1. In their complaint, Plaintiffs alleged that Board Defendants are charged with "conduct[ing] all public elections" and, importantly, "establish[ing]" "precinct boundaries" in their jurisdictions. *See id.* ¶¶ 29–34 (alterations in original) (citing §§ 115.023, 115.113, RSMo.). Because Board Defendants maintain their principal offices in Jackson County, Missouri, *see id.* ¶¶ 29–34, Plaintiffs properly filed this lawsuit in Jackson County, where Board Defendants as well as Plaintiffs Giselle Anatol, Marques Bussey, and Mary Sapp reside. *See* § 508.010.2(1), RSMo. (providing that for actions not alleging a tort, venue properly lies "in the county within which the

plaintiff resides, and the defendant may be found"); § 508.010.2(2), RSMo. ("When there are several defendants, and they reside in different counties, the suit may be brought in any such county.").

The following day, Plaintiffs filed a motion for preliminary injunction as to Count I of their petition, and also moved for consolidation of trial on Count I with the preliminary injunction hearing. Pls.' Mot. for Prelim. Inj. & Consolidation of Trial ("PI Mot."). On October 3, Plaintiffs joined in a consent motion in *Wise v. Missouri*, No. 2516-CV29597, to transfer this case to Division 15 so that it may be joined with *Wise* for the purposes of any hearings or trials. Pls.' Consent Mot. to Transfer Case, *Wise v. Missouri*, No. 2516-CV29597 (Oct. 3, 2025) ("Transfer Mot.").

Separately, a different group of plaintiffs filed suit in Cole County Circuit Court, alleging only that HB 1 violates the Missouri Constitution's prohibition on mid-cycle redistricting. *See Luther v. Hoskins*, No. 25AC-CC06964. A bench trial has been set in that case for November 12, 2024. Notice of Trial Setting, *Luther v. Hoskins*, No. 25AC-CC06964 (Oct. 3, 2025).

ARGUMENT

I. The Missouri Constitution does not require congressional redistricting challenges to be brought exclusively in Cole County.

As State Defendants concede, Article III, Section 45 of the Missouri Constitution, which governs congressional redistricting, does not require a specific

venue for challenges to congressional redistricting maps. *See* State Defendants' Suggestions in Support of Motion to Dismiss ("Mot.") at 4. That provision's silence is all the more notable because the Missouri Constitution *does* mandate venue in Cole County for redistricting challenges to state House and Senate maps. *See* Mo. Const. art. III, §§ 3(j), 7(j). Article III, Section 3, which addresses state House redistricting, includes substantive mapping requirements including partisan fairness and competitiveness standards, as well as procedural requirements such as the use of an independent bipartisan commission. *See id.* § 3(b)(1)-(5). Section 3 also provides that "[a]ny action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County." *See id.* § 3(j). Section 7, which addresses state Senate redistricting, also mandates a commission process and includes an identical venue provision. *See id.* § 7(i).

State Defendants ask this Court to stretch this venue provision to require that *all* challenges to redistricting plans, whether to state legislative maps or to congressional maps, must be brought in Cole County—regardless of the plain text of Section 45. This reading is indefensible. To read Section 3(j) as State Defendants suggest would render the language of its counterpart, Section 7(i), "meaningless surplusage," and run counter to Missouri's practice of viewing "[w]ords used in constitutional provisions . . . in context" such that "their use is presumed intended."

Buechner v. Bond, 650 S.W.2d 611, 613 (Mo. banc 1983). It would also require the Court to rewrite the otherwise unambiguous text of Section 45, which does not specify *any* particular venue for challenges to congressional maps. State Defendants cannot read a constitutional requirement from one provision into another.[1]

The provenance of the venue restrictions in Sections 3 and 7 further supports Plaintiffs' argument. *See State ex rel. Smith v. Atterbury*, 270 S.W.2d 399, 405 (Mo. banc 1954) (noting that courts may examine the historical development of a provision to understand its meaning). Sections 3(j) and 7(i) were added to the Missouri Constitution in 2020 when voters approved an amendment modifying the substantive criteria for state legislative districts, changing the process for "redrawing state legislative district boundaries," and providing a specific venue for any state legislative redistricting challenges. Missouri Secretary of State, *2020 Ballot Measures*, *Amendment 3*, https://www.sos.mo.gov/elections/petitions/2020BallotMeasures (last visited Oct. 27, 2025).[2] That ballot measure, as proposed by the General Assembly and approved

[1] The distinction between the constitutional provisions that govern state legislative redistricting and congressional redistricting is further reflected in the merits of Plaintiffs' claim. *See* Pet. ¶¶ 92–100. The former allows for state legislative redistricting "from time to time as public convenience may require," Mo. Const. art. III, § 10, while the latter makes no such allowance for congressional redistricting, instead tying new maps to the release of Census data, *id.* § 45.

[2] The Court may take judicial notice of this fact because it "can be reliably determined by resort to a readily available, accurate and credible source." *State v.*

by Missouri voters, explicitly applied only to "state legislative district[s]." It did not modify Section 45, the provision governing congressional redistricting. By State Defendants' logic, the General Assembly's adoption of HB 1 would have been subject to an array of other procedural requirements included in the constitutional amendment for state legislative redistricting, including the creation of a bipartisan commission. *See, e.g.*, Mo. Const. art. III, §§ 3(b)(5), (e). Of course, the General Assembly did no such thing. State Defendants' attempt to cherry-pick which requirements they want to read into Section 45 must be rejected.

Finally, State Defendants are simply wrong that any "default rule," constitutional or otherwise, requires this case to be filed in Cole County. *See* Mot. at 5. To be sure, the state's general venue rules in Section 508.010 provide that where a state agency is the *sole* defendant, the action must be brought in Cole County. *See State ex rel. Mo. Dep't of Nat. Res. v. Roper*, 824 S.W.2d 901, 903 (Mo. banc 1992) (concluding that "when a state agency is the sole defendant, § 508.010(1) RSMo requires that the action be brought in Cole County unless a special venue statute allows the action to be filed elsewhere"). That venue provision plainly states, however, that "[w]hen there are several defendants, and they reside in different counties," as in this case, "the suit may be brought in *any such county*." § 508.010.2(2), RSMo. (emphasis added); *see also State ex rel Bank of Am. N.A. v.*

Gay, 566 S.W.3d 622, 626 (Mo. App. S.D. 2018) (citation omitted).

Kanatzar, 413 S.W.3d 22, 29 (Mo. App. W.D. 2013) (noting that "[v]enue can be proper in more than one county"). Because "[t]here is no basis in law for a special rule protecting the state from being joined with another party in a suit outside Cole County," *Roper*, 824 S.W.2d at 904, and a plaintiff may "fil[e] suit in any venue allowed by law," *Vercimak v. Vercimak*, 762 S.W.2d 529, 531 (Mo. App. W.D. 1988), Plaintiffs' decision to file in Jackson County—where Board Defendants are located—is a choice that "[a] trial court is without discretion to disturb." *State ex rel. Selimanovic v. Dierker*, 246 S.W.3d 931, 933 (Mo. banc 2008).

II. The Abatement Doctrine Has No Bearing on this Case.

State Defendants' claim that the abatement doctrine requires transfer, dismissal, or a stay of Plaintiffs' case—because of the *Luther* case pending in Cole County—has no basis in law and must be rejected. *See* Mot. at 7. The abatement doctrine is flatly inapplicable to this case.

Tellingly, State Defendants' motion does not provide the legal standard for abatement, and its plain terms cannot be met here. The abatement doctrine requires that "where a claim involves the same subject matter *and parties* as a previously filed action so that the same facts and issues are presented, resolution should occur through the prior action and the second suit should be dismissed" or stayed. *Hampton v. Llewellyn*, 663 S.W.3d 899, 902–03 (Mo. App. W.D. 2023) (emphasis added) (quoting *Planned Parenthood of Kansas v. Donnelly*, 298 S.W.3d 8, 12 (Mo. App.

W.D. 2009)); *see also* § 509.290, RSMo. (authorizing dismissal of a suit if "there is another action pending between the same parties for the same cause in this state"); Mo. Sup. Ct. R. 55.27 (same).[3] But this case and the *Luther* case diverge on every ground relevant to abatement. The cases involve entirely different plaintiffs, as well as distinct defendants and legal issues. Because the abatement doctrine does not apply, the Court has no basis to consider State Defendants' hodgepodge of prudential concerns, which ultimately have no merit. *See* Mot. at 7–8, 10. This Court should therefore decline State Defendants' invitation to rewrite the abatement doctrine by staying, dismissing, or transferring this case.

A. *Healey* Plaintiffs are entirely distinct from the *Luther* Plaintiffs.

State Defendants admit that this case is "brought by different plaintiffs" than those in *Luther*. Mot. at 8. This Court's analysis should end there: "[T]he abatement doctrine requires that another case be pending between the same parties." *Jeschke AG Serv., LLC v. Bell*, 652 S.W.3d 305, 312 (Mo. App. W.D. 2022). Authority cited by the State Defendants reaffirms this conclusion. *See* Mot. at 7 (citing *Hampton*, 663 S.W.3d 899, which concludes that the "[t]he abatement doctrine technically does not apply unless . . . the alignment and identity of the parties [are] identical,"

[3] *See Sherman v. Mo. Pros. Mut.-Physicians Pro. Indem. Ass'n (MPM-PPIA)*, 516 S.W.3d 867, 870 (Mo. App. W.D. 2017) (explaining that where abatement doctrine applies, the court may "either stay the [subsequent suit] pending the outcome of the [prior suit] or dismiss the [subsequent suit] without prejudice").

id. at 903). Plaintiffs are not aware of—and State Defendants do not cite—*any* case in which a Missouri court abated a plaintiff's case because of an earlier-filed suit to which the plaintiff was not a party. This Court should decline State Defendants' invitation to be the first to do so.

State Defendants also claim that both the *Healey* and *Luther* Plaintiffs are "merely nominal," but they cite no basis for this assertion. *See* Mot. at 8. In fact, Plaintiffs in this case are sixteen Missouri citizens who have independently sought a remedy for the constitutional violations wrought by HB 1. *See generally* Pet.; *see also* PI Mot. They have made detailed allegations about the harms they will suffer if HB 1's map is implemented, particularly Plaintiffs Elizabeth Healey, Giselle Anatol, and Mary Sapp in Kansas City. *See* Pet. ¶¶ 78–91. There is no legal or factual basis for designating plaintiffs in this case as "nominal."

As a last-ditch effort, State Defendants suggest the *Healey* and *Luther* plaintiffs are "sufficiently similar" because "[i]n either suit the interest of the beneficiaries is identically affected." *See* Mot. at 8 (alteration in original) (quoting *State ex rel. Dunger v. Mummert*, 871 S.W.2d 609, 610 (Mo. App. E.D. 1994)). *Dunger* examined two lawsuits that included the same plaintiffs and defendants and asked only whether the inclusion of additional defendants "create[d] sufficient dissimilarity in parties to prevent abatement." *Dunger*, 871 S.W.2d at 610. The case

is not applicable here, where the two lawsuits in question do not feature any of the same plaintiffs.[4]

B. The Jackson County and Kansas City Board of Election are not "extraneous" defendants.

Because Plaintiffs are not parties to the *Luther* action, the abatement doctrine is inapplicable and this Court need not consider any arguments related to Defendants in this case. Regardless, State Defendants' drive-by claim that abatement applies because the Jackson County and Kansas City Boards of Election Commissioners' "function is to establish a hook . . . for venue in Jackson County," *see* Mot. at 9, ignores Plaintiffs' extensive allegations regarding the harms they will suffer due to HB 1's changes to congressional districts in Kansas City and Jackson County, and the ways in which an injunction against Board Defendants will remedy those injuries. *See* Pet. ¶¶ 29-34, 78-91; *see infra* Section III.B. Board Defendants are therefore proper parties to this action. *See generally infra* Section III.

[4] In asserting that the *Healey* and *Luther* plaintiffs are "sufficiently similar," *see* Mot. at 8, Defendants may also be referencing cases in which Missouri courts have applied the abatement doctrine where the plaintiffs and defendants are reversed between the first-filed and second-filed cases. *See, e.g.*, *State ex inf. Riederer ex rel. Pershing Square Redevelopment Corp. v. Collins*, 799 S.W.2d 644, 652 (Mo. Ct. App. W.D. 1990) (explaining that "abatement does not usually apply when party alignment in the original suit is reversed in the subsequent action" but may nevertheless be "appropriate even though the parties are reversed if the second cause of action is 'essentially identical' to the first action filed"). This scenario is not relevant here.

C. *Healey* Plaintiffs' claims are not identical to those of the *Luther* plaintiffs.

Even if the abatement doctrine could be applied to preclude or pause a case involving different parties, abatement is also inappropriate here because the two sets of plaintiffs have raised different claims. *See Hampton*, 663 S.W.3d at 902–03 (declining to abate second case, even though plaintiff and a defendant were the same, because first and second cases involved different claims).

Here, Plaintiffs allege that HB 1 is unconstitutional because the Missouri Constitution prohibits mid-cycle redistricting (Count I) and because HB 1's map violates the Missouri Constitution's compactness requirement (Count II). Pet. ¶¶ 92–119. The *Luther* Plaintiffs raise only the first claim, not the second claim. Additionally, the *Luther* case may be subject to different defenses than this case, which was filed at a different time by different parties asserting different claims. *See* State Def.'s Answers at 7–8, *Luther v. Hoskins*, No. 25AC-CC0696964 (Oct. 14, 2025).

Neither of State Defendants' arguments that supposedly "militate in favor of dismissing or transferring the instant case" holds water. *See* Mot. at 9. First, the Cole County Circuit Court's setting of a November 12 trial date for *Luther* counsels in favor of the Jackson County Circuit Court swiftly holding a preliminary injunction hearing and consolidated trial on the *Healey* Plaintiffs' Count I, so that the appellate courts can benefit from the percolation of the issues in the lower courts. *See infra*

Section II.D. Second, State Defendants' argument that this case should be dismissed or transferred because the *Luther* plaintiffs *might* succeed on their mid-cycle redistricting claim and thereby render relief in this case unnecessary is speculative, ungrounded, and irrelevant. *See* Mot. at 9. Plaintiffs' suit cannot be dismissed based on the mere possibility that parties in an entirely separate suit might prevail. Unless State Defendants are willing to concede (in one or both cases) that mid-cycle redistricting is prohibited by the Missouri Constitution, neither the Plaintiffs nor the Court in this case has any control over what arguments are advanced and what decisions are rendered in that separate action.

D. State Defendants' prudential arguments are misplaced and unfounded.

Because the abatement doctrine is inapplicable to this case, this Court need not—and indeed, cannot—consider whether prudential considerations counsel in favor of abatement. *See Jeschke*, 652 S.W.3d at 312 (holding trial court erred in dismissing case pursuant to abatement doctrine where doctrine did not apply); *see also State ex rel. Palmer by Palmer v. Goeke*, 8 S.W.3d 193, 196 (Mo. App. E.D. 1999) ("A trial judge is . . . without discretion to disturb a plaintiff's proper choice of venue within the State." (internal quotation marks omitted) (citation omitted)). And, even if the Court could consider policy reasons as grounds for dismissal or transfer, none of State Defendants' arguments has merit.

To start, State Defendants ignore Plaintiffs' right to seek redress for their own constitutional claims. To hold that a plaintiff's challenge to unconstitutional state action should be abated merely because an independent party elsewhere in the state has also been injured and has brought suit would be to render the abatement doctrine unrecognizable. It would also undercut the Missouri Constitution's guarantee "[t]hat the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property, or character, and that right and justice shall be administered without sale, denial[,] or delay." Mo. Const. art. I, § 14. Plaintiffs' opportunity to bring suit cannot be denied unless they "ha[ve] litigated or had an opportunity to litigate the same matter in a former action in a court of competent jurisdiction." *Am. Polled Hereford Ass'n v. City of Kansas City*, 626 S.W.2d 237, 242 (Mo. 1982) (quoting *Postal Tel. Cable Co. v. Newport*, 247 U.S. 464, 476 (1918)).

State Defendants' argument that Plaintiffs will not suffer "irreparable harm from resolution" of their claims in Cole County falls flat. *See* Mot. at 7.[5] Plaintiffs have brought claims that relate specifically to HB 1's impacts on Kansas City and Jackson County, *see* Pet. ¶¶ 11-26, 91, and seek relief against the election boards in those locations, *see id.* at 30-31 (Prayer for Relief). Moreover, "a plaintiff's freedom

[5] Plaintiffs are not required to show "irreparable harm" to withstand a motion to dismiss, further underscoring that State Defendants' argument is unmoored from any legal standard.

to select a forum is significant," *Loew v. Heartland Trophy Props., Inc.*, 665 S.W.3d 339, 345 (Mo. App. W.D. 2023) (citation omitted), and should not be disturbed if venue is otherwise proper. *See Dierker*, 246 S.W.3d at 933.

State Defendants' assertions regarding judicial efficiency, the time-sensitive nature of the relief sought, and the lack of factual determination required to resolve Count I all counsel in favor of the Jackson County Circuit Court retaining this case. State Defendants ultimately contend that adjudication in Cole County is more convenient than Jackson County on these grounds, but "the intrastate transfer of venue on the basis that one forum is more convenient than another has no application in this state." *State ex rel. Neville v. Grate*, 443 S.W.3d 688, 692 (Mo. App. W.D. 2014); *see also Willman v. McMillen*, 779 S.W.2d 583, 586 (Mo. banc 1989) ("Within the geographical confines of Missouri, transfer from one proper venue to another proper venue for inconvenient forum is not required."). Additionally, the *Healey* Plaintiffs have already filed a consent motion to transfer this case to Division 15 of the Jackson County Circuit Court so that their motion for a preliminary injunction and trial on Count I can be heard alongside a similar pending motion in *Wise v. Missouri*, No. 2516-CV29597. *See* Transfer Mot.; *see also* Notice of Filing Regarding Mot. to Transfer Case No. 2516-CV31273 for Purposes of Hr'gs & Trial. Judicial efficiency is best served by joint proceedings for the *Healey* and *Wise* actions, which, unlike the *Luther* action, involve a preliminary injunction motion

and additional claims. The Cole County Circuit Court's separate consideration of the *Luther* action will, if anything, contribute to the "percolation" of "diverse opinions" from lower courts that "may yield a better informed and more enduring final pronouncement" by the Missouri Supreme Court. *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1244 (9th Cir. 2018) (quoting *Arizona v. Evans*, 514 U.S. 1, 23 n.1 (1995) (Ginsburg, J., dissenting)); *see also Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (explaining that it is generally "preferable to allow several courts to pass on a given [issue] in order to gain the benefit of adjudication by different courts in different factual contexts").

III. Board Defendants are proper defendants and transfer of venue is not warranted.

State Defendants falsely contend Plaintiffs have "manufactured" venue in Jackson County by naming Board Defendants who, they claim, are not proper defendants. This Court should reject that argument for several reasons. First, State Defendants cannot assert the interests of *other* defendants to claim misjoinder. Second, as Plaintiffs outlined in their petition, Board Defendants play a critical role in implementing congressional maps—a fact State Defendants themselves concede. An injunction preventing Board Defendants from carrying out those duties would redress Plaintiffs' injury of voting in unlawfully drawn congressional districts. Finally, State Defendants' other arguments—all premised on the notion that Board

Defendants are not proper parties to this suit—fail because they ask the Court to reach conclusions not grounded in law or logic.

A. State Defendants cannot assert defenses on behalf of Board Defendants.

As a threshold matter, it is "not within the right" of State Defendants "to claim that there was misjoinder of another defendant." *Beck v. Hughes*, 116 S.W.2d 210, 212 (Mo. App. 1938) (citing *Boggess v. Boggess*, 29 S.W. 1018, 1023 (Mo. 1895)). Board Defendants have their own counsel; if they believe they are not proper parties to this case, they may raise that defense themselves. *See* Mo. Sup. Ct. R. 55.27. State Defendants may not step in their shoes and assert defenses on Board Defendants' behalf—especially defenses that would result in transferring this case to a less convenient venue for those parties. For this reason alone, the Court should reject State Defendants' misjoinder arguments.

B. Board Defendants are proper defendants because they implement congressional redistricting maps and relief against them will remedy Plaintiffs' injuries.

Even if State Defendants were allowed to assert a defense on behalf of Board Defendants, the Board Defendants are proper defendants and venue is thus appropriate in Jackson County. Plaintiffs have stated a claim for relief against Board Defendants, and an injunction against their implementation of HB 1 would redress Plaintiffs' injury. *See Hefner v. Dausmann*, 996 S.W.2d 660, 663 (Mo. App. S.D. 1999) (venue is pretensive only if a petition fails to state a claim or record establishes

no cause of action against resident defendant); *Ste. Genevieve Sch. Dist. R II v. Bd. of Aldermen of Ste. Genevieve*, 66 S.W.3d 6, 11 (Mo. 2002) ("If the petition asserts any set of facts that would, if proven, entitle the plaintiffs to relief, the petition states a claim.").

As the State Defendants themselves concede, Board Defendants play a critical role in "implement[ing] the applicable redistricting statute." Mot. at 13. They are charged with numerous statutory responsibilities including assigning voting precincts to each congressional district, Pet. ¶¶ 29, 32 (citing § 115.113, RSMo.), and conducting "all public elections," *id.* (quoting § 115.023, RSMo.); *see also id.* (citing §§ 115.115, 115.079, 115.099, 115.127, 115.163, 115.247, 115.389, 115.393, 115.499, RSMo.); *id.* ¶¶ 30–31, 33–34 (citing §§ 115.027, 115.045, RSMo.). Board Defendants have separate statutory duties from State Defendants, and HB 1's congressional map cannot be fully implemented without the role of both state and local election officials. *See id.* ¶ 57. An injunction preventing Board Defendants from engaging in these duties to implement HB 1 will mean that Kansas City and Jackson County voters will not be subject to future congressional elections under an unlawful map. This is precisely the relief that Plaintiffs seek.

C. State Defendants' remaining venue arguments fail.

State Defendants' remaining scattershot arguments as to why Plaintiffs' joinder of Board Defendants is "pretensive" to manufacture venue should likewise be rejected.

First, State Defendants conflate the standard for assessing pretensive venue with standing, incorrectly arguing that venue in Jackson County is improper because Plaintiffs do not have standing to bring claims against Board Defendants. But as State Defendants themselves outline, venue is pretensive only when plaintiffs have not asserted a viable claim for relief against the relevant defendants. *See* Mot. at 11. Here, Plaintiffs have in fact asserted a viable claim for relief against Board Defendants. *See supra* Section III.B (articulating how an injunction of Board Defendants would redress Plaintiffs' injuries).

Standing is a distinct inquiry—one that Plaintiffs have also satisfied. *See, e.g.*, *Ste. Genevieve Sch. Dist. R II*, 66 S.W.3d at 10, 11 (laying out separate standards for assessing standing versus failure to state a claim). Plaintiffs have sufficiently alleged that they have a "personal interest directly at issue and subject to immediate or prospective consequential relief." *Fowler v. Mo. Sheriffs' Ret. Sys.*, 623 S.W.3d 578, 581–82 (Mo. banc 2021) (citation omitted); *see* Pet. ¶¶ 10-26, 78-91. Thus, there is no doubt that Plaintiffs here have standing to bring this case. *Cf. Faatz v. Ashcroft*, 685 S.W.3d 388, 395 (Mo. banc 2024) (concluding that an "eligible Missouri voter

who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing" to challenge a redistricting map (citation omitted)); *see also cf. Losch v. Nationstar Mortg. LLC*, 995 F.3d 937, 943 (11th Cir. 2021) (plaintiff has standing to pursue his claims against a defendant "so long as even a small part of the injury is attributable" to that party).

Second, State Defendants yet again encourage the Court to disregard the Missouri Constitution's *congressional* redistricting provision—the only constitutional provision that applies to this case. *See* Mot. at 12. Try as they might, State Defendants cannot mix and match their preferred constitutional provisions in splicing together their defense. *See supra* Section I. And where, as here, "the language of a constitutional provision is plain and unambiguous," no creative deployment of canons of construction is either necessary or warranted. *Robust Mo. Dispensary 3, LLC v. St. Louis County*, No. SC 100898, --- S.W.3d. ---, 2025 WL 2053566, at *3 (Mo. banc July 22, 2025); *cf. Li Lin v. Ellis*, 594 S.W.3d 238, 242 (Mo. banc 2020) (Courts "[may] not add words to a statute under the auspice of statutory construction." (citation omitted)).

Even if this Court were inclined to look to Section 3 and Section 7, the language of those sections on which State Defendants rely—requiring challenges to state legislative maps to be filed in Cole County—is not incompatible with Plaintiffs'

joinder of Board Defendants. A case can both be filed in Cole County *and* name defendants that reside in other counties. *See* § 508.010.2(2), RSMo. What is more, neither Section 3 nor Section 7 exhaustively list the only parties that may be named in a redistricting challenge. In *Faatz*, for example, the plaintiffs named—and the Missouri Supreme Court endorsed—the inclusion of the Secretary of State as a defendant, even though Section 7 requires only that the "body that approved the challenged redistricting plan"—in that case, a judicial redistricting commission—be named "as a defendant." 685 S.W.3d at 405 (quoting Mo. Const. art. III, § 7(i)).

The Supreme Court's decision in *Preisler v. Hearnes*, 362 S.W.2d 552 (Mo. banc 1962), does not alter this conclusion. *Contra* Mot. at 12. In *Preisler*, the Court rejected the plaintiffs' argument that the legislature was required to divide counties in order to comply with Section 45's compactness and equal population requirements. 362 S.W.2d at 556. The Court held the congressional map complied with Section 45's requirements, and in doing so noted Missouri had historically always kept counties intact, as reflected in *both* Section 45's compactness requirement for congressional districts *and* the principles included in the state legislative redistricting provisions. *See also id.* (holding "it was proper for the legislature to follow this policy" because "it has always been the policy of this state, in creating districts of more than one county (congressional, judicial or senatorial) to have them composed of entire counties"). In other words, *Preisler* involved the

Supreme Court's interpretation of existing, substantive redistricting requirements (compactness and equality) in Section 45; it did not authorize importation of procedural requirements from one constitutional provision to another.

Third, State Defendants are incorrect that only entities with a "continuing duty to make a valid redistricting" can be proper defendants in redistricting cases. Mot. at 12–13 (citation omitted). Pursuant to the provisions and constraints of Section 45, the Missouri Constitution vests the authority to engage in congressional redistricting in the General Assembly. *See* Mo. Const. art. III, § 45. Yet lawsuits challenging redistricting maps, including congressional maps, routinely proceed against election officials charged with *implementing* those maps, not the General Assembly. *See, e.g.*, *Pearson v. Koster*, 359 S.W.3d 35, 38 (Mo. banc 2012) (congressional map challenge brought against the Secretary of State and Attorney General); *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 602 (Mo. banc 2012) (state senate map challenge brought against the Secretary of State). Indeed, State Defendants do not object to their own status as defendants in this case—even though, like Board Defendants, they have no "continuing duty" to redistrict. *Preisler v. Doherty*, 284 S.W.2d 427, 436 (Mo. banc 1955). Board Defendants stand in the same position as State Defendants in this respect: they are election officials charged with implementing HB 1. Both sets of defendants are therefore proper parties to this matter.

Fourth, State Defendants contend that Board Defendants are not necessary parties to this lawsuit because they do not have an interest in its outcome, Mot. at 13–14, but the interest of the Board Defendants was well known to lawmakers before they enacted HB 1. In August 2025, the Missouri Association of County Clerks and Election Authorities ("the Association") sent a letter to top lawmakers in the state raising concerns that the anticipated mid-cycle redistricting process may result in local election officials not having enough time to make the street-by-street, house-by-house map adjustments that are required to properly execute a new congressional map. *See* Pet. ¶ 57. And because HB 1's most significant alterations are to the Kansas City area, Board Defendants will be uniquely impacted by the need to implement new boundaries in advance of the next election.

Finally, State Defendants argue that Board Defendants are not proper defendants because of some hypothetical chain of events that they speculate may occur if they, but not State Defendants, are enjoined. Mot. at 14–15. But the issue of how a court should shape an equitable remedy is properly decided after a decision on the merits, rather than at the motion to dismiss stage.

CONCLUSION

For the reasons stated above, the Court should deny State Defendants' motion to dismiss in full.

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Certificate of Service

I certify that a copy of the foregoing was filed on case.net and served electronically to all counsel of record.

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