

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

RICHARD VON GLAHN,

Plaintiff,

v.

Case No. 26AC-CC00440

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

Defendant.

SECRETARY OF STATE'S PRE-TRIAL BRIEF

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INTRODUCTION

Plaintiff Richard von Glahn’s Petition is, frankly, crazy. Von Glahn says he cares about democracy. But then, his Petition alleges that approximately 3.3% of Missouri voters can temporarily repeal a duly enacted congressional map—even before the People vote. Pet. ¶¶ 6–7, 42–43, 45; *id.* at 8. That is why von Glahn thinks “he is entitled to the immediate suspension” of Missouri’s duly-enacted congressional map—even though the Primary Election already occurred. *See id.* This is unthinkable. Von Glahn cites no judicial precedent that has ever awarded such a drastic remedy (and the State is unaware of any). Moreover, von Glahn is flatly incorrect to argue that the Missouri Constitution permits referenda on congressional maps like House Bill 1.

Even *Democracy Docket*, a leftwing media entity founded by the Democratic Party’s leading lawyer, Marc Elias,¹ calls von Glahn’s legal challenge “a long shot.” *See* Ex. 33, Jen Rice & Yuniors Rivas, *Missouri blocks anti-gerrymander referendum from November ballot*, DEMOCRACY DOCKET (Aug. 4, 2026).² In fact, *Democracy Docket* admitted *last March* that this Court’s ruling in *Maggard* “ha[d] likely killed attempts to stop Republicans from imposing the new map” because of the candidate-filing deadline “rapidly approaching” on March 31, 2026. Ex. 34, Jen Rice, *GOP derails bid*

¹ Elias’s firm, the Elias Law Group, represented plaintiffs in *Healey v. State*, 732 S.W.3d 827 (Mo. banc 2026)—another unsuccessful challenge to HB 1.

² <https://archive.is/FHSfJ>

to stop Missouri gerrymander for 2026, DEMOCRACY DOCKET (Mar. 27, 2026).³ Five months later, von Glahn somehow still insists this Court should alter Missouri's congressional map.

The Court should reject von Glahn's claims for at least four reasons. *First*, the U.S. and Missouri Constitutions vest authority over federal redistricting solely with the people's elected representatives in the General Assembly. U.S. Const. art. I, § 4; *id.* art. IV, § 4. Even assuming the U.S. Constitution allows States to permit referenda against federal election maps, *but see Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 824–50 (2015) (Roberts, C.J., dissenting), longstanding precedent requires a “positive and clear” statement in any law or state constitutional provision purporting to divest a state legislature of its redistricting authority, *United States v. Gradwell*, 243 U.S. 476, 485 (1917). Von Glahn simply cannot identify any language in the Missouri Constitution showing that Missourians made a conscious choice to depart from the U.S. Constitution's default rule and subject congressional redistricting to referenda. *See Maggard v. State*, 733 S.W.3d 411, 414 n.7 (Mo. banc 2026) (reserving the question of whether the Missouri Constitution permits referenda on congressional maps).

Indeed, Missouri law obviously does not envision referenda on redistricting. If it did, why would local election officials and the Secretary of State have until *the day of the primary election* to make a certification decision? *See* §§ 115.341, 116.150.3, RSMo. And why would voters be expected to vote on redistricting plans, which are

³ <https://archive.ph/pUnQs>

enormously complex, with only a 100-word summary statement and no images of the competing maps? *See* § 116.334, RSMo. The idea of holding a referendum on a congressional map under such conditions is absurd. This reinforces that Missouri never made a “positive and clear” choice to allow such votes. *See Gradwell*, 243 U.S. at 485.

Second, even if the Missouri Constitution does envision referenda on federal congressional maps, the U.S. Constitution preempts Article III, Section 52(b) of the Missouri Constitution—which would freeze an enacted congressional map *before* the People vote. In von Glahn’s view, a small minority of Missourians—five percent of voters in two-thirds of Missouri’s congressional districts (or about 3.3%)—have the right to force the use of their preferred congressional map for an election cycle. *See* Pet. ¶¶ 6–7, 42–43, 45; *id.* at 8. The U.S. Supreme Court has *never* suggested such an arrangement is consistent with the U.S. Constitution’s Elections Clause. And frankly, von Glahn’s proposed regime would be absurd. *Every* time redistricting occurs, the minority political party could easily gather the signatures needed to freeze a congressional map for one election cycle—a small price to pay for one or more congressional seats. And imagine if this maneuver occurred after the decennial Census, when Missouri could gain or lose a seat. A referendum campaign could force Missouri to use an outdated congressional map with the wrong number of seats. Also, if von Glahn can demand a referendum on a congressional map, what’s to stop him—or anyone else—from attempting to enact a congressional map via initiative petition? In that world, voters would need to select from six or seven competing maps based on

a 100-word summary statement. Von Glahn cannot cite any State that has ever permitted such an outrageous arrangement for redistricting. And the U.S. Constitution's Elections Clause prohibits these absurd possibilities—which would annihilate the General Assembly's authority over redistricting and give small political minorities an uncheckable power over the majority.

Third, even if referendum campaigns can freeze congressional maps by submitting a sufficient number of signatures, it is far too late for this Court to order the use of a new congressional map for the 2026 General Election. Missouri courts, federal courts, and other state courts refuse to change election rules in the middle of an ongoing election cycle. *See Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1, 2–3 (Mo. banc 1970); *Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025). Indeed, the Missouri Supreme Court already applied this rule and held that it was too late to change election district lines *close to the end of candidate filing*. *Hadley*, 460 S.W.2d at 2–3. Here, candidate filing ended last March and the Primary Election is already over. Trying to change congressional maps *now* would be catastrophically disruptive and technically “impossible”—as Missouri's election administration system will be locked and cannot be altered. *See Ex. 28, Brown Aff.* ¶¶ 6–19.⁴

⁴ *Accord* Ex. 32, Letter of Missouri Association of County Clerks and Election Authorities; Ex. 29, Amicus Br. of Brianna Lennon at 11–14, *Maggard v. State*, No. SC101581 (Mo. banc, filed April 10, 2026); *see also* Ex. 30, Amicus Br. of Kurt Bahr at 13–16, *Maggard v. State*, No. SC101581 (Mo. banc, filed April 28, 2026); Ex. 31, Trial Testimony of Shawn Kieffer at 109:1–17, *Healey v. State*, No. 2516-CV31273 (Mo. Cir. Ct., Feb. 19, 2026).

Indeed, litigants challenging the HB 1 map since September 2025 recognized that the window to change the congressional map for Missouri's 2026 elections closed long ago. Von Glahn and People Not Politicians ("PNP") characterized prior lawsuits as "time-sensitive election case[s]" because of their "impact" on "the 2026 election" and the need to avoid "chaos in August." Ex. 22, Mot. to Expedite at 1–2, *State ex rel. People Not Politicians v. Limbaugh*, No. WD88821 (Mo. App. W.D., filed April 1, 2026). In other cases, opponents of HB 1—including opponents represented by von Glahn's counsel—all stated that they needed judicial resolution of HB 1's status before the candidate-filing period opened *last February*.⁵ Many of these plaintiffs acknowledged that equitable principles would eventually require Missouri courts "to favor the status quo in a legal dispute during the lead-up to an election." *See, e.g.*, Ex. 26, SIS Mot. for Prelim. Inj. at 16, *Maggard v. State*, No. 25AC-CC09120 (Mo. Cir. Ct., filed Jan. 14, 2026) (quotation omitted). Likewise, the Boone County Clerk—who is now testifying for Plaintiff—previously argued that any change to Missouri's congressional map (even "*before* the August primary") "will result in chaos, confusion, and unnecessary expense." *Compare* Ex. 29, Amicus Br. of Brianna Lennon, *supra*, at 6–7, 11–14, *with* Ex. 21, Lennon Aff. Missouri has now completed the August primary, § 115.121.2, RSMo, Missouri's candidate filing period closed many months

⁵ *See* Ex. 24, Mot. to Expedite at 2, *Luther v. Hoskins*, No. SC101412 (Mo. banc, filed Dec. 31, 2025); Ex. 25, Pltfs.' Opp. to a Continuance at 1–3, *Wise v. State and Healey v. State*, Nos. 2516-CV29597, 2516-CV31273 (Mo. Cir. Ct., filed Dec. 15, 2025); Ex. 26, SIS Mot. for Prelim. Inj. at 16, *Maggard v. State*, No. 25AC-CC09120 (Mo. Cir. Ct., filed Jan. 14, 2026).

ago, § 115.349.1, RSMo, and Missouri's General Election is just a few weeks away, *id.* § 115.121.1, RSMo. Von Glahn cannot now ignore these previous representations.

Finally, granting von Glahn's request for an injunction against using the HB 1 congressional map for the 2026 General Election would violate federal law. Federal law prohibits holding a new primary election because there simply is not enough time—under the federal election calendar—to do so. *See* 2 U.S.C. § 7; 52 U.S.C. § 20302(a)(8). And while von Glahn's counsel has publicly suggested just forcing the winners of the Primary Election to run in his preferred congressional districts, that would violate the U.S. Constitution's right to equal voting by rendering pointless hundreds of thousands of votes in the Primary Election. *See* U.S. Const. art. I, § 2, amend. XIV, § 1. To avoid violating federal law, this Court should hold that the 2026 General Election must be conducted under the same map that governed the Primary Election.

The Court should reject von Glahn's claims, and enter judgment for the State.

BACKGROUND

On September 12, 2025, the General Assembly enacted House Bill 1, which provided for the boundaries of Missouri's eight congressional districts. HB 1 passed by a margin of 21 to 11 in the Senate and 90 to 65 in the House of Representatives. *See* Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025). Governor Kehoe signed HB 1 into law on September 28, 2025.

In response, a group known as People Not Politicians (“PNP”) initiated a referendum campaign to challenge the HB 1 map. However, the Missouri General

Assembly, the Secretary of State, and the Attorney General perceived a problem with PNP's undertaking: A referendum on the HB1 congressional map is in tension with the U.S. Constitution's Elections Clause. See U.S. Const. art. I, § 4. The Elections Clause provides that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the *Legislature* thereof." *Id.* (emphasis added). Yet a referendum on a congressional map divests the General Assembly of legislative authority and relies instead on a statewide vote.

Almost ten months ago, to help clarify this disparity before PNP submitted its referendum petition, the Secretary of State (alongside the General Assembly) sued PNP and its executive director, Richard von Glahn. Among other things, the Secretary sought a declaratory judgment resolving the validity of PNP's referendum petition. See Complaint at 22, *Missouri Gen. Assembly v. von Glahn*, No. 4:25-cv-1535 (E.D. Mo., filed Oct. 15, 2026), ECF No. 1. He argued that the U.S. Constitution's Elections Clause forbids subjecting congressional maps to referenda absent a clear statement in the Missouri Constitution. *Id.* ¶¶ 67–69. The Secretary also noted that the Missouri Constitution includes no such clear statement. *Id.* ¶¶ 72–74. Indeed, Article III, Section 45 only recognizes the General Assembly's legislative authority over redistricting. And Missouri's referendum provisions are silent about referenda on congressional districts. See Mo. Const. art. III, §§ 49, 52(a), 52(b).

Despite the Secretary's effort to obtain clarity last fall, the federal district court dismissed his lawsuit as premature. It explained that under Chapter 116, RSMo, the

Secretary of State has “both the authority and duty” to assess “the constitutionality of [PNP’s] final petition” before courts may consider the question. *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB, 2025 WL 3514277, at *4 n.4 (E.D. Mo. Dec. 8, 2025) (citing § 116.120, RSMo). The court also expressly recognized the Secretary’s authority to “declare [PNP’s] petition unconstitutional.” *Id.* * 4. Even PNP agreed that Secretary Hoskins has “authority as Secretary of State to reject [PNP’s] petition as unconstitutional during post-submission review and to defend that decision based on the very same constitutional arguments” that the State “advance[d]” in its lawsuit. *Id.* at *1, 4 n.4 (citing §§ 116.120, 116.200, RSMo).

PNP then submitted its referendum petition on December 9, 2025. PNP’s submission triggered the Secretary’s duty to review the referendum petition for timeliness, legality, and sufficiency under Chapter 116. *See Maggard*, 733 S.W.3d at 416 (“Section 116.120.1 provides the secretary “*shall* examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter [116].” (emphasis added)). Section 116.150.3 required the Secretary to complete this review process by August 4, 2026—the same day as Missouri’s Primary Election. Chapter 116 provided an extensive timeline for reviewing the referendum petition because it vested the Secretary and local election officials with substantial duties. It required Missouri’s 116 local election officials to painstakingly check submitted signatures. *See* §§ 116.120–116.140, RSMo. Chapter 116 also empowers the Secretary to independently check the validity of signatures. § 116.140, RSMo. At the end of the exhaustive signature-review process, Chapter 116 provides that, “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.” § 116.150.1, RSMo. But “[i]f the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.” § 116.150.2, RSMo.

While the Secretary and Missouri’s 116 local election authorities were busy reviewing the signatures on PNP’s referendum petition, the Secretary of State and the Attorney General recognized that HB 1 would become effective pending the Secretary’s ultimate certification decision under Chapter 116. Yet in late December 2025, two plaintiffs challenged HB 1’s statewide effectiveness. *Maggard*, 733 S.W.3d at 413. They sought a declaratory judgment and “an injunction preventing use of HB 1’s congressional map until voters approve the map through the referendum process.” *Id.* However, this Court and the Missouri Supreme Court unanimously rejected their claims, holding that “the December 9 referendum petition filing did not automatically suspend HB 1 under article III, sections 49, 52(a), or 52(b) of the Missouri Constitution.” *Id.* at 421.

After the Supreme Court’s ruling, the Attorney General released an opinion letter requiring “State and local election officials” to “take all appropriate steps to ensure the HB 1 map is fully implemented in advance of the 2026 primary elections.” Mo. Att’y Gen., Op. Letter 03-2026 (May 13, 2026). Then, under the Supreme Court’s and the Attorney General’s opinions, Missouri’s local election officials implemented the HB 1 map in Missouri’s Centralized Voter Registration system. *See* Ex. 28,

Brown Aff. ¶¶ 4, 18. After implementing the HB 1 map, State and local election officials also prepared ballots under the new map and then completed the August Primary Election. *Id.* at ¶ 4. Roughly 1.2 million voters participated in the August 4 congressional primaries, and they selected Republican and Democratic nominees in each of Missouri's eight congressional districts.

On August 4, 2026, the Secretary of State released his certificate of insufficiency as to PNP's referendum petition. *See* Ex. 5. The Secretary's certificate identified "the reason for the insufficiency" as the fact that the Missouri Constitution does not permit referenda on congressional maps. *Id.* at 3. The Secretary's certificate relied on a letter from the Attorney General, which was attached to the certificate, explaining that a referendum on a congressional map would be in tension with the U.S. Constitution's Elections Clause. *Id.* at 4–10. Thus, to divest the General Assembly of its redistricting authority, in contravention of the Elections Clause's plain text, the Missouri Constitution would need to speak with a clear statement. *Id.* However, the Missouri Constitution includes no such clear statement. *Id.* Rather, "Article III, section 45 is the only provision of the Missouri Constitution directly addressing congressional redistricting." *Luther v. Hoskins*, 730 S.W.3d 567, 571 (Mo. banc 2026). And Article III, Section 45 contemplates only that "the *general assembly* shall by law divide the state into [congressional] districts." Mo. Const. art. III, § 45 (emphasis added). The Attorney General's letter also noted that, even if the Missouri Constitution *did* authorize referenda on congressional maps, the HB 1 map could not be displaced absent a majority vote in light of the U.S. Constitution's Elections Clause

and the Guarantee Clause. Ex. 5 at 8–9. Moreover, the Attorney General noted that a last-minute alteration to Missouri’s congressional map would likely force violations of UOCAVA and Article I, Section 2 of the U.S. Constitution. *Id.* at 9–10.

A couple hours after the Secretary’s decision, von Glahn filed suit under § 116.200.1, which provides that “[a]fter the secretary of state certifies a petition as sufficient or insufficient, any citizen may apply to the circuit court of Cole County to compel him to reverse his decision.” § 116.200.1, RSMo. Yet von Glahn’s challenge is not just limited to the Secretary’s decision to certify PNP’s referendum petition as insufficient for the ballot in November 2026. He also alleges that “he is entitled to the immediate suspension of the use and implementation of HB 1.” Pet. ¶¶ 42–43; *id.* at 8. Elsewhere, he alleges that the Court should “restrain[] the Secretary from taking further steps to implement or use the congressional districts in HB 1 to ensure that ... the correct congressional districts are utilized to conduct the 2026 general congressional election.” *Id.* ¶ 45. Von Glahn’s Petition lacks further clarity on precisely what he means—which is particularly confusing since Missouri completed the Primary Election about two weeks ago. *See* § 115.121.2, RSMo. The Court and the State are left to guess, for example, whether von Glahn envisions a new Primary Election under “the correct congressional districts,” Pet. ¶ 45, or whether he demands a General Election that proceeds under a different congressional map than the HB 1 map used for the Primary. *Id.*

As explained below, von Glahn’s demand fails in either event.

LEGAL STANDARDS

I. The State's Authority to Enact and Enforce HB 1.

Plaintiffs demand an injunction against any enforcement of the General Assembly's HB 1 map. Pet. ¶¶ 42–43, 45; *id.* at 8. But “the General Assembly has the power to do whatever is necessary to perform its functions except as expressly restrained by the Constitution.” *Luther*, 730 S.W.3d at 571 (quoting *Liberty Oil Co. v. Dir. of Revenue*, 813 S.W.2d 296, 297 (Mo. banc 1991)). And “[c]onstitutional limitations on the legislative power are ‘strictly construed in favor of the power of the General Assembly.’” *Id.* (quoting *Bd. of Educ. of City of St. Louis v. City of St. Louis*, 879 S.W.2d 530, 533 (Mo. banc 1994)). The Missouri Supreme Court has also instructed that courts may “not hold HB 1 unconstitutional ‘unless it clearly contravenes a constitutional provision.’” *Id.* (quoting *City of St. Louis v. State*, 682 S.W.3d 387, 396 (Mo. banc 2024)); *accord Healey*, 732 S.W.3d at 837 (“The [HB 1] map will be upheld unless it plainly and palpably affronts fundamental law embodied in the constitution, and doubts will be resolved in favor of the constitutionality of the map.” (cleaned up)).

II. Section 116.200, RSMo.

Section 116.200.1, RSMo, provides that “[a]fter the secretary of state certifies a [referendum] petition as sufficient or insufficient, any citizen may apply to the circuit court of Cole County to compel him to reverse his decision.” Subsection 2 then instructs that “[i]f the court decides the petition is sufficient, the secretary of state shall certify it as sufficient and attach a copy of the judgment.” § 116.200.2, RSMo. But “[i]f the court decides the petition is insufficient, the court shall enjoin the

secretary of state from certifying the measure and all other officers from printing the measure on the ballot.” *Id.* Moreover, “[w]ithin ten days after a decision is rendered, any party may appeal it to the supreme court.” § 116.200.3, RSMo.⁶

III. Supremacy of Federal Law.

This action includes several questions that involve overlapping federal and state laws. The U.S. Constitution and the Missouri Constitution establish the supremacy of federal law in the event of a conflict. Article VI of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Const. art. VI; *United States v. Missouri*, 114 F.4th 980, 986 (8th Cir. 2024) (“[T]he states are prohibited from passing any acts which shall be repugnant to a law of the United States.” (quotation omitted)). The first Article of the Missouri Constitution also enforces the federal Supremacy Clause, providing that “Missouri is a free and independent state, subject only to the Constitution of the United States.” Mo. Const. art. I, § 4. Thus, the U.S. Constitution and federal law are ultimately dispositive in this action—“any Thing in the Constitution or Laws of [Missouri] to the Contrary notwithstanding.” U.S. Const. art. VI.

⁶ The Missouri Constitution creates an independent basis for the Missouri Supreme Court’s exclusive jurisdiction in this case. This action involves the validity of Article III, Section 52(b) as applied under the U.S. Constitution’s Elections Clause and the Guarantee Clause. *See infra* 31–36. And “[t]he supreme court shall have exclusive appellate jurisdiction in all cases involving the validity ... of the constitution of this state.” Mo. Const. art. V, § 3.

ARGUMENT

The Court should reject von Glahn's claims. Congressional maps are not subject to the Missouri Constitution's referendum provisions. Even if they were, the U.S. Constitution would invalidate Article III, Section 52(b)—which freezes referred laws pending a statewide vote—as-applied to congressional maps. Missouri's *Hadley-Purcell* principle also prohibits a last-minute alterations to a congressional map after the Primary Election and mere weeks before the General Election. Finally, the U.S. Constitution and federal law forbid changes to Missouri's congressional map at this late hour.

I. Congressional maps are not subject to the Missouri Constitution's referendum provisions.

A. The U.S. Constitution's Elections Clause requires a clear statement to divest the Missouri General Assembly of its redistricting authority.

The Elections Clause of the U.S. Constitution provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the *Legislature* thereof.” U.S. Const. art. I, § 4 (emphasis added). The term “Legislature” was “not . . . of uncertain meaning when incorporated into the Constitution”: It referred to “the representative body which made the laws of the people.” *Hawke v. Smith*, 253 U.S. 221, 227 (1920). The term “Legislature” maintains this same meaning throughout the U.S. Constitution. Elsewhere, the Constitution consistently and unequivocally uses the term “Legislature” in reference to State legislative bodies. *See* U.S. Const. art. I, §§ 2, 3, 8; art. II, § 1; art. IV, §§ 3, 4; art. V; art. VI; amend. XIV, §§ 2, 3; amend. XVII; amend. XVIII, § 3; amend. XX,

§ 6; amend. XXII, § 2. Likewise, when the Elections Clause uses the term “Legislature” “in each State,” the Clause expressly vests the Missouri General Assembly with authority over redistricting.

Here, as in several other contexts where the U.S. Constitution bestows a specific authority on a designated body, that power cannot be taken away absent a clear statement. *See, e.g., Edmond v. United States*, 520 U.S. 651, 658 (1997) (rule guarding President’s authority over appointments); *FDA v. Brown & Williamson*, 529 U.S. 120, 159–60 (2000) (major questions); *Felker v. Turpin*, 518 U.S. 651, 660 (1996) (jurisdiction stripping statutes); *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991) (in the federalism context, “[i]f Congress intends to alter the usual constitutional balance ..., it must make its intention to do so unmistakably clear ...” (internal quotation omitted)); *Sossamon v. Texas*, 563 U.S. 277, 285 (2011) (abrogation of sovereign immunity must be “unmistakably clear”). For example, courts require clear statements before finding that Congress gave away its powers, *see West Virginia v. EPA*, 597 U.S. 697, 723 (2022), before finding that Congress infringed the President’s authority to remove federal officials, *see Collins v. Yellen*, 594 U.S. 220, 250 (2021), or before concluding that the courts were stripped of jurisdiction, *see Felker v. Turpin*, 518 U.S. 651, 660–61 (1996).

In the same way, in reading the Missouri Constitution’s referendum provisions, Mo. Const. art. III, §§ 49, 52(a), 52(b), courts cannot presume a major reordering of the delicate balances struck by the framers of the Elections Clause, U.S. Const. art. I, § 4. Just as all other parts of American government are protected by

clear statement rules before courts find their power stripped, state legislatures are treated no differently under the Elections Clause. *See, e.g., United States v. Gradwell*, 243 U.S. 476, 485 (1917) (Congress may abrogate a state legislature’s Elections Clause authority only “by positive and clear statutes”); *United States v. Oregon*, 828 F. Supp. 3d 1092, 1095–96 (D. Or. 2026) (same, citing *Gradwell*, 243 U.S. at 485); *United States v. Caldwell*, No. CV 26-2025 (ZNQ) (JTQ), 2026 WL 2186515, at *3 (D.N.J. July 29, 2026) (same, citing *Gradwell*, 243 U.S. at 485); *see also Carson v. Simon*, 978 F.3d 1051, 1059–60 (8th Cir. 2020) (“By its plain terms, the Electors Clause vests the power to determine the manner of selecting electors exclusively in the ‘Legislature’ of each state,” and this power is not divested “by means of a general statute in the [state] election code.”).

United States v. Gradwell, 243 U.S. 476, is instructive. That case involved federal prosecutions of defendants in Rhode Island and West Virginia for election fraud. *Id.* at 477–78. In Rhode Island, fourteen defendants had bribed voters during the congressional election in 1914. *Id.* at 478. In West Virginia, twenty defendants participated in an extensive conspiracy to influence a U.S. Senate election in 1916. *Id.* The defendants incited and facilitated voting by “a large number of persons who had not resided in the state a sufficient length of time to entitle them to vote under the state law.” *Id.* The defendants also procured 400 of these individuals “to vote more than once.” *Id.*

The United States indicted these thirty-four defendants under the U.S. Criminal Code, citing statutes with general language that were facially broad enough

prohibit the plainly unlawful acts of the defendants. *Id.* at 478–79. Specifically, the Rhode Island defendants were indicted on “the charge that the defendants conspired ‘to defraud the United States,’ in violation of § 37 of the [federal] Criminal Code.” *Id.* at 479. Section 37 contained broad language prohibiting conspiracy “to defraud the United States in *any* manner for *any* purpose.” *Id.* (quoting U.S. Criminal Code § 37) (emphasis added). The West Virginia defendants were likewise indicted on “the charge that three candidates for the nomination for Senator of the United States were ‘injured and oppressed,’ within the meaning of § 19 of the [U.S.] Criminal Code, by a conspiracy on the part of the defendants to compass their defeat by causing illegal voting for an opposing party candidate at the primary election.” *Id.* Section 19 prohibited conspiracy “to injure, oppress, threaten, or intimidate *any* citizen in the free exercise of enjoyment of *any* right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same ...” *Id.* at 479–80 (quoting U.S. Criminal Code § 19) (emphasis added).

Despite the broad language of Sections 37 and 19, federal district courts in Rhode Island and West Virginia both dismissed the indictments. *Id.* at 479. The courts held that the indictments “fail[ed] to set forth any offense under the laws of the United States.” *Id.* at 479.

On appeal, the U.S. Supreme Court affirmed in an opinion applying the Elections Clause’s clear statement rule. *See id.* at 480–89. In interpreting Sections 37 and 19, the Court’s opinion begins with the premise that the Elections Clause presumptively vests regulatory authority over elections “in each state by the

legislature thereof.” *Gradwell*, 243 U.S. at 482 (quoting U.S. Const. art. I, § 4) (emphasis added). The Court then surveyed the history of the Elections Clause since the founding, noting Congress’s extremely limited intrusions on the authority presumptively vested in state legislatures. *Id.* at 482–85; *see also id.* at 484 (quoting James Madison’s prediction that the authority of “state legislatures” to regulate elections “will probably never” be impinged). The Court also emphasized that whenever Congress has displaced state legislative authority, “it has done so by *positive and clear statutes*”—such as election laws in effect from 1870 until 1894. *See id.* at 483–85 (emphasis added). Comparatively, Section 37’s broad language—prohibiting “defraud[ing] the United States in any manner for any purpose,” *id.* at 479—was still not a “positive and clear” statement because its text did not explicitly reference election fraud, *id.* at 485.

The Court also adopted a strict reading of Section 19, finding no application to fraud and repeat voting in West Virginia’s primary election. *Id.* at 486–89. The Court explained that Congress, through Section 19, “has shown no disposition to assume control of such primaries or to participate in them in any way, and that it is not for the courts, in the absence of such legislation, to attempt to supply it by stretching old statutes to new uses, to which they are not adapted and for which they were not intended.” *Id.* at 488–89. The Supreme Court then affirmed dismissal of all the indictments. *Id.* at 489.

In light of *Gradwell*, multiple courts—even just this year—have invoked the Elections Clause’s clear statement rule. *See, e.g., United States v. Oregon*, 828 F.

Supp. 3d at 1095–96; *United States v. Caldwell*, 2026 WL 2186515, at *3. This case is even easier than *Gradwell*. *Gradwell* dealt with Congress’s authority—expressly vested by the Elections Clause—to “at any time by Law make or alter such [Election] Regulations” “prescribed in each State by the Legislature thereof.” U.S. Const. art. I, § 4. If Congress—the body with textual authority to override state legislatures under the Elections Clause—must act with clear statements, then so too must other actors. This is observed in other cases involving state-level alterations to the Elections Clause’s assignment of powers. For example, in *State of Ohio ex rel. Davis v. Hildebrandt*, a “conclusive” decision by the state supreme court “ma[d]e[] it clear that ... the referendum constituted a part of the state Constitution and laws.” 241 U.S. 565, 568 (1916). Likewise, in *Arizona State Legislature v. Arizona Independent Redistricting Commission* (“AIRC”), Arizonians had specifically “amended the Arizona Constitution to remove congressional redistricting authority from the State Legislature.” 576 U.S., 787, 796–97 (2015).

Assuming that the Elections Clause “does not preclude” a State from delegating redistricting authority to a referendum, changes to Elections Clause authority must at least be specific to “safeguard limits imposed by the Federal Constitution.” *Moore v. Harper*, 600 U.S. 1, 25, 35 (2023). The U.S. Constitution’s framers made “a deliberate choice” to vest redistricting power in state legislatures, and this Court cannot permit the vagaries of broad language in state law to transfer that power in ways that the framers of state law did not intend. *Id.* at 34. The Elections Clause requires “positive and clear” statements to displace state legislative

authority, and it forbids “stretching old statutes to new uses, to which they are not adapted and for which they were not intended.” *Gradwell*, 243 U.S. at 485, 488–89.

B. The Missouri Constitution contains no clear statement divesting the General Assembly of redistricting authority.

Although the Elections Clause requires a “positive and clear” statement to divest the General Assembly of its redistricting authority, *Gradwell*, 243 U.S. at 485, no such clear statement exists in the Missouri Constitution or Missouri law. “Article III, section 45 is the only provision of the Missouri Constitution directly addressing congressional redistricting.” *Luther*, 730 S.W.3d at 571. And Article III, Section 45 contemplates only that “the *general assembly* shall by law divide the state into [congressional] districts.” Mo. Const. art. III, § 45 (emphasis added). Also, the Missouri Supreme Court has never endorsed referenda on congressional maps. See *Maggard v. State*, 733 S.W.3d 411, 414 n.7 (Mo. banc 2026). Instead, the Court has repeatedly affirmed the General Assembly’s “plenary legislative power” to redistrict under Article III, Section 1 and Article III, Section 45. *Luther*, 730 S.W.3d at 571–74. Moreover, none of the Missouri Constitution’s referendum provisions mentions election laws or congressional redistricting. See Mo. Const. art. III, §§ 49, 52(a), 52(b).

To be sure, the language of Article III, Section 49 is broad, “reserv[ing] power to approve or reject by referendum any act of the general assembly.” Mo. Const. art. III, § 49. But broad language—including the word “any”—is insufficient to overcome a clear statement rule. See *Gradwell*, 243 U.S. at 479–90; *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 221 n.4 (2008) (noting that clear statement rules “may counteract the effect of expansive modifiers,” such as terms like “any” and “all civil

actions”) (collecting cases); *see also State v. Liberty*, 370 S.W.3d 537, 548 (Mo. banc 2012) (adopting a narrow reading of “any” because the term was “ambiguous”).

In *Gradwell*, for example, Section 37 of the U.S. Criminal Code prohibited conspiracy “to defraud the United States in *any* manner for *any* purpose.” 243 U.S. at 479 (quoting U.S. Criminal Code § 37) (emphasis added). Yet despite the broad language in Section 37, the U.S. Supreme Court applied the Elections Clause’s clear statement rule, and held that “it would be a strained and unreasonable construction to apply” Section 37 to election fraud. *Id.* at 485; *see also id.* at 489–90 (“[I]t is not for the courts, in the absence of such legislation, to attempt to supply [election regulations] by stretching old statutes to new uses, to which they are not adapted and for which they were not intended.”). Likewise, Article III, Section 49’s use of the word “any” cannot serve as a “positive and clear” statement sufficient to rip redistricting authority away from the General Assembly. *Gradwell*, 243 U.S. at 485.

Unsurprisingly, since the Missouri Constitution was ratified in 1945, no court has endorsed a referendum challenging a congressional map. One group sought a referendum on a congressional map in 1952, but its referendum petition was discarded because the group’s petition lacked sufficient signatures in any event. *See State ex rel. Moore v. Toberman*, 250 S.W.2d 701, 702 (Mo. banc 1952). There, the Missouri Supreme Court affirmed a circuit court judgment that “[t]he filing of petitions for referendum prior to April 24, 1952, which said petitions have been proved to be legally insufficient, did not suspend the effective date of” Missouri’s congressional map. *Id.* at 703, 707. Then, most recently in *Maggard v. State*, the

Missouri Supreme Court underscored that its opinion should not be understood to endorse referenda against congressional maps. See 733 S.W.3d at 414 n.7 (“[T]his opinion presupposes without deciding HB 1 is subject to the right of referendum.”). *Maggard* went out of its way to note this point even though “[n]o party contend[ed]” that HB 1 was “excepted from the right of referendum.” *Id.* Thus, the Missouri Supreme Court has never endorsed referenda against congressional maps, cementing the absence of a clear statement.⁷

What’s more, the 1945 Constitution explicitly abrogated the only Missouri Supreme Court decision that has ever approved of a referendum on legislative redistricting of any kind. See Mo. Const. art. III, § 7. In *State ex rel. Gordon v. Becker*, 49 S.W.2d 146 (Mo. banc 1932), the Missouri Supreme Court—in a fractured decision—held that referenda could be used to challenge legislative districting for the Missouri Senate. To reverse this decision, the 1943–1944 Constitutional Convention included language in Article III, Section 7 providing that “[n]o redistricting plan shall be subject to the referendum.” Mo. Const. art. III, § 7 (1945). The delegates at the Missouri Constitutional Convention specifically cited the *Gordon* decision as warranting adoption of the amendments to prohibit such referenda. See Debates of the 1943–1944 Constitutional Convention of Missouri 7016 (2008). The Convention

⁷ Plaintiff will undoubtedly cite unreasoned dicta from *Preisler v. Hearnese*, 362 S.W.2d 552, 557 (Mo. banc 1962). But “an unexplained aside” in an opinion is entitled to little weight. See *Kisor v. Wilkie*, 588 U.S. 558, 597–98 (2019) (Gorsuch, J., concurring). And *Maggard* vitiated any persuasive value that *Preisler* holds by expressly noting that the availability of referenda on congressional maps is an open question. See *Maggard*, 733 S.W.3d at 414 n.7.

thus ensured that legislative districting for the Missouri Senate conformed with all other legislative districting. And because the Missouri Supreme Court had never upheld the referendum's use for congressional redistricting, the Convention had no need to address referenda in the context of congressional redistricting.

It is also obvious that the General Assembly has never contemplated a referendum on a congressional map since the enactment of Chapter 116, RSMo. Chapter 116 was enacted in 1980, and it is the General Assembly's "framework for exercising the right of referendum" in Missouri. *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 487 (Mo. banc 2022); *Maggard*, 733 S.W.3d at 415–16 ("The General Assembly enacted the statutory initiative and referendum certification process in chapter 116 in 1980 ... after then secretary of state, James Kirkpatrick, proposed a statutory certification process."). Chapter 116 establishes detailed procedures for referenda and ballot initiatives. But those procedures are obviously incompatible with referenda on congressional maps.

For example, Chapter 116 limits a referendum's summary statement to just 100 words. § 116.334, RSMo. Chapter 116 also contains no provision for photographs to accompany a summary statement. See § 116.334, RSMo. Redistricting is an enormously complicated endeavor—where legislators consider legal issues like compactness, geography, population, communities of interest, and countless other factors. See *Healey*, 732 S.W.3d at 839–52. Because redistricting takes expertise, the line-drawing power in other States is consistently vested in state legislatures or plainly transferred to expert commissions. See *Ariz. Indep. Redistricting Comm'n*, 576

U.S. at 798. If the General Assembly had the slightest inkling that Chapter 116 would facilitate referenda and initiatives on congressional maps, it would not force average people to consider competing maps with virtually no information. In von Glahn's world, most voters would select a competing congressional map without viewing either of the maps at issue. They could not possibly know—to give just one obvious example—where counties would be placed under the competing maps. Voters would not even know which districts *they* would be placed in under the competing maps. That is absurd.

As another example, Chapter 116 sets the presumptive deadline for the Secretary's certification decision on the same day as the August Primary Election. Compare § 116.150.3, RSMo, with § 115.121.1–2, RSMo. Sometimes, Chapter 116 imposes a deadline even *after* the August Primary if local election authorities return their signature verifications to the Secretary less than two weeks before the Primary. See § 116.150.3, RSMo.⁸ The General Assembly would have never imposed this timeframe if it believed that referenda on congressional maps are possible. Von Glahn criticizes the Secretary for rendering a certification decision according to Chapter 116's deadline. But the Secretary followed the law perfectly. See § 116.150.3, RSMo. The problem is with von Glahn's project, not with Chapter 116. Chapter 116 simply illustrates the obvious: The Missouri Constitution lacks any

⁸ “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.*” § 116.150.3, RSMo (emphasis added).

“positive and clear” statement authorizing referenda on congressional maps. *Gradwell*, 243 U.S. at 485.

The potential harm does not end with referenda. The Missouri Constitution provides for initiative measures in the same provision where it provides for referenda. *See* Mo. Const. art. III, § 49. So if a referendum were permitted, virtually any group could use the initiative process to propose congressional maps. This could lead to a host of consequences, including inviting violations of the “one person, one vote” rule, *see Wesberry v. Sanders*, 376 U.S. 1, 18 (1964), or the Voting Rights Act. In von Glahn’s brave new world, map-drawing would be left not to deliberative and democratically accountable legislators or given to expert independent commissions. Instead, various special interests groups could easily force their maps before voters through the State’s initiative process. Voters would be “educated” on the competing maps via dark-money-funded advertising and 100-word summary statements about each proposal. And if the General Assembly tries its hand at redistricting, dark-money-funded groups could easily gather signatures for a referendum, thus freezing implementation of a new map until the next election. That, in turn, will predictably lead to apportionment paralysis and invite one-person, one-vote violations if the State is forced to use an old map in the interim. The potential for chaos is endless—which goes to the lack of a clear statement in the Missouri Constitution and Missouri law. If the framers and the General Assembly had even considered the possibility that referenda and ballot initiatives could apply to congressional redistricting, they would have devised a different (and more sensible) system.

Without any clear statement, von Glahn merely cites one example of a 1922 referendum on a congressional map. See Ex. 17. This referendum was held over two decades before the 1945 Constitution, and nearly six decades before the General Assembly enacted Chapter 116—the modern “framework for exercising the right of referendum” in Missouri. *No Bans*, 638 S.W.3d at 487; *Maggard*, 733 S.W.3d at 415–16. The 1922 referendum was never the subject of litigation, and no Missouri court has ever endorsed it. Moreover, in 1922, Missouri statutory law (unlike Chapter 116 today) forbade the Secretary of State from analyzing the substantive constitutionality of referenda. Compare *State ex rel. Kemper v. Carter*, 165 S.W. 773, 780 (Mo. banc. 1914), with *Maggard*, 733 S.W.3d at 418 (“chapter 116 went into effect in January 1981” and is “a statutory process that did not exist when *Kemper* was decided”).⁹ Thus, in 1922 (unlike today), the Secretary of State had no occasion to weigh the constitutionality of a referendum on a congressional map. The 1922 referendum thus lacks even an implicit endorsement from any Missouri official—legislative, executive, or judicial.

At best, the 1922 referendum shows the practice of one group of private citizens over a century ago. Decades later, a new Missouri Constitution was adopted in 1945. And notably, no congressional plan has subsequently been subjected to a referendum vote—a fact that should surprise the Court if Plaintiff’s legal theory is right, given

⁹ Accord *von Glahn*, 2025 WL 3514277, at *1, 4 n.4 (recognizing the Chapter 116 “authority” of the “Secretary of State to reject [PNP’s] petition as unconstitutional during post-submission review”); *Missouri Gen. Assembly v. von Glahn*, No. 4:25-CV-1535-ZMB, 2026 WL 1290477, at *4 (E.D. Mo. May 11, 2026) (same).

the strong incentives of the minority party to challenge redistricting plans adopted by the majority party. Thus, the 1922 example is hardly a line of established, unbroken practice about the meaning of the Missouri Constitution's referendum provisions. Moreover, *even if* such practice existed, it would not be sufficient to overcome the Elections Clause's clear statement rule. *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 329 (2015) (even "long-established practice" cannot overcome a clear statement rule); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *5 (E.D. Mo. Nov. 10, 2025) (same).

Von Glahn has thus failed to provide a "positive and clear" statement in the Missouri Constitution authorizing referenda on congressional maps. *Gradwell*, 243 U.S. at 485.

C. Even read without reference to the U.S. Constitution's Elections Clause, the Missouri Constitution does not authorize referenda on congressional maps.

Even if the Elections Clause did not impose a clear statement rule (it does), the Missouri Constitution—properly read—does not sanction referenda on congressional maps. "Article III, section 45 is the only provision of the Missouri Constitution directly addressing congressional redistricting." *Luther*, 730 S.W.3d at 571. And Article III, Section 45 provides that after "each census," "the general assembly *shall* by law divide the state into districts corresponding with the number of representatives to which it is entitled." Mo. Const. art. III, § 45 (emphasis added). In other words, Section 45 invalidates the pre-Census map and *obligates* the General Assembly to redistrict after each decennial Census. Section 45 also makes no mention of a referendum being available for congressional redistricting plans. This is for good

reason: If the Missouri Constitution's referendum provisions apply to redistricting, fulfilling the General Assembly's duty under Article III, Section 45 could be impossible—and Missouri could be left with no congressional map after the decennial Census.

The Court must also keep in mind that all “[c]onstitutional limitations on the legislative power are ‘strictly construed in favor of the power of the General Assembly.’” *Luther*, 730 S.W.3d at 571 (quoting *Bd. of Educ. of City of St. Louis*, 879 S.W.2d at 533). And “the General Assembly has the power to do whatever is necessary to perform its functions except as *expressly restrained* by the Constitution.” *Id.* (emphasis added) (quoting *Liberty Oil*, 813 S.W.2d at 297). In light of these standards, Article III, Section 45 makes this a straightforward case. Section 45 *expressly obligates* the General Assembly to use its legislative powers to redistrict. *Luther*, 730 S.W.3d at 571–73. Thus, the Missouri Constitution only bolsters the General Assembly's already expansive legislative power in the redistricting context.

Moreover, the referendum provision itself can be read to exempt congressional maps from its coverage. *Maggard*, 733 S.W.3d at 414 n.7. Article III, Section 52(a) specifically excepts from the referendum “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.” Mo. Const. art. III, § 52(a) (emphasis added). Any apparent conflict in the Constitution could be harmonized through at least two of these exceptions. See *State ex rel. Jones v. Atterbury*, 300 S.W.2d 806, 810 (Mo.

banc 1957) (“The constitution must be read as a whole and seemingly conflicting provisions should be harmonized so as to give effect to the whole.” (citing *Toberman*, 250 S.W.2d at 705)).

First, congressional maps are excepted from referenda because they are necessary “for the maintenance of state institutions.” Mo. Const. art. III, § 52(a). The term “institution” can refer to “a custom or practice that has existed for a long time and is accepted as an important part of a society,” such as “the institution of marriage.” *Institution*, CAMBRIDGE DICTIONARY;¹⁰ *see also Institution*, MERRIAM WEBSTER DICTIONARY (similar).¹¹ Laws necessary “for the maintenance of state institutions,” Mo. Const. art. III, § 52(a), can thus refer to laws necessary to preserve the most basic norms and practices of Missouri. That principle applies here because suffrage is certainly a fundamental Missouri institution. *See* Mo. Const. art. I, § 25; *Priorities USA v. State*, 591 S.W.3d 448, 452 (Mo. banc 2020). “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society.” *St. Louis Cnty. Bd. of Election Commissioners v. McShane*, 492 S.W.3d 177, 180 (Mo. App. E.D. 2016) (internal quotation omitted). The U.S. Constitution also guards the fundamental right of Missourians to select their representatives in Congress every two years. U.S. Const. art. I, § 2.

Perhaps no institution could be more fundamental to a free society than elections. To maintain that State institution, the Missouri Constitution specifically

¹⁰<https://dictionary.cambridge.org/dictionary/english/institution?q=Institution>

¹¹ <https://www.merriam-webster.com/dictionary/institution>

obligates the General Assembly to redistrict (at least) after each Census. Mo. Const. art. III, § 45. The General Assembly also holds plenary legislative authority to redistrict even more often if necessary. *See Luther*, 730 S.W.3d at 571–74. Post-Census redistricting is also functionally required by virtue of the U.S. Constitution’s “one person, one vote” rule. *See Wesberry*, 376 U.S. at 18. “Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people ...” *Reynolds v. Sims*, 377 U.S. 533, 562 (1964). Fulfilling these requirements would be impossible without redistricting. *See* Mo. Const. art. III, § 45. Thus, redistricting legislation is squarely excepted from referenda because it is necessary “for the maintenance” of suffrage—which is a fundamental “state institution[].” *Id.* art. III, § 52(a).

Second, redistricting legislation is excepted from the referendum because it is “necessary” for “preservation of the public peace, health or safety.” Mo. Const. art. III, § 52(a). Again, facilitating elections is impossible without redistricting legislation. And “the political franchise of voting” is “preservative of all rights.” *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 667 (1966) (quoting *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)). That is why the Missouri Constitution speaks “‘with unmistakable clarity’ that Missouri citizens have a fundamental right to vote.” *Priorities USA*, 591 S.W.3d at 452 (citation omitted); Mo. Const. art. I, § 25 (“[A]ll elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”). Regular and fair

elections are a fundamental component of a free society. Article III, Section 52(a) thus exempts election laws, such as the HB 1 map, from referendum challenges. Miniscule fractions of Missouri's population (3.3% of voters) cannot demand referenda on legislation that is so essential to the "preservation of the public peace." Mo. Const. art. III, § 52(a).

The Court should therefore conclude that the Missouri Constitution does not authorize referenda against congressional maps and enter judgment for the Secretary.

II. The U.S. Constitution renders Article III, Section 52(b) of Missouri Constitution invalid as applied to HB 1.

In the alternative, *even if* the Court believes that the Missouri Constitution permits referenda on congressional maps, the U.S. Constitution would invalidate Article III, Section 52(b)—which freezes referred laws pending a statewide vote—as applied to HB 1. And, in the event of a conflict, the U.S. Constitution supersedes. See U.S. Const. art. VI ("This Constitution, and the Laws of the United States ... shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."); Mo. Const. art. I, § 4 ("Missouri is a free and independent state, subject only to the Constitution of the United States").

Two provisions of the U.S. Constitution are relevant. First, the Elections Clause provides that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." U.S. Const. art. I, § 4. This Clause is rooted in a republican theory of government, and it was essential to securing ratification of the U.S. Constitution.

The founders settled on vesting regulatory authority over elections in state legislatures—as “the *representative* body which ma[kes] the laws of *the people*.” *Smiley v. Holm*, 285 U.S. 355, 365 (1932) (emphasis added, internal quotation omitted).

But in von Glahn’s proposed world, about 3.3% of Missourians can temporarily suspend a duly-enacted congressional map. Pet. ¶¶ 6–7, 42–43, 45; *id.* at 8. That would flagrantly violate the Elections Clause. HB 1 passed overwhelmingly in both houses of the General Assembly and was signed by the Governor. See Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025). Yet according to von Glahn, the Article III, Section 52(b) of the Missouri Constitution mandates that HB 1 cannot take effect (and is thus temporarily repealed) *until* voters weigh in. See Pet. ¶¶ 6–7, 42–43, 45; *id.* at 8.

That would violate the U.S. Constitution and basic democratic principles. If von Glahn is right, just 3.3% of registered voters could suspend Missouri’s congressional map for an entire election cycle. See Mo. Const. art. III, § 52(a); Pet. ¶ 42 (von Glahn alleging that “he is entitled to the immediate suspension of the use and implementation of HB 1”). To the extent that the U.S. Constitution’s Elections Clause means *anything*, it certainly prohibits 3.3% of voters from voiding a congressional map enacted by the General Assembly.

Of course, 110 years ago in *Hildebrandt*, 241 U.S. 565, the U.S. Supreme Court held that the U.S. Constitution’s Guarantee Clause did not prevent Ohio from

subjecting congressional maps to a referendum. But neither *Hildebrant* nor any other Supreme Court decision suggested that just 3.3% of a State’s voters can displace a lawfully-enacted congressional map for an entire election cycle. To allow that result here would defy the Elections Clause, and *would* “introduce a virus which destroys that [legislative] power, which in effect annihilates representative government.” *Id.* at 569.

Such a scheme would also violate the U.S. Constitution’s Guarantee Clause. The Guarantee Clause provides that “[t]he United States shall guarantee to every State in this Union a Republican Form of Government.” U.S. Const. art. IV, § 4. There is no mystery about what constitutes a “Republican Form of Government.” *Id.* “All the States had governments when the Constitution was adopted. In all the people participated to some extent, through their representatives elected in the manner specially provided.” *Minor v. Happersett*, 88 U.S. 162, 175 (1874). Von Glahn’s proposed remedy—nullification of HB 1 *without* a majority vote, Pet. ¶¶ 42–43, 45; *id.* at 8—would allow a small, unelected fraction of Missourians to control the State’s congressional map for an entire election cycle. This palpably affronts the Guarantee Clause. In George Washington’s words, “[I]f the Laws are to be so trampled upon—with impunity—and a minority (a small one too) is to dictate to the majority,” then “there is an end put, at one stroke, to republican government.” See Letter from George Washington to Charles Mynn Thruston (Aug. 10, 1794).¹²

¹² <https://founders.archives.gov/documents/Washington/05-16-02-0376>

The Guarantee Clause “necessarily implies a duty on the part of the States themselves to provide” a republican form of government. *Minor*, 88 U.S. at 175. Thus, the State of Missouri cannot permit just 3.3% of the State’s voting population to suspend a duly-enacted congressional map. *See* Mo. Const. art. III, §§ 52(a), 52(b). To permit this would blatantly violate the separation of powers, which is essential to republican government. Surely, if the legislative authority and the Governor’s veto authority cannot be broadly delegated to “unelected administrative official[s],” then it would violate basic republican principles to vest legislative and veto authority in a small band of voters seeking to temporarily suspend a congressional map. *See Robinson v. Missouri Dept. of Health and Sr. Services*, No. 20AC-CC00515, 2021 WL 7441868, at *1 (Mo.Cir. Nov. 26, 2021) (Green, J.). Indeed, “[o]ne of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws cannot be delegated by that department to any other body or authority.” *Id.* (quoting Cooley, *Constitutional Limitations* (1886), pp. 116–117). But that is exactly what von Glahn tries to do here. Even “a middle school civics student would recognize” a problem with this. *Id.*

History and tradition also confirm this understanding. As to history, the founding generation clearly understood “a republic” to refer to “a government in which the scheme of representation takes place.” *Federalist No. 10* (Madison). James Madison explained that a “republic” involves “the delegation of the government ... to a small number of citizens elected by the rest.” *Id.* Post-enactment tradition also

confirms the founders' understanding of a "Republican Form of Government." U.S. Const. art. IV, § 4. In *Duncan v. McCall*, the U.S. Supreme Court opined:

By the constitution, a republican form of government is guarantied to every state in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves ...
139 U.S. 449, 461 (1891).

Members of the Missouri Supreme Court have also agreed that a "Republican Form of Government" refers to the fundamental right of Missourians to enact laws through their elected representatives. In a 1917 case, Judge Archelus Woodson articulated this understanding clearly:

Under a republican form of government (and all of the states of the Union are such, Section 4, art. 4, of the Constitution of the United States), I know of no mode by which a state can put in force and operation a statute, except by the lawmaking body thereof, and, when properly enacted, it is designated and commonly called a statute, and, of course, is a statute of the state enacting it.
Madden v. Missouri Pac. Ry. Co., 192 S.W. 455, 458 (Mo. banc 1917) (Woodson, J., concurring in the judgment).

Together, these sources show that the right of the people to enact legislation through elected representatives is the defining feature of a "Republican Form of Government." U.S. Const. art. IV, § 4. As to HB 1, Missourians have spoken overwhelmingly. HB 1 passed 21 to 11 in the Senate and 90 to 65 in the House of Representatives. *See* Mo. Senate J. 25–26 (2d Extra. Sess., 103d Gen. Assembly, Sept. 12, 2025); Mo. House J. 37–38 (2d Extra. Sess., 103d Gen. Assembly, Sept. 9, 2025). Even if a small percentage of Missouri's registered voters signed a referendum

petition, Mo. Const. art. III, § 52(a), the Guarantee Clause forbids the State of Missouri from allowing a small fraction to override the People's elected representatives. This is especially true in the context of a congressional map, where this year's election will control Missouri's representation in Congress for the next two years. Until a majority of Missourians vote against the HB 1 map, the will of the People must remain in effect. Any other result would violate the Guarantee Clause.

III. Changing the congressional map at this hour is impossible. Thus, the *Hadley-Purcell* principle forbids von Glahn's impossible demand.

Even if von Glahn is correct that 3.3% of Missouri voters can freeze duly enacted congressional maps, changing the congressional map is “literally impossible” after the 2026 Primary Election. Ex. 28, Brown Aff. ¶ 6. Von Glahn pretends that the Court can award relief simply by enjoining “the use and implementation of HB 1.” Pet. ¶¶ 42–43, 45; *id.* at 8. But having demanded this extraordinary remedy, von Glahn's Petition offers *zero* explanation as to *how* the Court can provide it. Indeed, it is unclear whether von Glahn envisions an injunction ordering a new Primary under the so-called “correct congressional districts,” *id.* ¶ 45, or whether he demands an injunction that would simply change Missouri's map as to the General Election alone. In the latter case, it is unclear whether von Glahn intends to throw out the results of the Primary Election before proceeding to the General Election under a completely different congressional map.

No matter what von Glahn envisions, basic principles of equity mandate rejection of von Glahn's claims. It is far, *far* too late to change the map governing the 2026 elections. Candidate filing ended in late March. § 115.349.1, RSMo. Missouri

finished its Primary Election—in which 1.2 million people voted—roughly two weeks ago. §§ 115.121.2, 115.341, RSMo. On the date of trial, the General Election will be less than eleven weeks away. § 115.121.1, RSMo. At this point, changing the HB 1 map is unthinkable—even if von Glahn proves a constitutional violation.

The Missouri Supreme Court’s decision in *Hadley* is dispositive. See *Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1 (Mo. banc 1970). There, the Missouri Supreme Court confronted a remand after the U.S. Supreme Court found that districts for electing school officials were unconstitutionally apportioned. 460 S.W.2d at 2. On the date that the Missouri Supreme Court rendered its decision, the candidate filing period was scheduled to end in a few days. *Id.* at 2. The Court noted that “[f]ive candidates have filed for the office, and the election machinery already is in operation.” *Id.* at 3. Furthermore, “[a]bsentee ballots for that election are now being printed and other preparations, including necessary adjustments of voting machines, are in progress. Substantial expense has been incurred and substantial additional expense would be involved if the election of trustees is postponed and such election is held at a later date.” *Id.* The Court thus concluded that “it would be wholly inequitable and impracticable to attempt at this late date to” order an adjustment to the unconstitutionally apportioned districts. *Id.* In reaching this conclusion, the Court noted the U.S. Supreme Court’s own precedent that “a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles.” *Id.* at 2 (emphasis added) (quoting *Reynolds*, 377 U.S. at 585).

Today, the U.S. Supreme Court still applies this equitable principle—known as the *Purcell* principle in federal court. See *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006). In fact, the U.S. Supreme Court applied the *Purcell* principle to foreclose challenges to Texas’s congressional map for the 2026 elections *nine* months ago—during Texas’s candidate filing period. See *Abbott v. LULAC*, 146 S. Ct. 418, 419 (2025). If this case were in federal court, von Glahn’s request for an injunction would be deemed frivolous.

Undeterred, von Glahn soldiers on—demanding a change to Missouri’s congressional map two weeks *after* the August Primary. The State is not aware of any court that has ever awarded such a drastic remedy. And *Hadley* certainly requires rejection of von Glahn’s claims here. Missouri’s candidate-filing period closed over four months ago. § 115.349.1, RSMo. The Primary Election finished over a week ago. §§ 115.121.2, 115.341, RSMo. For almost a year, candidates have built their campaigns based on the assumption that the HB 1 map would govern. Money has been raised; voters have adjusted to new districts; and 1.2 million Missourians voted under those districts. Candidates are now campaigning for Missouri’s General Election in November. Candidates advancing to the General Election have collectively raised about \$20,000,000 for the contest in November.¹³ Candidates and

¹³ See Fed. Elec. Comm’n, *Campaign Finance Data: Missouri - House District 01*, <https://archive.is/6vnQU>; *id.* *Missouri - House District 02*, <https://archive.is/e7DxI>; *id.* *Missouri - House District 03*, <https://archive.is/Dx3FE>; *id.* *Missouri - House District 04*, <https://archive.is/WLaJ7>; *id.* *Missouri - House District 05*, <https://archive.is/D5YSa>; *id.* *Missouri - House District 06*, <https://archive.is/HuVvv>; *id.* *Missouri - House District 07*, <https://archive.is/Sveh3>; *id.* *Missouri - House District 08*, <https://archive.ph/HzSmW>.

voters have overwhelming reliance interests in maintaining the current map. See Ex. 35; Ex. 36; Ex. 37; *Merrill v. Milligan*, 142 S. Ct. 879, 880–81 (2022) (Kavanaugh, J., concurring) (“Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others.”).

Also, changing the map before the General Election is “literally impossible”—as Tammy Brown’s testimony establishes. Ex. 28, Brown Aff. ¶¶ 6, 19. Brown has twenty-five years of experience as a Jackson County election official. *Id.* ¶ 1. She has facilitated over a hundred elections in Jackson County, and she helped manage Jackson County’s efforts to implement redrawn congressional maps in 2012, 2022, and 2026. *Id.* ¶¶ 1, 3. Brown has never heard of Missouri—or any other State—ever changing their congressional map between a primary election and a general election. *Id.* ¶ 5.

As Brown explains in her affidavit, to implement a new congressional map, local election officials must transfer voters in Missouri’s Centralized Voter Registration (“MCVR”) system. This is a slow, meticulous process that involves manually moving individual voters from one congressional district to another. *Id.* ¶ 7. It involves careful analysis of printed maps, and several rounds of proofreading. *Id.* This arduous process usually takes 2 – 2 ½ weeks, and requires *at least* 7–10 days

if election officials worked overtime and weekends in order to quickly implement a new map. *Id.*¹⁴

Critically, the MCVR system locks shortly before absentee ballots are distributed and remains locked until an election is certified two weeks after election day. *Id.* ¶ 8.¹⁵ This year, the MCVR system will remain locked until (at least) mid-November because of a Jackson County special election in September 2026. *Id.* ¶ 9. Thus, changing the map in the MCVR system is “literally impossible” until after the November General Election. *Id.* ¶¶ 6, 19.¹⁶

¹⁴ *Accord* Ex. 32, Letter of Missouri Association of County Clerks and Election Authorities; Ex. 29, Amicus Br. of Brianna Lennon at 11–14, *supra*; Ex. 30, Amicus Br. of Kurt Bahr at 13–16, *supra*; Ex. 31, Trial Testimony of Shawn Kieffer at 109:1–17, *supra*.

¹⁵ In light of MCVR’s locking function, the Missouri Association of County Clerks and Election Authorities feared that there would not be any window available after January 2026 to change Missouri’s congressional map. *See* Ex. 32, Letter of Missouri Association of County Clerks and Election Authorities (“Redistricting complicates this process because MCVR ‘locks’ current district boundaries during any active election so that new districts cannot be created, and voters subsequently cannot be assigned to new districts.”); *see also* Ex. 29, Amicus Br. of Brianna Lennon at 11–14, *supra* (“Typically, the last possible time for a local election official to establish new districts for an election is the ninth Tuesday before an election.”); Ex. 30, Amicus Br. of Kurt Bahr at 13–16, *supra* (“[L]ocal election authorities cannot access MCVR to enter new district lines at just any time of year. For lengthy stretches of time, MCVR is necessarily ‘locked’ to protect against structural districting changes. This lockout lasts for a period before and after each election while ballots are printed and mailed, poll lists are compiled, voting occurs, votes are canvassed, and returns are certified.”).

¹⁶ Brown also address the affidavit of Brianna Lennon, explaining: “Ms. Lennon’s representation is wrong [at least] as to Jackson County. In Jackson County, we exclusively implemented the HB 1 congressional map in the MCVR database for the 2026 congressional election. Reverting to the 2022 map would require us to reopen the MCVR database and to manually adjust each precinct’s and each voter’s

Further, to comply with UOCAVA, Missouri local election officials must send ballots to military and overseas voters no later than September 19, 2026. *See* 52 U.S.C. § 20302(a)(8). This requires printing ballots no later than eight weeks before the election (September 8, 2026). Ex. 28, Brown Aff. ¶ 11. Election officials also need at least two weeks before printing (August 25, 2026) to design and test ballots. *Id.*¹⁷ And all of this can occur only after Missouri election officials implement the congressional map in the MCVR database. *Id.*¹⁸ But again, changing the congressional map in MCVR is impossible while an election is ongoing. *Id.* ¶ 8.¹⁹ And Missouri currently has several ongoing elections—between the August Primary Election and the September Special Election in Jackson County. *Id.* ¶ 9.

In other words, von Glahn’s proposed remedy is impossible. Von Glahn surely knows this. That is why, many months ago, PNP and von Glahn repeatedly characterized their lawsuits as “time-sensitive election case[s]” because of their “impact” on “the 2026 election” and the need to avoid “chaos in August.” Ex. 22, Mot.

congressional district back to the 2022 map. As far as I am aware, there is no ‘magic button’ that would suddenly allow us to revert to the 2022 congressional districts.”

¹⁷ *Accord* Ex. 31, Trial Testimony of Shawn Kieffer at 105:25–108:21.

¹⁸ *Accord* Ex. 32, Letter of Missouri Association of County Clerks and Election Authorities (“The lack of decided boundary lines [implemented in MCVR] effectively prohibits election authorities from preparing ballot types that accurately represent the correct political subdivisions for each residential address, which means ballots will not be ready for voters.”).

¹⁹ *Accord* Ex. 32, Letter of Missouri Association of County Clerks and Election Authorities; Ex. 29, Amicus Br. of Brianna Lennon at 11–14, *supra*; Ex. 30, Amicus Br. of Kurt Bahr at 13–16, *supra*.

to Expedite at 1–2, *State ex rel. People Not Politicians v. Limbaugh*, No. WD88821 (Mo. App. W.D., filed April 1, 2026); *see also* Ex. 23, SIS Pet. for Writ of Prohibition at 5–6, *Limbaugh*, No. WD88821. That is also why opponents of HB 1—including opponents represented by von Glahn’s counsel—repeatedly stated that they needed judicial resolution of HB 1’s status before the candidate-filing period *opened last February*.²⁰ Many of these plaintiffs acknowledged that equitable principles would eventually require Missouri courts “to favor the status quo in a legal dispute during the lead-up to an election.” *See, e.g.*, Ex. 26, SIS Mot. for Prelim. Inj. at 16, *Maggard v. State*, No. 25AC-CC09120 (Mo. Cir. Ct., filed Jan. 14, 2026) (quotation omitted). The State *never* contested that point; in fact, it started asserting the *Hadley-Purcell* principle in February 2026. *See* Respondent’s Br. at 54, *Luther v. Hoskins*, No. SC101412 (Mo., filed Feb. 9, 2026). And even *Democracy Docket* admitted in March 2026 that Judge Stumpe’s ruling in *Maggard* “likely killed attempts to stop Republicans from imposing the new map” because of the candidate-filing deadline “rapidly approaching on Mar. 31,” 2026. Ex. 34, Jen Rice, *GOP derails bid to stop Missouri gerrymander for 2026*, *Democracy Docket* (Mar. 27, 2026).²¹ Now, two weeks after the Primary Election, it is certainly too late to enjoin “any further steps to implement or mandate the use of HB 1.” Pet. at 8.

²⁰ *See* Ex. 24, Mot. to Expedite at 2, *Luther v. Hoskins*, No. SC101412 (Mo. banc, filed Dec. 31, 2025); Ex. 25, Pltfs.’ Opp. to a Continuance at 1–3, *Wise v. State* and *Healey v. State*, Nos. 2516-CV29597, 2516-CV31273 (Mo. Cir. Ct., filed Dec. 15, 2025); Ex. 26, SIS Mot. for Prelim. Inj. at 16, *Maggard v. State*, No. 25AC-CC09120 (Mo. Cir. Ct., filed Jan. 14, 2026).

²¹ <https://archive.ph/pUnQs>

Other cases also corroborate why Missouri must conduct its general election under the HB 1 map. As far as the State is aware, every time a redistricting plan is invalidated after a primary election, courts have stayed their remedy as to the upcoming general election. *See, e.g., Covington v. North Carolina*, 316 F.R.D. 117, 176–77 (M.D.N.C. 2016) (allowing general election “to proceed as scheduled under the challenged plans” despite being determined unconstitutional after the primary); *Page v. Va. State Bd. of Elections*, 58 F. Supp. 3d 533, 554 (E.D. Va. 2014) (“[G]eneral principles of equity dictate that Virginia’s 2014 elections should proceed as scheduled under the challenged districting plans” after plan found invalid one month before general election.), *vacated on other grounds sub nom., Cantor v. Personhuballah*, 135 S. Ct. 1699 (2015); *Vera v. Richards*, 861 F. Supp. 1304, 1351 (S.D. Tex. 1994) (ordering election held on unconstitutional map after primary had already been held), *aff’d sub nom., Bush v. Vera*, 517 U.S. 952 (1996); *see also Terrazas v. Slagle*, 821 F. Supp. 1154, 1159 (W.D. Tex. 1992) (“Primary elections for offices chosen by the electorate in separate geographical districts obviously make no sense unless the districts are the same for the ensuing general election as for the primary.”). This Court must similarly reject von Glahn’s request for such a drastic remedy here.

IV. The U.S. Constitution and federal law forbid changing Missouri’s congressional map during an election.

Finally, von Glahn’s proposed remedy—an injunction against “the use and implementation of HB 1,” Pet. ¶¶ 42–43, 45; *id.* at 8—would violate the U.S. Constitution and federal law. It is unclear precisely what remedy von Glahn envisions, especially because the Primary Election finished on August 4. But

regardless, any potential remedy would violate federal law and the U.S. Constitution. Hosting another primary would be impossible in light of deadlines prescribed by UOCAVA, 52 U.S.C. § 20302. And holding a General Election under a *different* congressional map would violate the U.S. Constitution's Article I, Section 2 and its Equal Protection Clause. Thus, the Court must reject von Glahn's proposed remedy.

A. An order requiring the State to host a new Primary Election would force a violation of 52 U.S.C. § 20302 ("UOCAVA").

Von Glahn's first potential remedy—an order invalidating the Primary Election altogether and requiring a new primary—would force Missouri to violate UOCAVA, 52 U.S.C. § 20302.

UOCAVA requires local election authorities to transmit ballots “not later than 45 days before the election” to military and overseas voters, 52 U.S.C. § 20302(a)(8), § 115.914, RSMo, and Missouri statutes implementing UOCAVA prevent the certification of election results for three days after an election, *see* §§ 115.920.1, 115.508, RSMo. Mathematically, that requires *at least* 93 days to run a primary and general election by the federally-imposed deadline on November 3, 2026. *See Foster v. Love*, 522 U.S. 67, 73–74 (1997) (holding that State may not run federal election in conflict with federal timing of 2 U.S.C. § 7). Yet, on the day of trial, Missouri will be 76 days away from the November General Election. Thus, as a matter of federal law, it is already too late to order Missouri to re-run its Primary Election.

UOCAVA is also enforceable by the U.S. Attorney General in federal district court. 52 U.S.C. § 20307(a). Any failure to comply with UOCAVA by Missouri would

likely subject the State to an adverse federal injunction contradicting any potential state order that conflicts with UOCAVA. *See id.*

The Court should comply with federal law and reject von Glahn's claim.

B. An order requiring a General Election under a different map would violate the U.S. Constitution.

To the press, Plaintiff's counsel has floated an alternative proposal: having the winners of the Primary Election held under the HB 1 map simply run in different congressional districts in the General Election. *See, e.g., Jason Hancock, Referendum campaign asks court to block new Missouri map from November election, MISSOURI INDEPENDENT* (Aug. 5, 2026);²² *see also* Pet. ¶ 45. In other words, hundreds of thousands of voters would vote for candidates in the General Election that they had no role in choosing in the Primary Election. Cole County voters, for example, chose Rick Brattin and Emanuel Cleaver as the candidates for Congressional District 5, but Plaintiff apparently thinks Cole County voters should be forced to choose between Bob Onder and Bethany Mann—who were chosen by entirely different voters in Congressional District 3.

This idea is not just profoundly antidemocratic; it violates federal law. The U.S. Constitution protects the right to vote and prohibits States from nullifying votes cast in federal congressional elections. *See* U.S. Const. art. I, §2; *United States v. Mosley*, 238 U.S. 383, 386 (1915) (recognizing that the constitutional right to vote includes “right to have one’s vote counted”). But that is exactly what von Glahn

²² <https://archive.is/Sb26p>

seemingly proposes here—a plan that would render hundreds of thousands of votes in the Primary Election effectively null and void.

Nor does the fact that von Glahn proposes to nullify a primary election—as opposed to a general election—change anything. U.S. Supreme Court precedent establishes that “[w]here the state law has made the primary an integral part of the procedure of choice . . . the right of the elector to have his ballot counted at the primary, is likewise included in the right protected by” the Constitution’s right to vote. *United States v. Classic*, 313 U.S. 299, 318 (1941). Said another way, the primary and general elections are “fus[ed]” into a “single instrumentality” such that they possess a “unitary character.” *Smith v. Allwright*, 321 U.S. 649, 660–61 (1944).

This is certainly true in Missouri, where the State Supreme Court has held that “[n]ominating or primary elections have constitutional stature in Missouri” and serve an “integral part of [the State’s] election machinery.” *State ex rel. McClellan v. Kirkpatrick*, 504 S.W.2d 83, 86 (Mo. banc 1974) (citing Mo. Const. art. VIII, § 3). Missouri law also provides that “all candidates for elective office shall be nominated at a primary election,” §§ 115.339, 115.343, RSMo. Thus, the primary “exclud[es] from the ballot on the general election the names of candidates rejected at the primary” such that it “impose[s] restrictions upon the choice of candidates by the voters save by voting at the primary election.” *Classic*, 313 U.S. at 313. This makes the primary “integral” “as a matter of law.” *Id.* at 314; *McClellan*, 504 S.W.2d at 86.

Von Glahn’s proposed scheme also violates the U.S. Constitution’s Equal Protection Clause for an additional reason. See U.S. Const. amend. XIV, § 1. Once

again, von Glahn envisions requiring hundreds of thousands of Missourians to consider a slate of candidates that they never considered in the Primary Election. These voters would possess less voting power than those who participated in a Primary and General Election in the same congressional district. That disparity in voting power would violate the Equal Protection Clause.

For example, in *Gray v. Sanders*, the U.S. Supreme Court confronted Georgia primary-election procedures that “weight[ed] the rural vote more heavily than the urban vote and weight[ed] some small rural counties heavier than other larger rural counties.” *Gray v. Sanders*, 372 U.S. 368, 379 (1963). The Court held that this disparity violated the Equal Protection Clause, explaining: “Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and *wherever their home may be* in that geographical unit.” *Id.* (emphasis added). “This is required by the Equal Protection Clause of the Fourteenth Amendment. The concept of ‘we the people’ under the Constitution visualizes no preferred class of voters but equality among those who meet the basic qualifications.” *Id.* at 379–80.

The remedy that von Glahn suggests—changing the congressional map in the middle of an election—would flagrantly violate this standard. It would diminish the voice of many Missourians (including every voter in Cole County) who would be forced to vote for different slates of candidates in the Primary and General Elections. This would be particularly problematic in districts where primaries are more competitive

than the general election. In those districts, the primary election is *the* contest where voters effectively select their representative.

Thus, even if a referendum on HB 1 is constitutional, the General Election must go forward under the existing map. The Primary Election is now complete. And because “this right of participation [in the Primary Election] is protected just as is the right to vote at the [General] election,” *Classic*, 313 U.S. at 318, invalidating the Primary Election result would undermine the voters’ “ultimate choice of the representative” under Article I, Section 2 of the U.S. Constitution, *id.*²³

* * *

In seeking an injunction against HB 1 before the General Election, von Glahn appears naïve about the blast radius of his demand. Regardless of how the Court

²³ Von Glahn could theoretically argue at trial that Missouri’s political parties could simply nominate new candidates to run in a General Election with different congressional map. But nothing in Missouri law allows this Court to throw out 1.2 million votes cast in the *completed* Primary Election. Indeed Section 115.343 provides:

The person receiving the greatest number of votes at a primary election as a party candidate for an office ***shall*** be the ***only*** candidate of that party for the office at the general election. The name of such candidate ***shall*** be placed on the official ballot at the general election unless he is removed or replaced as provided by law.

§ 115.343, RSMo (emphasis added). The law provides for removal or replacement of the nominated candidate for only three reasons: The nominee (1) “die[s],” (2) “is disqualified,” or (3) voluntarily “withdraw[s].” § 115.363.3(1)–(3), .4. In those three cases, “the party nominating committee for any established political party may select a party candidate.” *Id.* But here, if the HB 1 map is invalidated, none of the nominees that voters selected would have died, disqualified themselves, or withdrawn.

reads the Missouri Constitution, it cannot order the State to violate federal law by using a different congressional map than the one used in the 2026 Primary Election.

CONCLUSION

For the above reasons, the Court should reject von Glahn's claims and enter judgment in favor of the Secretary.

Date: August 18, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2026, a true and accurate copy of the above was electronically filed by using the Court's CM/ECF system to be served via operation of the Court's electronic filing system upon all counsel of record.

Louis J. Capozzi, III