

**IN THE CIRCUIT COURT OF
COLE COUNTY, MISSOURI**

MERRIE SUZANNE LUTHER,

KIM RANDOLPH DAVIS,

REBECA AMEZUCA-HOGAN,

and

KENNETH LAWRENCE CHUMBLEY

Plaintiffs,

v.

MISSOURI SECRETARY OF STATE

DENNY HOSKINS

Serve: 600 W. Main Street

Jefferson City, MO 65101

573.751.4936

Defendant.

Case No.

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

1. Plaintiffs bring this action for declaratory judgment and injunctive relief asking the Court to declare House Bill 1, reapportioning Missouri's congressional districts, unconstitutional because the Missouri Constitution does not allow redistricting more than once based on the same census.

PARTIES

The Plaintiffs

2. Plaintiff Merrie Suzanne Luther is a Missouri citizen, resident of Cole County, a taxpayer, and qualified voter in the State of Missouri.

3. Luther is a resident of Congressional District 3 under the 2022 apportionment map and will be a resident of Congressional District 5 under the apportionment map enacted by House Bill 1 (2025).

4. Plaintiff Kim Randolph Davis is a Missouri citizen, resident of Jackson County, a taxpayer, and qualified voter in the State of Missouri.

5. Davis is a resident of Congressional District 5 under the 2022 map and will be a resident of Congressional District 4 under the map enacted by House Bill 1 (2025).

6. Plaintiff Rebeca Amezcua is a Missouri citizen, resident of Jackson County, a taxpayer, and qualified voter in the State of Missouri.

7. Amezcua is a resident of Congressional District 5 under the 2022 map and will be a resident of Congressional District 4 under the map enacted by House Bill 1 (2025).

8. Plaintiff Kenneth Lawrence Chumbley is a Missouri citizen, resident of Greene County, a taxpayer, and qualified voter in the State of Missouri.

9. Chumbley is a resident of Congressional District 7 under the 2022 map and will be a resident of Congressional District 7 under the map enacted by House Bill 1 (2025).

10. Plaintiffs are affected by the changes made by House Bill 1 to their respective congressional districts.

11. Among other things, certain Plaintiffs will be combined with other voters without sufficiently similar interests and communities.

12. Plaintiffs request a declaratory judgment that House Bill 1 is unconstitutional because congressional district maps may only be drawn once every ten years when the census is certified to the governor of Missouri. See Mo. Const. art. III, § 45.

13. Plaintiffs also seek a permanent injunction barring the Secretary of State and anyone acting in concert with him from using the map enacted by House Bill 1 for any congressional primary or general election. Rule 92.02.

Defendant Secretary of State

14. Defendant Denny Hoskins is the Missouri Secretary of State.

15. As Secretary of State, Hoskins is the chief election officer of the State of Missouri and is responsible for implementing the map enacted by House Bill 1. See §§115.348-49, RSMo.

16. On information and belief, Secretary Hoskins intends to use the congressional map enacted by House Bill 1 to conduct upcoming elections.

17. Secretary Hoskins' principal office is in Jefferson City, Missouri.

FACTUAL BACKGROUND

18. Every ten years, the U.S. Census Bureau conducts a census, where every person in the United States is counted.

19. This serves as the basis for congressional apportionment—so each state knows how many congressional seats it is entitled to based on the population of the state.

20. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the United States Constitution.

21. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment results of the 2020 Census to the President of the United States.

22. Based on the 2020 decennial census data, Missouri maintained its eight congressional seats.

23. On August 12, 2021, the U.S. Census Bureau certified the census data to the Governor of Missouri.

24. Due to various delays related to the COVID-19 Pandemic, the decennial census data was certified to then Governor Michael Parson in 2021 and the General Assembly proceeded to draw and enact a congressional map.

25. The General Assembly engaged in the process envisioned by Article III, Section 45 of the Missouri Constitution and passed legislation enacting a new congressional map based on the 2020 census.

26. New congressional districts were effective May 18, 2022.

27. No census has occurred since 2020.

28. No census has been certified to the Governor since the certification that occurred on August 12, 2021.

29. In response to a special session proclamation from the Governor, the General Assembly enacted legislation redrawing Missouri's congressional districts.

30. During the special session, the General Assembly truly agreed and finally passed House Bill 1 titled "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."

31. On information and belief, the General Assembly drew the new congressional map based on the 2020 census data.

32. The 2020 census data is outdated and does not correctly account for the number of people who currently reside in each congressional district as enacted by House Bill 1.

33. For example, the State's own data shows that the population in Boone County and Jackson County have shifted since the last census.

COUNT I

Violation of Article III, Section 45 of the Missouri Constitution

34. Plaintiffs incorporate by reference all preceding paragraphs.

35. The Missouri Constitution requires the General Assembly draw Missouri's congressional districts once every ten years, when the census is certified to the governor. See Mo. Const. art. III, § 45.

36. "Article III, section 45...establishes when the General Assembly must redistrict Missouri for the election of members to the United States House of Representatives[.]" *Pearson*, 359 S.W.3d at 39 (Mo. banc 2012).

37. Article III, Section 45 is the *only* constitutional provision governing congressional districting.

38. Section 45 is "triggered when the results of the...United States Census [are] revealed." *Id.*

39. The General Assembly divided the state into various congressional districts when the 2020 census was certified to the Governor.

40. “[N]ew districts...take effect for the [next] election and remain in place for the next decade or until a Census shows that the districts should change.” *Id.*

41. In order to comply with the Missouri Constitution, Missouri’s congressional districts may only be drawn *once* in a decennial period, immediately after the U.S. Census is certified to the governor of Missouri.

42. The new Missouri Congressional Map also does not comply with the Constitution because it utilized the 2020 census, so the districts are not “as nearly equal in population as may be.” *See* Mo. Const. art. III, §45.

43. No provision of Missouri law allows the General Assembly to divide the state into congressional districts at any time other than *when* the census is certified to the Governor.

44. The new Missouri Congressional Map, enacted via House Bill 1 and found in sections 128.345, 128.346, and 128.348, RSMo, is unconstitutional because it was drawn in the middle of a decennial period without a census having been certified to the governor of Missouri.

45. Plaintiffs are entitled to declaratory relief that House Bill 1 is unconstitutional.

46. Plaintiffs seek an injunction barring Defendant from using House Bill 1 to conduct any congressional election.

47. If an injunction does not issue, Plaintiffs will suffer irreparable harm because “being subject to an unconstitutional statute, for even minimal periods of time,

unquestionably constitutes irreparable harm” *Rebman v. Parson*, 576 S.W.3d 605, 612 (Mo. banc 2019)(cleaned up).

48. Plaintiffs lack an adequate remedy at law to protect their interests.

49. Plaintiffs are entitled to injunctive relief prohibiting the Secretary of State from using the map enacted by House Bill 1 to conduct any congressional election.

WHEREFORE, Plaintiffs pray this Court:

a. Declare House Bill 1 in violation of Article III, Section 45 of the Missouri Constitution;

b. Enjoin the Secretary of State and the Secretary’s officers, agents, servants, employees, and attorneys, and all those persons in active concert or participation with the Secretary from using the map enacted by House Bill 1 to conduct any congressional election; and

c. Grant Plaintiffs any such other relief this Court deems just and proper.

Respectfully Submitted,

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