

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT, DIVISION 11
Honorable Adam Caine, Judge

TERRENCE WISE, et al.,)

Plaintiffs,)

vs.)

Case No. 2516-CV29597

STATE OF MISSOURI, et al.,)

Defendants.)

ELIZABETH HEALEY, et al.,)

Plaintiffs,)

vs.)

Case No. 2516-CV31273

STATE OF MISSOURI, et al.,)

Defendants.)

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
VOLUME IV (OF IV)

On February 20 of 2026 the above cause came on for hearing before the Honorable Adam Caine, Judge of Division 11 of the Circuit Court of Jackson County.

PROCEEDINGS

(February 20, 2026)

THE COURT: Good morning, everybody. Welcome back. We are set for some closing arguments. I know before that we had talked about the parties getting the submission of the deposition designations.

MR. MULJI: Yes, Your Honor. I believe they're being filed as we speak, perhaps.

MS. WILCOX: They will be filed this morning. Yeah.

THE COURT: Okay.

MS. HUNKER: We are working on getting our signature blocks to Plaintiffs and once we do so they will be filing it, so it should be on file momentarily.

THE COURT: Okay. All right.

Can somebody just send us a courtesy copy when you do that? Sometimes it's a delay of a few days, and before you leave I'll just confirm that we have it and that'll close our evidentiary record.

MR. MULJI: Will do, Your Honor.

And we wanted to inquire too, if the Court would like a paper copy, we're happy to provide that either later today or next week.

THE COURT: No need. As long as we get a digital copy of that, that's fine and then I'll trust that you all

1 will hold on to everything else that we need to.

2 Any other preliminary matters before we move into
3 closing arguments?

4 MS. KHANNA: Just, Your Honor, we now have all of
5 the demonstrative exhibits that Plaintiffs have used, those
6 were not included on the original flash drive, and so I
7 have them both in hard copy and in a USB. And, Your Honor,
8 I can deliver it to the Court before or after or now.

9 THE COURT: Just, any time is fine.

10 MS. KHANNA: Okay.

11 THE COURT: You don't need to drag it over here
12 now, but we'll get a copy of it. And I assume other folks
13 have a copy of it, as well?

14 MS. KHANNA: We will make sure they do. Yeah.

15 THE COURT: Okay.

16 MR. ELLINGER: And, Judge, we filed all of our
17 Intervenor's exhibits electronically.

18 Do you want a paper copy of all that?

19 THE COURT: No.

20 MR. ELLINGER: Thank you.

21 THE COURT: Okay.

22 MS. KHANNA: Oh. I'm getting one more note, Your
23 Honor. Just to clarify, on both the Wise and the Healey
24 Plaintiffs, while we're not necessarily consolidated this
25 is, obviously, a joint hearing. We consider this to be a

1 single joint record to be used and applied in both cases.

2 Just wanted to make sure that conformed to the Court's
3 understanding, as well.

4 THE COURT: It is. Yeah. I do have kind of
5 paired with my conversation yesterday, just, a bit of a
6 logistics question about what a judgment should look like,
7 because there's two cases, a little bit of a difference in
8 some of the claims. And so do you all -- obviously, the
9 evidence has been consolidated for the trial -- do you all
10 care or want me to do separate judgments that are pretty
11 much the same? Or do you want me to just consolidate them
12 in one?

13 MS. KHANNA: I think our preference would be
14 everything should be the same and not to -- not to --
15 there's obviously some claims that apply to one versus the
16 other --

17 THE COURT: Yup.

18 MS. KHANNA: -- it does not offend me if that
19 appears on our docket, a claim that is the Wise Plaintiffs
20 claim, and I think that's, probably, easiest for everybody.

21 MS. HUNKER: That is State Defendant's
22 preference, as well. We think it's going to be more
23 efficient if this Court only issues one opinion as opposed
24 to having to do two.

25 MR. ELLINGER: Intervenor's agree. Thank you,

1 Judge.

2 THE COURT: Okay. So --

3 MR. MULJI: Just to clarify, the Wise Plaintiffs
4 agree, as well. I think understanding that it would be one
5 judgment entered in both cases, so.

6 THE COURT: Okay. Yeah. I -- we would file it
7 to both cases.

8 MR. MULJI: Gotcha.

9 THE COURT: I would still have the intention of
10 resolving everything specifically with all the claims in it
11 and identifying what I'm resolving and ruling on. But I
12 agree, if you all are okay with it, the efficiency of
13 having one -- one judgment that takes care of it all I
14 think is a little bit easier for everybody.

15 MS. KHANNA: And our consolidated exhibits and
16 everything -- these are -- they were all labeled "Plaintiff
17 Exhibits," so you don't have to distinguish between Wise
18 and Healey at that point.

19 THE COURT: Okay. All right. Any other
20 preliminary discussions or matters you want to take up?

21 Okay. Just for planning purposes, are you all going
22 to argue separately?

23 MS. KHANNA: Yes.

24 THE COURT: That's fine.

25 MS. KHANNA: Well, we have coordinated, so we're

1 gonna -- we're gonna make this as efficient as possible and
2 hopefully non-duplicative.

3 THE COURT: Okay. All right. Whenever you're
4 ready.

5 MR. MULJI: We should note -- we should note,
6 Your Honor, that we will be doing a joint presentations so
7 we will be switching off a couple times, so.

8 THE COURT: That's fine.

9 **PLAINTIFF'S CLOSING ARGUMENT**

10 MS. KHANNA: Good morning, again, Your Honor.
11 Abha Khanna, on behalf of the Healey Plaintiff's.

12 As we've just mentioned, for the purposes of today's
13 argument, both the Wise and the Healey Plaintiffs intend to
14 put forth a joint presentation; both in an attempt --
15 attempt to avoid any duplication and to really make clear
16 for this Court the law and the facts and how they clearly
17 lay out the standard here. In the interest of organizing
18 and streamlining -- there we go -- our presentation for the
19 Court, we've included a high-level list of the areas that
20 we intend to cover today.

21 With the Court's permission, as Mr. Mulji mentioned,
22 we were going to tag team a little bit. We're not gonna
23 try to make this too much of a jumping back and forth, but
24 we'll take some turns tackling these topics. I will begin
25 with the legal standard and closely united territory. And

1 I would just ask at the outset, Your Honor, please feel
2 free to interrupt as -- ask any questions Your Honor has.

3 That is -- I think our number one priority is to make sure
4 we are addressing any concerns that the Court has. I also
5 do have physical printouts of the presentation if the Court
6 would like that and I believe we have them for the
7 defendant's counsel, as well.

8 All right. We'll begin with the constitutional
9 provision under which these cases are brought. Article 3
10 Section 45 of the Missouri Constitution requires each
11 congressional district to be as compact as may be. Now, in
12 2012 the Missouri Supreme Court carefully parsed this
13 phrase. Setting forth a clear legal standard for courts to
14 apply when evaluating compactness challenges.

15 It began by noting there are two possible definitions
16 of the word compact. One that refers to the physical shape
17 or size of a district, and a second that refers to closely
18 united territory, a phrase not unnecessarily limiting --
19 limited to physical dimensions. And the Court made clear
20 that Missouri has adopted this latter definition, finding
21 that compact for Missouri redistricting purposes means
22 closely united territory and, in effect, rejecting the
23 proposition that compact refers solely to physical size or
24 shape.

25 Embedded in the Court's adoption of that standard is a

1 treatise citation, recognizing that the concept of closely
2 united territory is viewed as conducive to communication
3 and interaction among representatives and constituents.

4 This is part of the definition adopted in *Pearson*. In
5 other words, Your Honor, under the Missouri standard the
6 compactness inquiry cannot be reduced to a single factor or
7 simple arithmetic, but rather involves a wholistic analysis
8 of the totality of the evidence to determine whether a
9 challenged district is comprised of closely united
10 territory.

11 *Pearson* then goes on to recognize that the term "as
12 may be," means that the compactness may not be achieved
13 with absolute precision, but rather allows for
14 considerations of certain recognized factors that are
15 deemed inherently included in the constitutional standard.

16 The Supreme Court standard thus requires Plaintiffs to,
17 both, prove that the challenged district boundaries depart
18 from the principles of closely united territory and account
19 for any minimal and -- or practical deviations from closely
20 united territory that would occur as a result of population
21 equality, contiguity, the Voting Rights Act, population
22 density, natural boundaries, political subdivision
23 boundaries, and historical boundaries.

24 That, Your Honor, on the screen right now is the road
25 map set forth by the Supreme Court and that is the road map

1 that this court must follow. Now, at times over the course
2 of this trial, both Defendants and their experts have
3 reported to be a little befuddled by this term "closely
4 united territory." They suggested that absent some bright-
5 line test, some -- the standard is really entirely
6 unknowable and, therefore, essentially, meaningless. So
7 before we dive into the mountain of evidence that
8 Plaintiffs have produced on almost every conceivable
9 approach to closely united territory, I want to step back
10 for a moment and just do what lawyers and courts do all the
11 time, which is just look at the plain language of this --
12 of this phrase.

13 Closely united territory. These are three very
14 commonplace words that have very everyday meanings. One
15 does not need a PhD in political science in order to
16 dissect either the term or the concept that it embodies.
17 Closely generally refers to things that are proximate or
18 similar or have a strong connection with one another.
19 United typically means connected or joined together, along
20 some dimension. And territory is some geographic area or
21 some organization of people. And together the phrase
22 closely united territory thus indicates that the places and
23 people in a given district must tie together along some
24 shared dimensions.

25 So what dimensions could that entail? Plaintiffs have

1 identified several. A district can be closely united
2 geographically, as a matter of sheer physical space. A
3 district can be closely united in its population
4 distribution or the arrangement of people within that
5 space. A district can be united historically, based on
6 trends and traditions over decades. A district can be
7 united in terms of the shared interests and concerns of its
8 inhabitants, the issues that shape the way that people live
9 and work. And, finally, a district can be closely united
10 based on its representation, literally residents who feel
11 closely united with the elected leaders who have long
12 represented them.

13 Plaintiffs have offered evidence along all of these
14 dimensions, all of which point in the same directions.
15 Districts 4, 5, and 6 deviate starkly from any conception
16 of closely united territory. Let's start with the
17 geographical dimension. We look at the geographic
18 territory covered by the challenged districts. District 5
19 went from a district that was about 20 miles by 40 miles,
20 to one that is now some 200 miles long; as are Districts 4
21 and 6, approximately 200 miles stretching across the street
22 -- across the state. On this dimension one does not need
23 an expert to explain what is plain to the naked eye.

24 A district that was once small enough that we could
25 barely even see it under the district number, has now been

1 stretched to that it covers a wide expanse across the
2 state. A district that shares that geographic territory,
3 cannot score any points upon visual inspection, at the very
4 least, of it's geographic territory. But in addition to
5 examining the distance from one point to another as the
6 crow flies, we can also look at how people actually move
7 through that geography. And here we've heard expert and
8 fact witness testimony about how Kansas City's transit
9 routes largely mapped onto the shape of previous District
10 5, but the 2025 plan divides those routes.
11 And as Dr. Rodden testified, now a short bus ride
12 across town can take a voter through three congressional
13 districts. And any commuter who seeks to travel past
14 Kansas City area to the vast expanse that is now the rest
15 of Districts 5 and 4 and 6 would be stopped in their tracks
16 as soon as they hit the borders of the Kansas City metro
17 area. Compactness metrics are another way of evaluating
18 the geographic closeness of a given district. Now, *Pearson*
19 tells us, of course, that these metrics that are devised by
20 academics are not completely irrelevant but they also alone
21 do not demonstrate that a map is or is not compact.
22 So let's take *Pearson* at its word, that such map
23 metrics have some relevance to the closely united territory
24 inquiry. And here we see that those metrics, once again,
25 do not cut in favor of the State. On the screen right now

are two of the most commonly used metrics by courts and by experts, the Reock and the Polsby-Popper scores. Now, the Reock score generally measures how elongated a district is. And it is no surprise that on that metric, both District 4 and District 5 scores drop dramatically, as those districts are transformed to sprawl out across the state.

The Polsby-Popper score measures the perimeter of a district. So capturing how much a district winds or has jagged lines. And here, too, we see District 5 drop by some 50 percent. And as the testimony of both Dr. Rodden and Dr. Hood demonstrated, these districts not only fall to the bottom when compared against the 2025 map as a whole, they perform poorly among their fellow districts across an array of congressional maps over the last several decades. Now, Defendant's experts seem to interpret these scores to mean, that so long as the challenged districts are not uniformly dead last on a variety of scores that they are, therefore, good enough.

But there's nothing in the Missouri legal standards that would provide such a get out of jail free card, based on one metric or another or based on those kinds of tenth of a percentage points difference. And certainly there's nothing in the standard conceptually that would suggest that the districts should be scored on such a forgiving curve. Here, the scores captured the eye -- captured what

1 the eyes see, a gross and drastic distortion of district
2 boundaries. It is no defense to say that these might not
3 be the worst scoring districts of all the districts
4 comparators, if the districts themselves along this and
5 every other dimension are not united by closely united
6 territory.

7 Another way to look at closely united territory, is
8 not just the physical geography but also the human
9 geography, so we can see how people are arrayed in space
10 along the map. And here we see that in the 2022 map, we
11 have a consistent pattern in which higher density areas are
12 joined together and lower density areas are joined
13 together. Resulting in both a coherent urban district on
14 the west and two coherent rural districts. The 2025 map
15 dramatically disrupts that pattern across every density
16 environment. High density urban core areas are split, and
17 low density rural areas are also split; showing no
18 continuity or respect for the population densities from
19 whether -- favoring cities or favoring rural areas.

20 Doctor Rodden offers another way to quantify the
21 extent to which population is either closely united or
22 loosely sprawled across the challenged district. Doctor
23 Rodden looks at the median population center, that's just
24 the point where about -- where half the population lies to
25 the east, to the west, half lies to the north and to the

1 south, what is the anchor population of the district. And
2 if we look at the 2022 map we see that the median
3 population center is just not too far off from the actual
4 geographic center of most of these districts. You see in
5 District 5, it's smack dab in the middle of Kansas City.

6 Under the 2025 map, the population anchor of each of
7 the challenged districts are far away from the furthest
8 reaches of those districts. So now, instead of a Kansas
9 City population center we have three districts that don't
10 quite focus on Kansas City but don't quite focus on the
11 rural areas, either. They just lie kind of somewhere in
12 between and the population distribution is spread far and
13 wide, rather than concentrated in any kind of location,
14 community, or central area.

15 The new map drastically shifts where its residents are
16 located in relation to each other and the geographic extent
17 of the district, and that change is especially stark in
18 Districts 4 and Districts 5. Here, we see from Dr.
19 Rodden's exhibit, District 5 used to have the smallest
20 level of district sprawl. And so we can see it's down
21 there on level with District 1 in St. Louis. And now that
22 distance within that district jumps to well -- well over a
23 hundred miles, to make District 5 one of the most sprawling
24 districts in the state, second only to District 6, which
25 spans the entire northern portion of the state.

1 Doctor Trende professed ignorance about Dr. Rodden's
2 discussion of district sprawl and median population
3 centers. And he certainly offered no response and no
4 rebuttal to dispute Dr. Rodden's calculation or his
5 analysis. But in fact, Your Honor, *Pearson* itself tells us
6 that, quote: The dispersion of population in a district is
7 relevant to assessing compactness -- as we see on the
8 screen at this cite. And the Court in *Pearson* even faulted
9 the plaintiff's expert in that case, for failing to
10 consider population dispersion.
11 Plaintiffs, here by contrast, have offered abundant
12 and undisputed evidence on this factor. And on this
13 metric, the challenged districts don't resemble anything
14 close to closely united territory. Doctor Cromartie offers
15 yet another way to examine the distribution of population
16 across the districts. Under the '22 map, District 5
17 maintained its largely urban character, while District 4
18 captured a largely exurban and rural -- rural character.
19 Under the 2025 map, however, as Dr. Cromartie testified,
20 each of the challenged districts in the 2025 map now
21 includes every category of territory across the urban-rural
22 continuum mixing them together so that there's no
23 distinctive character or connection in any one of them.
24 Another way to examine whether a district is comprised
25 of closely united territory is to look back at its history.

1 And here we see that the boundaries that have historically
2 united Missouri residents in Districts 4, 5, and 6 are not
3 just unwound but entirely severed in the 2025 map. Doctor
4 Rodden once again presented undisputed evidence of a
5 configuration of the Kansas City area in Missouri
6 Congressional Districts dating back over a century. And
7 his analysis reveals at least three unwavering historical
8 traditions.

9 First, the Kansas City central business district has
10 always been united in a single district. That includes
11 back when Kansas City itself was little more than its own
12 central business district, and it includes long after the
13 city boundaries of Kansas City sprawled outwards. It was
14 regard -- true regardless of whether Missouri had ten
15 districts or nine districts or eight districts, like it
16 does today. And while Dr. Trende seemed to suggest that
17 the boundaries of the central business district are somehow
18 ambiguous or discretionary, Dr. Rodden's report makes clear
19 that the definition of that boundary has been clearly and
20 objectively defined by the Kansas City Council -- City
21 Council itself.

22 Second, as the Kansas City Municipal boundaries have
23 expanded southward, eastward, northward, the boundaries of
24 District 5 have expanded along with it to capture more and
25 more of the city's population. And third, ever since it

1 became possible as a matter of population equality to
2 contain the Jackson County portion of Kansas City in a
3 single district, Missouri has done so, ever since the 1980
4 census. Now, if we focus on the 2012 map in *Pearson*, the
5 one marked 2013 to '22, you see that that map is no
6 exception. It follows all three of these rules.

7 The Kansas City central business district is contained
8 in one district, District 5 -- that's that white square --
9 that's wholly contained in that district. In the District
10 5 version in *Pearson*, we see the district is drawn to
11 capture Kansas City population, including, for the first
12 time, drawing northward to capture the growing population
13 of Kansas City in Clay County. And we see that, once
14 again, consistent with the tradition, the Jackson County
15 portion of Kansas City is kept whole.

16 Now, we do see that there is another irregularity in
17 the *Pearson* district; we see that new carve out in Jackson
18 -- Jackson County, outside of Kansas City, but that does
19 not -- but the thing that unifies this with all the others
20 is that it -- that -- that district, besides that
21 irregularity, still captures the Kansas City population.

22 The 2025 map, however, breaks all of these rules. For the
23 first time in Missouri history it divides the central
24 business district at the heart of Kansas City and then,
25 too, it carves it into three small slices.

1 For the first time in Missouri history the
2 congressional map makes no effort to capture Kansas City
3 population within District 5 boundaries. And for the first
4 time in more than 40 years Missouri's Congressional map
5 carves up the Jackson County portion of Kansas City.
6 There's nothing gradual or minimal about this deviation
7 from history. Instead, it is stark and it is sudden.
8 Whereas, traditionally, around 80 percent of Kansas City
9 was kept and captured in District 5, that number plummets
10 in the 2025 map. While 100 percent of the Jackson County
11 share of Kansas City has traditionally been unified in
12 District 5, District 5 in 2025 map falls off a cliff.

13 And, indeed, Your Honor, in *Pearson* the Court affirmed
14 the trial court's finding that District 5 satisfied the
15 constitutional compactness standard by referencing the fact
16 that, quote: The boundaries of the map were drawn in
17 consideration of the legitimate factor of keeping a greater
18 portion of Kansas City in District 5. That was used as a
19 factor to explain the configuration in *Pearson* and, of
20 course, that is a factor that explains the configuration of
21 all of the District 5 versions we've presented,
22 historically, but that is decidedly not the case here in
23 this 2025 unprecedented iteration of District 5.

24 Moving beyond the shared history, another important
25 dimension of closely united territory is how people

1 actually live and work, not only in the Kansas City area
2 but elsewhere in the state. So for instance, in the
3 western -- part of Western Missouri, we see that renters
4 are often times clustered in certain communities within
5 Kansas City. And as Dr. Rodden testified, homeowners and
6 renters are likely to have different concerns around
7 housing affordability and property taxes and other
8 policies. The distribution of racial diversity within this
9 area is also notable.

10 You heard from one of our plaintiffs, Giselle Anatol, who
11 testified that living within a diverse community was an
12 important consideration for her family when choosing where
13 to move within this state. It's a demographic reality that
14 is most present -- prevalent in the newly added portions of
15 District 5. And finally, as Dr. Rodden testified,
16 different occupations and industrial sectors are also
17 clustered in geographic space. It's giving rise to
18 regions, within which Missourians have livelihoods or
19 industrial focuses, but the 2025 map obliterates those
20 distinctions; those touchpoints that unify people within
21 and across a territory combining big tech with small farms.

22 Your Honor also heard from a number of Plaintiffs and
23 fact witnesses about the shared interest and concerns that
24 unite Kansas City residents; including concerns about
25 housing affordability, access to healthcare, broad

1 reductions in federal funding over the past year. You
2 heard from Mayor Lucas, who testified to the distinct needs
3 of Kansas City with regard to housing, transportation, and
4 public safety.

5 You also heard from Reverend Mindy Fugarino, who
6 testified to the challenges faced by her congregation and
7 surrounding community in historic northeast; such as
8 poverty, homelessness and disinvestment. She also
9 testified to the disruption that changes in federal policy,
10 including immigration policy, housing policy, and
11 reductions in the AmeriCorps program, have had on the
12 community she serves. And not only will that community be
13 split into three districts under the 2025 map, but the
14 church property itself will be divided.

15 You also heard about the concerns of workers and
16 public servants, who collectively organize with their
17 fellow Kansas City residents to improve labor and working
18 conditions in the city. Each of these witnesses, Your
19 Honor, offered a different perspective on what unites and
20 brings Kansas City together to make it a closely united
21 community and precisely showing how unclosely united the
22 district -- new district configurations are.

23 Finally, Your Honor, we can analyze the ties that bind
24 elected officials to their constituents to evaluate closely
25 united territory. Now, the treatise that the Supreme Court

1 cited in *Pearson* to define closely united territory
2 explains that the standard is meant to protect constituent
3 representative communication. Splitting the closely united
4 territory of Kansas City will undoubtedly impede
5 constituent representative communication in Kansas City as
6 each of Plaintiff's fact witnesses testified.

7 Each witness offered a different perspective on their
8 relationship with their long time Kansas City based
9 congressman, which they built over years. Long time Kansas
10 City firefighter and public servant, Louie Wright, told the
11 Court about Representative Cleaver's deep roots in the
12 Kansas City community, his accessibility to his
13 constituents, and his interest in labor issues and public
14 transportation in Kansas City. In contrast to the rural
15 congress members, he has worked to educate on labor issues
16 in his decades of work with the International Association
17 of Fire Fighters.

18 Terrence Wise testified to his experiences, advocating
19 for working people with Stand Up KC and Representative
20 Cleaver's frequent presence at those strikes and rallies
21 and other gatherings; along with the conspicuous absence of
22 neighboring representatives also invited to these events.
23 Mayor Lucas told the Court about projects like the Parade
24 Park Homes Development and the streetcar expansion, that
25 have been funded in significant part by federal grants that

1 Representative Cleaver helped to secure.

2 A stark contrast from minimal contacts he's had with
3 District 4's representatives around establishing a Chick-
4 fil-a at the airport. And you heard Dr. Esselman speak
5 directly to the strength of Congressman Cleaver's support
6 for the Head Start program -- early education programs; how
7 difficult it has been for educators and families alike to
8 build meaningful working relationships with new and other
9 congress people. The core retention data backs this up and
10 at each of the challenged districts the core population
11 retained in that district, as compared to the '22 map,
12 fell.

13 District 5 retained less than half of its previous
14 residents under the 2025 plan. And even Defendant's
15 experts have acknowledged in the past that a core retention
16 level more than 68 percent greatly altered relationships
17 between representatives and their constituents.

18 Ultimately, Your Honor, Plaintiffs have presented evidence
19 along every conceivable dimension of closely united
20 territory; nearly all of which is undisputed by defendants
21 or their experts.

22 Indeed, Defendants have not identified any dimension
23 that would indicate that the challenged districts are
24 comprised of closely united territory, other than the small
25 point metrics that they choose to focus on in their

compactness analyses. Instead, what they've done is they've studiously avoided the closely united territory standard altogether. They shielded their experts from even knowing about that standard; choosing to focus, instead, on the variable compactness scores the Missouri Supreme Court has ready told us should not comprise the exclusive focus of the compactness inquiry.

Contrary to the defendant's approach, the totality of the circumstances on closely united territory cannot lawfully be decided by this court on the sole basis of several hundredths of a percentage point on a handful of dozens of metrics around which Defendant's own experts have testified there is no academic consensus. Plaintiffs submit, Your Honor, that Defendants professed ignorance of what closely united territory could possibly mean. Their refusal to instruct their experts on that standard is not because the standard is unknowable or unwinnable or meaningless. It is because they know they have no hope of satisfying it.

The Missouri Supreme Court has made clear that the compactness standard set forth in *Pearson* is mandatory.

And despite Defendants efforts to waive away that standard in the name of legislative deference the Court has held and, quote: The protection of this constitutional provision applies to each Missouri voter in every congressional

1 district; that's at 39 of *Pearson*. The voters in this
2 case, Your Honor, have spoken up and fought for that
3 protection. You've not heard from a single voter or
4 resident of this state who finds any sense in these
5 district lines and all of the evidence indicates a stark
6 deviation from closely united territory.

7 With that, Your Honor, I will pass to my colleague.

8 MR. MULJI: Good morning, Your Honor.

9 The mountain of evidence the Court has heard
10 summarized by my colleague, Ms. Khanna, just now, that
11 would be sufficient on its own to constitute a violation of
12 the compactness requirement in all three of the districts
13 that are challenged in this case or in these consolidated
14 cases. And that is because the deviations from compactness
15 are not minimal. They cannot reasonably said to be minimal
16 given the amount of evidence that has been shown and given
17 just a fair view at the look at the districts.

18 You can see that District 5 is radically transformed
19 and the wealth of data and lived experience that the Court
20 has heard in this over the last few days will show that

21 it's not -- it cannot, by any measure, be considered
22 minimal. But if the Court were to think that, Yes. Okay.
23 We have some minimal departures here from compactness, in
24 any one of these districts; Plaintiffs have the burden next
25 of showing that those deviations were not the result of

1 applying a limited set of recognized factors in Missouri
2 law. And that is going to be the focus of my presentation
3 for the remainder.

4 Now, the recognized factors in Missouri are those that
5 have been -- they're a limited set of factors that have
6 been recognized by Missouri case law. They include the
7 first three requirements, or the first -- the other two
8 requirements of the Missouri Constitution with respect to
9 congressional redistricting: equal population and
10 contiguity. They include the requirements of the Federal
11 Constitution and federal laws, including, principally, the
12 Voting Rights Act. They also include -- and this is -- the
13 fourth one is not actually a recognized factor -- but
14 Defendants have noted, as the Court in *Pearson* did, that
15 the interrelationship between districts can sometimes
16 affect the compactness of one versus the other.

17 And Defendants have said that, Well, you know, the
18 compactness of these districts is affected by those
19 surrounding them and to fix compactness in one district you
20 may need to reduce it in another district. So we will
21 address that rationale, as well, though it is, again, not
22 one of the recognized factors in Missouri law. The
23 remainder of these factors are what are known as permissive
24 factors.

25 Those are factors that aren't mandatory requirements

1 of the Missouri Constitution, but are permissible
2 considerations that can justify minor -- that is minimal
3 deviations from compactness -- minimal deviations from this
4 closely united territory standard. And those are
5 population density, the boundaries of political
6 subdivisions -- which the Court has defined to mean
7 counties and municipalities and precincts -- natural
8 boundary lines, and historical boundary lines of prior
9 maps.

10 Now, before I get into each of these factors, I did
11 want to dwell on the law for a moment. This -- this sounds
12 like a -- an extensive inquiry. It sounds like we need to
13 prove a lot, but actually in one of the cases cited by
14 Defendants -- quiet literally, in their pre-trial briefs,
15 *Johnson v. State* -- the Court made clear that in
16 circumstances where you have a mandatory constitution
17 requirement qualified by as may be language, the showing is
18 not intended to be burdensome.

19 The plaintiff needs only to submit maps or other
20 evidence that objectively shows that the lines or that
21 other -- or that other recognized factors were not a basis
22 for the district boundary or, as my colleague has shown,
23 that it goes beyond a minimal and practical deviation.
24 Plaintiffs have far surpassed that standard with the
25 evidence that we have presented. I'll start with a brief

1 description before I dive into the recognized factors of
2 the analysis that the Court heard from Dr. Ari Stern. The
3 reason I start here is that Dr. Stern's ensemble analysis
4 controlled for every redistricting factor, as well as ever
5 known justification that Defendants or Intervenors and
6 their experts have offered.
7 Including State Senate splits, the location of the
8 Kansas City airport -- that was one of the -- a single line
9 in Dr. Trende's report -- and county and municipal splits.
10 Again, every factor that is included in Missouri law and
11 that has been raised in this case was controlled for in Dr.
12 Stern's ensemble. And he found that controlling for all of
13 these things at once you still arrive at maps that are --
14 that exceed the compactness of the challenged districts on
15 virtually every measure.
16 For example, Dr. Stern looked at the performance of
17 the districts in the challenged map and the ensemble maps
18 on a metric known as cut edges; which takes into account
19 natural boundaries, population density, and other
20 considerations and aren't sort of skewed by those
21 considerations. And he found that, of course, the Missouri
22 First Map, the 2025 map, is far at the tail end of the
23 distribution when it comes to those scores. Doctor Stern
24 also looked at the compactness scores reported by
25 Defendant's experts, by others of Plaintiff's experts, and

1 he looked at all of them and found that, again, the 2025
2 maps districts are the far end -- the tail of that
3 distribution.

4 Meaning, that they would not arise from the
5 application of the standard constitutional requirements.

6 Doctor Cervas also provided this Court with a number of
7 hand drawn maps, that is, maps drawn by a human. To the
8 extent anybody objects to an algorithmically produced map,
9 Dr. Trende drew at least eight alternative maps that match
10 or beat the 2025 map on compliance with both mandatory and
11 permissible recognized factors, while drawing all of them
12 to be significantly more compact in their configurations of
13 CDs 4 and 5.

14 And notably, Dr. Cervas and Dr. Stern, as well,
15 avoided changes to any other districts, to show that the
16 legislature's various preferences in other districts --
17 whatever they sought to achieve in this map -- could not
18 explain the ill-compactness of the challenged districts.
19 From here, Your Honor, I'll -- I'll march through the
20 recognized factors and I'll start with the first three,
21 collectively. The first three factors, equal population,
22 contiguity, and federal laws, there's essentially no
23 dispute. Equal population, there is no dispute that the
24 2022 map was equally populated. There was no need to
25 change the map for that reason alone.

1 The 2022 map was contiguous. There is no reason to
2 change the map for that reason alone. Now, Defendants have
3 also stipulated that none of the challenged districts in
4 either CD4, CD5, or CD6 were drawn with the need for
5 compliance with the federal Voting Rights Act and that is
6 -- and every time that question came up in trial,
7 Defendants were quick to point out that that is a matter of
8 joint stipulation. So the first three requirements of both
9 the Missouri Constitution and federal law, there is no
10 reason to depart from the configuration of these districts
11 in the 2022 map.

12 So what about the compactness interrelated districts?

13 This is, again, an argument the Defendants and Intervenors
14 have raised on multiple occasions in their examinations and
15 also in their briefing. And the idea, essentially, is
16 that, Well, yeah. We had to make some changes to Districts
17 4, 5, and 6 because we were trying to improve the
18 compactness elsewhere in the map or we were trying to
19 improve the compactness of the map as a whole.

20 Both Dr. Stern's and Dr. Cervas' analysis show that if
21 you froze all of the other districts and you accepted
22 Defendant -- that Defendant, that the State, was seeking to
23 make changes to those other districts to perhaps improve
24 their compactness or achieve any other goal, that cannot
25 possibly explain the changes that occur in Districts 4, 5,

1 and 6. You can see here, Your Honor, the Reock scores that
2 Dr. Cervas reported for the 2022, 2025, and his eight
3 illustrative maps, and you can see that you can increase
4 the compactness of Districts 4, 5, and 6, or keep them
5 constant while -- while keeping every single thing in the
6 other -- in the rest of the map completely the same.

7 The same is true as Polsby-Popper. There are several
8 maps within Dr. Cervas' set of alternative maps that kept
9 the compactness of CDs 4 and 5 -- it either increased it or
10 kept it the same -- without making any other changes to the
11 2025 map. In other words, you cannot explain the -- the
12 ill-compactness of these districts by a -- a reported
13 desire to improve the compactness in one. Another way of
14 putting it, Your Honor, is that increasing the compactness
15 of one of these districts or any other district doesn't
16 need to come at the expense of the compactness of the other
17 challenged districts.

18 The next recognized factor -- and I'm sorry, my voice
19 is a little bit hoarse. The next recognized factor, Your
20 Honor, is population density. Now, my colleague has spoken
21 at length about population density as a critical factor in
22 examining whether districts comprise closely united
23 territories, so I won't dwell on this factor. But I will
24 note that Dr. Cervas' -- or Dr. Stern's ensemble took
25 account of population density by using the cut edges

1 various populate -- compactness metrics that account for
2 and take into account population density patterns. The cut
3 edges metric accounts for population density. It doesn't
4 -- it's not affected by, say, large rural populations being
5 dispersed.

6 It takes into account natural boundaries that might
7 affect the -- the edges of districts. Population polygon
8 measure, measures the -- takes the difference between the
9 population of the bounding polygon and the district itself.

10 Population circle metrics and others, all incorporate this
11 notion of population density into single metrics that you
12 can compare across multiple plans. And, of course, Dr.

13 Stern found that when you compare the districts in the
14 enacted map with the ensemble, you find that there are far
15 and away outliers across virtually every metric.

16 Dr. Cervas also provided population dot density maps
17 that -- that confirm what the data shows in Dr. Stern's
18 ensemble. All you need to do is look at the map, as my
19 colleague said, and see that areas of comparable population
20 density -- in other words, areas that might share

21 characteristics due to that density -- are kept together in
22 the 2022 map and completely fragmented in the 2025 map.

23 The next recognized factor, Your Honor, is boundaries of
24 political subdivisions including counties, municipalities,
25 and precincts.

1 Now, this is where -- this is where I think Defendants
2 and Intervenors appear to rest much of their case. They
3 point to the fact -- and it's not false -- that the 2025
4 map reduced the number of county and municipal splits in
5 the map and by one reduced the number of precinct splits.
6 That, by itself, cannot explain the ill-compactness of the
7 challenged districts, however. You can see that, in this
8 chart that Dr. Cervas reported the number of county and
9 municipal splits using both measures favored by --
10 whichever one you might favor -- both, the total number of
11 county splits and the number of counties split across the
12 plan.

13 And you can see that Dr. Cervas was able to either
14 closely match or match exactly the number of county splits
15 and the number of counties split, while, as I said,
16 dramatically increasing the compactness of the challenged
17 districts. The same is true for municipal splits. The
18 same is true for precinct splits. And in fact, of precinct
19 splits, Dr. Cervas was able to improve but -- by making
20 these districts -- by making Districts 4 and 5 more
21 compact, he was able to improve precinct split metrics
22 dramatically, reducing them by 50 percent.

23 Doctor Stern's ensemble also looked at the compared --
24 Dr. Stern also compared the ensemble maps to -- to -- in
25 terms of county splits and municipal splits, and he found

1 as well that for municipal splits the ensemble maps were --
2 performed much better on their extent of splitting
3 municipalities. The 2025 map was far and way an outlier.
4 The same was true for voting tabulation districts. In
5 addition to looking at just the number of splits in the
6 map, Dr. Stern and Dr. Rodden, as well looked at perhaps a
7 more salient way of assessing respect for political
8 subdivisions, given the closely united standard. And that
9 is the extent to which county populations are -- county
10 populations themselves are split.
11 When a county is split 50 percent, that is clearly a
12 degradation of its ability to find representation in a
13 congressional district than when it's split, say, 95 and 5
14 percent. Doctor Stern's analysis showed that the Missouri
15 First Map, the 2025 map, is an extreme outlier compared to
16 the ensemble maps, when you take -- when you -- based on
17 the largest population of Jackson County left intact; the
18 same is true for Kansas City. And so in the end, Your
19 Honor, the political subdivision boundaries -- respect for
20 political subdivision boundaries, simply cannot explain the
21 ill-compactness and reduction -- the dramatic reduction of
22 compactness of CDs 4 and 5.
23 I will note here, Your Honor, that Defendants have
24 also raised the possible justification of Senate District
25 boundaries. Now, the Supreme Court has been quite clear

1 that the only political subdivisions that are among the
2 recognized factors -- and this is in the *Johnson* case -- is
3 -- is the preservation of counties, municipalities, and
4 precincts. This is consistent with the way the US Supreme
5 Court has thought of traditional redistricting criteria.
6 And the reason for that is that these are government --
7 governmental units that are -- are important and permanent
8 enough that people are accustomed to working together in
9 them and often constitute communities of interest and so
10 forth.
11 State senate districts, like congressional districts,
12 change every decade. And so they simply don't comport with
13 the, sort of, accustomed to people working together
14 standard that the Missouri Courts have adopted in thinking
15 about which political subdivisions are relevant to the
16 analysis. But even still, Dr. Cervas showed, Dr. Stern
17 showed, that you could actually increase the fidelity of
18 the senate districts, reduce the number of split senate
19 districts, and dramatically increase the compactness of CDs
20 4 and 5. So, again, those cannot explain -- that cannot be
21 the result -- or the ill-compactness of CDs 4 and 5 cannot
22 be the result of adhering to senate district boundaries.
23 The next factor, Your Honor, is natural boundary
24 lines. The Court heard testimony from Dr. Cervas noting
25 that the 2025 map appears to have the objective of using

1 more of the Missouri River a natural -- one of the state's
2 most prominent and natural features and natural boundaries
3 -- using that as a -- as a boundary line between districts
4 given that there's frequently no bridges and Dr. Cervas
5 showed that that can't possibly explain the ill-compactness
6 of CDs 4 and 5, because there's an alternative map that he
7 drew that uses more of that natural boundary.

8 I'll note, Your Honor, that Dr. Stern controlled for
9 natural boundaries, as well. He used the cut edges metric
10 which incorporates natural boundary features, and also
11 found, again, that the ensemble maps -- if you draw a
12 hundred thousand maps and not just one or not just eight --
13 you find that on measures that incorporate nature
14 boundaries, that the 2025 map performs at the far tail end
15 of the distribution. The last recognized factor, Your
16 Honor, is historical boundary lines of prior maps. I'll
17 refer the Court to the -- to the discussion of my colleague
18 regarding Dr. Rodden's extensive analysis of the past
19 redistricting maps and the configuration of the Kansas City
20 area districts.

21 But I'll note that Dr. Cervas also conducted an
22 analysis of historical boundaries by looking to what's
23 called core retention. And he looked at core retention,
24 how the 2022 map and the 2025 map compare in their fidelity
25 with the 2012 map. This is a common way of thinking about

1 fidelity to historical boundaries. How much of the last
2 decades population in each district is retained in its
3 district. And you can see that the 2025 map performs far
4 better on core retention in the challenged districts -- I'm
5 sorry -- the 2022 map performers far better on core
6 retention with the prior decade in the challenged districts
7 than does the 2025 map.

8 Dr. Stern also looked at how his ensemble compared in
9 fidelity to prior historical maps, and in his case he
10 looked at the number of times that congressional districts
11 -- past congressional districts were split; that
12 distribution, you can see here, was anywhere between one
13 and three, and more than -- far in the 90 -- over 99
14 percent of the maps were within that range. And you can
15 see that the 2025 maps level of splits of the 2020 -- of
16 the 2012 congressional districts was far in the outlining
17 tail of that distribution.

18 Doctor Stern also looked at, in his rebuttal report,
19 the percentage of the Jackson County and Kansas City
20 populations in each congressional districts by year. And
21 he found that the data showed that for at least four
22 decades, the -- the vast majority of Kansas City's
23 population, the vast majority of Jackson County's
24 population, were contained within a district numbered 5.
25 That is a coherently urban district, with a minority

1 contained in District 6 and very few of their populations
2 contained in District 4.

3 That, of course, as you saw on the map itself has
4 changed dramatically; it's reflected in these numbers here.

5 There are nearly equal numbers of Jackson County residents
6 distributed between Districts 4 and 5, and nearly equal
7 numbers of Kansas City residents distributed now between
8 three separate districts for the first time in decades.

9 And so, Your Honor, the testimony that you've heard over
10 the last four days has shown that none of the recognized
11 factors can explain the extreme departures from compactness
12 or closely united territory in the challenged districts.

13 I want -- I want to close on the compactness claim,
14 Your Honor, with return to the standard -- with our burden
15 of proof. Defendants have made -- have repeated the
16 standard of proof a number of times. They note that
17 statutes in Missouri are presumed constitutional until they
18 are proven otherwise. All that means, as the *Pearson* Court
19 noted, is essentially that Plaintiffs have to show with --
20 that the violation is -- that there's been an undoubted and
21 clear violation of -- of the Constitution. Plaintiffs have
22 done that.

23 And I -- I want to put these maps back on the screen
24 because, as Ms. Khanna noted, it does not take four expert
25 witnesses and I don't know, seven, eight, lay witness to

1 prove what is abundantly clear from this map if you happen
2 to live in Kansas City or its surrounding areas or if you
3 happen to know even half of what a resident might know
4 about this area; which is that there is a metropolitan area
5 in Western Missouri called Kansas City. It has outlined
6 rural areas. The 2022 map plainly respects those divisions
7 and those territorial distinctions; the 2025 map does not.
8 You could ask anyone on the street in Kansas City,
9 they could probably tell you what these maps show.
10 Nevertheless, Plaintiffs have provided, again, their expert
11 testimony of four different experts in these areas and
12 several witnesses, lay witnesses, to shed light. To
13 provide both the hard data and the personal, experiential
14 testimonial evidence that this Court needs to be convinced
15 that there has been a clear and undoubted violation of the
16 compactness standard.

17 THE COURT: Can I ask you a quick question?
18 Just, kind of, a bottom-line type of question.
19 Because that last slide and kind of the overall argument, I
20 think as I read it, is in a similar place to where Judge
21 Price was when he wrote his dissents in the *Pearson* case.
22 Which is he looked at the map, he put the figure of the map
23 with the teardrop shape that's at the center of discussion
24 there and his, I think, significant criticism of the
25 majority in *Pearson* was that they did not articulate a --

1 let's see -- a clear and definite bright-line test for
2 enforcement.

3 And so understanding you all highlighted your
4 evidence, but from the Court's -- the trial court's
5 decision, that has to figure out -- where is that line?

6 And when is it crossed? -- how do I do that given the
7 evidence that I have? Where -- where do I establish that,
8 based -- I know there's a variety of factors, there's not a
9 clear -- I'm gonna ask them that -- this, too. As the
10 trial court that struggles with: Where is that line drawn?
11 Does the plaintiff have a suggestion on what that threshold
12 is and how it's met?

13 MR. MULJI: Unfortunately for the Court, the
14 *Pearson* Court did not identify a line and that was embedded
15 in its recognition that, you know, there's no strict cut
16 off at statistical scores. There is -- there is -- the
17 statistical scores themselves, are not the only
18 consideration that the Court makes. You look at the
19 totality of the evidence and if the Court is convinced that
20 there's been a departure from closely united territory in
21 any one of these districts and that can't be explained by
22 any of the recognized factors -- that is the touchpoint of
23 the analysis; that is what *Pearson* said.

24 In this case -- what's different in this case from
25 *Pearson*, there's a number of things. One, in *Pearson*, the

1 Court actually didn't apply the legal standard that it set
2 out to the factual findings of the trial court, and that's
3 because there were no factual findings of the trial court
4 in that case. The trial court heard evidence with the
5 parties as the Court noted, but did not request findings,
6 so the trial court didn't provide factual findings.

7 And that was actually the first time that the Supreme
8 Court ever articulated the standard that we are applying
9 now in this case. So what happened in that case was the
10 Court said, Well, you've had a trial. You want me -- you
11 want the Court to assess whether that the trial court got
12 it right or not. We can tell you what the standard is and
13 we can say the trial court applied the correct standards,
14 but we can't tell you how the Court -- we can't question
15 how the trial court applied the law to those facts, so
16 that's one.

17 Here, we have actually provided a record and we've
18 requested findings and this Court can assess all of those,
19 the totality of the evidence, to determine whether there
20 has been a violation. Second, the *Pearson* Court decision
21 did note a number of deficiencies that it noticed in the
22 record that it did have before it. One, was that there was
23 no ensemble analysis. There was no control for all of the
24 potential recognized factors. In fact, the plaintiff's
25 expert -- I think the Court noted that the plaintiff's

1 expert was unable to -- to explain the recognized -- the
2 different compactness measures.

3 The plaintiff's expert could not say whether the
4 compactness measures could be improved, controlling for the
5 rest of the recognized factors. In this case we've
6 provided -- we've filled those evidentiary gaps that the
7 Court identified in *Pearson*. And they show,
8 overwhelmingly, that if you draw these districts, just
9 following the strict letter of the constitutional
10 requirements, that has shown that these are -- these
11 districts are, you know, far at the tail end -- above the
12 99th percentile on nearly every metric that you can -- that
13 you can examine.

14 And so this Court I think doesn't need to identify:
15 Where is the line where you have a close call? Because the
16 evidence has shown in this case, that no matter where -- no
17 matter how you draw the line, no matter where you may draw
18 the line, this district is far beyond it. And I'll also
19 note, Your Honor, that the Missouri Supreme Courts have
20 been quite clear about the purpose of the compactness
21 requirement. The purpose of the compactness requirement
22 is, first and foremost, to guard against partisan
23 gerrymandering.

24 I don't need to provide the Court with evidence to
25 know -- for the Court to know that the motivations behind

1 this redistricting were highly unusual. This is a mid-
2 decade redistricting that was fully discretionary. There
3 was no intervening census change that would've mandated
4 redrawing districts from 2022. No law compelled the
5 drawing of these districts. And so the question is, then:
6 What changed between these districts? If there was any
7 change from 2022 to 2025 in the compactness of these
8 districts, however small, it has to be explained, that's
9 what -- that's what *Pearson* says.
10 These weren't small changes either, right? These were
11 dramatic changes to the boundaries of Districts 4, 5, and
12 6, as well. And so this Court can make its determination
13 based solely on that fact if you're going to but, of
14 course, there's a totality of evidence here, a mountain of
15 evidence showing that no matter how the Court decides where
16 to draw the line, that this map is far beyond it.
17 Did that answer the Court's question?
18 THE COURT: Yeah. I think -- like I said, it's a
19 question that I think any trial court that has to hear this
20 case is going to have questions for both sides about where
21 that line is.
22 MR. MULJI: Well, I'll allow my -- our friends on
23 Healey side to answer it, as well, if they have that point
24 in the presentation.
25 I'll just briefly note, Your Honor, that apart from

1 the compactness claim, the Wise Plaintiffs have two
2 additional counts related to the double assignment of a
3 prescient in Kansas City. That's the precinct that's been
4 labeled KC 811; these facts are undisputed I think,
5 virtually, all of the central facts of this claim are
6 undisputed. And at this point, it's a legal question for
7 the Court and so we'd submit it on our briefing.

8 I will pass it to my colleague, Ms. Khanna, to talk
9 about timing and implementation.

10 MS. KHANNA: Your Honor, if -- before I move on
11 to the timing and implementation question -- I do want to
12 directly address Your Honor's question, as well. And I
13 agree with everything that my colleague said and I just had
14 a couple of points.

15 As Mr. Mulji mentioned, the -- while it might not be
16 satisfying to say that there's not a single black and white
17 threshold bright-line rule, it is not usual for trial
18 courts to, of course, have to weigh the evidence on a
19 totality of evidence or a totality of the circumstances
20 analysis. Trial courts do that all the time, under both --
21 set Federal and State law. It requires doing what trial
22 courts do, which is weighing both the quantity and the
23 quality of the evidence, weighing witness credibility, and
24 weighing, basically, all of the documents and all the
25 expansive record that you have here.

1 And here, the totality, I mean, to say -- to call this
2 case -- the evidence that we've all summarized here -- the
3 "totality" is to, you know, to understate just how much
4 evidence -- particularly, when you think about compared to
5 *Pearson* and what was really a dearth of evidence that --
6 and we don't even really know what was happening in *Pearson*
7 because there's no factual findings. But, B., also, the --
8 from what we can tell -- it seemed like the evidence
9 consisted largely of stipulations about compactness
10 metrics. That is not this case. That is not Plaintiff's
11 case.
12 Nor is Plaintiff's case similar to the dissent in
13 *Pearson*; where they say, You just look at the map and you
14 see that it doesn't look right and just call it a day.
15 Certainly, we've made the point that looking at the maps
16 raises some alarm bells, but that's -- it's not -- that was
17 our first slide and that was our last slide, but there was
18 some 30 slides in between and four days of testimony that
19 show how much farther beyond that we have gone here.
20 Your Honor asked the question, how is someone -- how
21 is the Court supposed to know? How is anyone supposed to
22 know what is compact? If this is the standard. If it
23 requires this kind of, you know, comprehensive evaluation.
24 And while I can't give you a specific threshold -- it's six
25 and not five -- I think a really great starting place to

1 look would be at those historical maps provided in Figure 1
2 of Dr. Rodden's report. And you can see from that history
3 just how radical a departure this map is.

4 As Mr. Mulji mentioned, it's a radical departure just
5 in its context, by even being a mid-decade redistricting
6 and all the circumstances that surrounded it. And it is a
7 radical departure from every principal that has ever
8 governed Missouri redistricting maps. So if you're trying
9 figure -- if you're -- if you're a map drawer trying to
10 figure out, How do I draw a compact district? A really
11 good place to look is Missouri's previous maps. And
12 anybody who would've looked at those would never have drawn
13 the map -- this map -- if their goal was to draw something
14 that they know is something that's acceptable.

15 And I would submit, Your Honor, further, that while it
16 might not be a given that this is that -- you know, while
17 -- I agree with Mr. Mulji, that you don't have to define
18 where that close line is to find in favor of Plaintiffs
19 here since it's just so far -- so far surpassed that line.
20 Really, Your Honor, if this map does not violate the
21 mandatory and meaningful compactness standard, I'm not sure
22 what ever will.

23 I think to -- to indulge the defendant's suggestion
24 that it's just too squishy or it's too hard to know, you
25 got to pretty much let everything slide since you can't

1 know for certain. If you can't absent a clear threshold,
2 there's really no standard that's applicable; that would
3 render toothless the Pearson standard, which is mandatory
4 and I think it ultimately would, you know, effectively,
5 render toothless if this map were to be deemed
6 constitutional.

7 If this map is going to be a new standard-bearer for
8 what compactness is in Missouri, contrary to every
9 applicable piece of evidence, principal, voter testimony,
10 you know, we've not heard from a single resident of Kansas
11 -- sorry -- of -- not of Kansas City or of the State of
12 Missouri who can make sense out of these lines. Who can
13 say, this is a good idea, a bad idea, a justifiable idea, a
14 sensible idea, one that unites me in any way, shape, or
15 form. If this map survives, or -- then, I'm not sure if
16 that legal standard has any meaning at all.

17 THE COURT: Let me ask you another question.

18 With the history argument and then kind of paired with
19 some of the witness testimony that you described, because I
20 think a lot of that witness testimony that we heard was
21 concerns about urban core residents being looped in with
22 folks that are far outside the urban core, right?

23 But off and on that has happened in this district, you
24 know, for District 5, for example, the 2012 map goes all
25 the way out to Ray County, Lafayette County, and Saline

1 County which is pretty far from here and very different
2 from here, as Judge Dandurand and his offer of proof was
3 saying yesterday. And so looking at history of it and then
4 going back to some of the 50s, 60s, and 70s maps, those do
5 appear to carve up portions of Kansas City outside of the
6 central business district box but significant portions of
7 Kansas City are carved up off and on and then they're kind
8 of put back together off and on.

9 And so, I guess, I'm trying to understand, again, kind
10 of returning to after I sit down -- and I understand you've
11 got expert testimony to aid in other ways and mathematical
12 calculations of it. But in terms of evaluating that
13 ultimate, kind of, threshold of when does the map become
14 constitutional. How do I weigh the fact that there are
15 prior maps, in the not very distant past from 2012 to 2022,
16 that did incorporate pretty far-flung -- and understanding
17 this one goes a lot further -- of pretty far-flung areas
18 from inner city Kansas City?

19 MS. KHANNA: Yes, Your Honor.

20 So, look, I don't think anybody's arguing that in a
21 district of seven hundred plus thousand people requires
22 homogeneity, right, among every single residence. So
23 absolutely, there are districts that are going to span
24 different territories, but those territories under Missouri
25 law still have to be closely united in some way, shape, or

1 form. And the *Pearson* Court decided in that case that
2 while there might be some deviations or some weirdness's
3 about the configuration of that district -- including the
4 fact that it went out farther than it had previously -- it
5 did note that it's maintained that -- that same consistent
6 historical capturing of as much of -- of a broad swath of
7 Kansas City population and not a fracturing.
8 That was one of the justifications in favor upholding
9 the *Pearson* map. That can't be a justification here --
10 quite the opposite. And as Your Honor mentioned, I think
11 that -- yes. Did it go outside the Kansas City metro area?
12 Yes. But that is orders of magnitude different than how
13 far this district has gone out, right? So the fact that it
14 has went out somewhat and in a little while still anchored
15 in the Kansas City core, as it has always been, is a reason
16 why -- that really distinguishes that *Pearson* District 5
17 from this District 5.
18 And while Your Honor is right, that there have been
19 some splits and have historically been splits of Kansas
20 City, I think as the testimony made clear -- Mayor Lucas
21 really made clear -- that, you know, is it -- unlike what
22 Dr. Hood suggested, which is that every split's the same.
23 You know, a split or the -- what Mayor Lucas referred to as
24 the -- the district of one voter. The split, you know, for
25 that one voter in the airport out north -- sorry -- south

1 of Jackson County. That's not the same as the splits that
2 are contemplated in this map, that cut and slice and dice
3 through the heart of Kansas City in an unprecedented way.

4 So, you know, I understand that we -- I mean, I
5 actually think it's very useful that we have, not just the
6 *Pearson* standard but the *Pearson* case and the *Pearson*
7 district to figure out, are we talking about apples and
8 apples? Or are we talking about apples and oranges? And I
9 think that *Pearson*, according to the Court, fit into a long
10 history and tradition of maintaining that Kansas City
11 population, whatever else it did. And, here, not only do
12 we completely obliterate that long held principal that
13 justified the map in *Pearson*, we've now extended far beyond
14 reaches of anything that *Pearson* has ever contemplated.

15 And, frankly, that I -- any district in Missouri has
16 ever contemplated. And, again, I'd say, like, what kind of
17 a district would the State have to draw in order to violate
18 the compactness district -- the compactness criteria, if
19 not this. If not bisecting, dissecting, trisecting, the
20 heart of Kansas City population and connecting it all the
21 way over across the state, through rural counties, over to
22 Jefferson City, what is -- what is the less sensible
23 version of that district?

24 THE COURT: Go ahead.

25 MS. KHANNA: Okay. Thank you, Your Honor. If I

1 may, I'll go on to *Purcell* inquiry, the timing
2 implementation. And I just wanted a quick -- this is a --
3 this is a point that has been brought up by the defendants
4 in their brief. And I'm not on the right -- sorry, Your
5 Honor. There we go. Okay.

6 I want to just point out, Your Honor, this Court has
7 time to issue effective relief for the plaintiffs in
8 advance of the 2022[sic] elections. And the defendants
9 *Purcell* arguments are all ultimately unavailing. Now,
10 first of all, as a legal matter, *Purcell* is a -- an
11 equitable doctrine that governs Federal Courts injunctions
12 of State election laws. And as Defendants acknowledge, no
13 Missouri Court has ever adopted the *Purcell* doctrine for
14 elections in this state.

15 But even setting that aside, let's assume that this
16 Court wanted to wade into that uncharted territory and even
17 if *Purcell* did apply in Missouri state court, the principal
18 is rooted in three things: preservation of the status quo,
19 avoiding voter confusion, and allowing for efficient
20 election and administration. And here, Your Honor, all
21 three things cut drastically against Defendant's *Purcell*
22 argument. The status quo is the 2022 map. It is the
23 status quo because voters have voted under it in 2022,
24 2024; it has governed the last two election cycles.

25 It is the status quo because it is the only map that

1 is actually in the election -- the voter database system,
2 among election administrators in the state. As we learn
3 from -- from Defendants, who called -- who subpoenaed Mr.
4 Shawn Kieffer yesterday and testified in open court. In
5 fact, Your Honor, election officials only received the data
6 file containing the 2025 map in January -- on January 9.
7 So any suggestion from the defendants that an injunction of
8 the 2025 map would somehow disrupt election preparations
9 for 2026, is entirely belied by the election official's
10 failure to even begin implementing that map until four
11 months after it was enacted.

12 And as Mr. Kieffer made clear yesterday, local
13 election authorities in Kansas City, in Jackson County,
14 cannot even begin to implement the 2025 map until, at the
15 earliest, April 21st -- at the earliest, assuming that
16 there's no recounts. So there is simply no burden on
17 election administration or election authorities if the
18 Court were to strike down the 2025 map and reinstate that
19 status quo. In fact, it would relieve the burden on
20 election officials that they will have to undertake in the
21 coming months to change all of the voter data information,
22 mid-decade, to comply with the 2025 map.

23 And to the extent that the defendants suggest that the
24 candidate filing deadline presents an obstacle to timely
25 relief, that is flatly incorrect. As the timeline -- as

1 you can see from this chart, on the 2022 congressional
2 redistricting timeline, we see that the candidate filing
3 deadline in that case was also March, but the map was not
4 even enacted until May. New congressional districts
5 weren't signed into law until May 18. Local election
6 authorities were still able to -- and nevertheless, able to
7 implement the 2022 map in only 11 days and the filing
8 deadline that closed in March 2022, posed no obstacle to
9 enacting and implementing a new congressional map.

10 And that's likely because, Your Honor, there is no
11 requirement under either State or Federal law, that
12 congressional candidates actually live in their districts.
13 It's not like that have to know exactly where they'll live
14 before they can file those papers. So, Your Honor, in
15 Defendants invocations of this *Purcell* doctrine are
16 entirely theoretical and they are wholly divorced from
17 either the legal doctrine itself, the practical reality,
18 or, frankly, even the equities in this case.

19 THE COURT: All right.

20 MS. KHANNA: Thank you, Your Honor. I'll pass it
21 back one more time.

22 MR. MULJI: One more time, Your Honor.

23 THE COURT: Okay.

24 MR. MULJI: I'll speak briefly about remedy, Your
25 Honor, but to take a third crack at your initial question,

1 which may be a big one for you as you're considering the
2 evidence. If Your Honor is looking for another dimension
3 for thinking about where to draw the line, the -- one of
4 the pieces of guidance that the Pearson Court made quite
5 clear, is that -- is that the deviation from compactness,
6 if there is one, needs to be minimal and practical.
7 Dr. Stern's analysis showed that if you draw an
8 ensemble and draw neutral maps, draw a set of maps, it's so
9 significant and extreme as to not even be close. And one
10 of the metrics that he looked up that I didn't talk about
11 in my initial presentation, was looking at the extent to
12 which Jackson County is combined with other counties in the
13 ensemble. And when he drew 100,000 maps, he found that the
14 ensemble, I think -- I don't know how many times -- but the
15 vast majority of the time, would not extend -- would not
16 extend beyond Jackson County, you know, one or a maximum of
17 two counties from that point. It was extremely rare for it
18 to extend even one more county beyond Jackson County.
19 Here, we stretch across 15 counties all the way into
20 the middle of the state. So if you're looking for a
21 quantitative way to think about this, that is, certainly,
22 not a close call. As for remedy, Your Honor, so the
23 plaintiffs here are seeking, I think what is, perhaps, one
24 of the easier remedies that often face court's in these
25 redistricting cases. All the Court needs to do in this

1 case, because of the circumstances of this redistricting --
 2 if you agree with Plaintiffs -- is enter a declaration that
 3 HB1's districts are unconstitutional and void *ab initio*,
 4 enjoin its further use, and declare that the 2022 map is by
 5 operation of law the governing map in the state.

6 And I say by "operation of law," because in Missouri
 7 it's settled doctrine that when a law is declared
 8 unconstitutional, it was unconstitutional from the start.

9 It was void *ab initio*, meaning, it's as if the law never --
 10 never occurred. And in Missouri, the way that this was
 11 enacted, was it repealed the 2022 map and it put in its
 12 place the 2025 map. And if that law, HB1, if that repeal
 13 and replacement was deemed unconstitutional, it is as if it
 14 never happened and the 2022 map is in effect.

15 And, of course, Plaintiffs believe that the 2022 map
 16 would fully remediate their claims in this case. So that's
 17 the -- that is the relief that we would request. I'm happy
 18 to take the Court's questions on that.

19 THE COURT: I'll let the other side go.

20 MR. MULJI: Thank you, Your Honor.

21 MS. HUNKER: Your Honor, if we could have a
 22 moment? We have to set up a few tripods.

23 THE COURT: Sure. Yeah. Let's -- you'll
 24 probably be going for a little bit. So why don't we take
 25 just a five-minute break, let you set up --

1 MS. HUNKER: Okay. Thank you, Your Honor.

2 THE COURT: -- and then we'll resume at 10:25.

3 (SHORT RECESS WAS TAKEN.)

4 MS. HUNKER: Thank you, Your Honor. I appreciate
5 your patience while we set up our display.

6 THE COURT: Sure.

7 While they're finishing the actual set up, I'll just
8 make a note that we did get the copy of the deposition

9 designations. So we do have those in our possession and

10 then if anybody ever needs to track them down, you all

11 filed everything to the case, right? And so by agreement,

12 we'll consider them part of our evidentiary record, but

13 they're not marked as an exhibit, but if anybody needs to

14 track them down, they're filed to the case and part of the

15 file on CaseNet. And so I just wanted to close the loop on

16 that.

17 And so are you ready?

18 MS. HUNKER: Thank you.

19 THE COURT: Okay.

20 **STATE DEFENDANT'S CLOSING ARGUMENT**

21 MS. HUNKER: Plaintiffs have a policy objection

22 to the 2025 congressional map. You don't have to take my

23 word for it, take the word of Plaintiff, Terrence Wise.

24 Who believes that the Missouri Legislature has been

25 unresponsive to the needs of Kansas City -- Kansas City

1 residents. He wants a congressman that supports Medicaid
2 expansion and a woman's right to choose, and doesn't
3 believe that rural Missourian's have the same needs as
4 those in Kansas City.

5 Or Plaintiff Louie Wright. Mr. Wright views
6 Congressman Emanuel Cleaver, the current representative of
7 District 5, as a friend. He too believes that the
8 experiences in urban areas are different. He is concerned
9 that voters in less populated areas will be less sensitive
10 to labor issues and unions. Plaintiff's facts witnesses
11 and experts testified similarly, in that they believe that
12 the Missouri First Map improperly bridges a urban-rural
13 divide.

14 Mayor Lucas, for example, emphasized the differences
15 between Kansas City and its less urban neighborhoods in
16 Western Missouri. Doctor Cromartie, meanwhile, he
17 testified about demographic history; suggesting that the
18 legislature should not treat Kansas City and other parts of
19 the state alike. All this amounts to the same thing, a
20 belief that Kansas City -- or more accurately the Jackson
21 County parts of Kansas City -- is a single community of
22 interest and that the legislature should have given it
23 special deference when drawing the Missouri First Map.

24 As an initial matter, Plaintiff's position is
25 understandable. Kansas City is a wonderful place. It's

1 filled with hard-working, community-oriented people, who
2 love their homes, their families, their friends. It is not
3 surprising that Plaintiffs would feel a special sense of
4 pride and focus on their interest to the exclusions of
5 others. The State, however, cannot take that approach.
6 Not only would it be inappropriate to favor one city above
7 all others, but Missouri law explicitly disclaims
8 communities of interest as a recognized factor when drawing
9 redistricting maps.

10 It should go without saying, that the Missouri General
11 Assembly represents all Missourians, as all Missourians
12 have the same rights under the Constitution. The General
13 Assembly, therefore, enacted a map that is Missouri first,
14 not Kansas City first. Failing to attain special
15 treatment, Plaintiffs have turned to this Court in the
16 hopes of securing a political win that escaped them in the
17 political arena. However, as the trial has shown and I'm
18 about to explain, the facts of Missouri law are against
19 them.

20 The Missouri Constitution states in relevant part the
21 General Assembly shall by law divide the state into
22 districts that are as compact as may be. State Defendants
23 agree with Plaintiffs, the language imposes a legal
24 requirement. The legislature must produce a map that
25 abides by Article 3, Section 45. In other words, it must

1 produce a map that is as compact as may be. Where State
2 Defendants and Plaintiffs disagree and diverge is the
3 standard that this Court should apply.

4 Missouri's Constitutional compactness standard in
5 Missouri is a generous one. It grants significant
6 deference to the General Assembly in this political
7 sensitive -- sensitive arena, because as Missouri Supreme
8 Court has noted in *Faatz*, redistricting is a predominantly
9 political question and is best left to the political
10 leaders, not judges. To quote the Court in *Johnson*, There
11 is no perfect map. Maps can be drawn in multiple ways, all
12 of which might meet the statutory and constitutional
13 requirements. Accordingly, courts will uphold a plan
14 unless it plainly and palpably affronts fundamental law
15 embodied in the Constitution.

16 For this reason, Plaintiffs bear the burden of proof
17 and that burden never shifts. They must show the General
18 Assembly wholly ignored and completely disregarded the
19 requirements of compactness. To that end, Plaintiffs have
20 dug themselves into a ditch. This is because Plaintiffs
21 have fundamentally misunderstood the standard for
22 compactness in Missouri. According to the Missouri Supreme
23 Court, Missouri Constitution gives the General Assembly
24 discretion to pursue recognized objectives alongside
25 compactness; because of this, the word compact does not

1 refer solely to physical shape or size, there are other
2 reasons a legislature may deviate.

3 Plaintiffs mix this up. In a misguided attempt to
4 impose additional constraints on the legislators, they read
5 closely united territory as requiring the legislature to
6 abide by communities of interest, but that is not the rule.
7 In *Johnson v. State* the Missouri Supreme Court expressly
8 disclaimed communities of interest as a relevant
9 consideration of compactness. Instead, what Plaintiffs
10 must do is make two separate showings.

11 First, they must demonstrate that the 2025 plan is not
12 compact in its physical shape and size. Then, if

13 Plaintiffs succeed in identifying deviations, Plaintiffs
14 must prove that the legislature clearly and undoubtedly did
15 not rely on the recognized factors. Plaintiffs have not
16 and cannot meet their burden, for at least two reasons.

17 First, the Missouri First Map is compact. It performs
18 better on a number of compactness metrics than the 2022
19 plan that it replaced. This is true at the State level.
20 It is true at the district level, and it is true for

21 Plaintiff's favorite son, Kansas City.

22 Indeed, as I will soon explain, the evidence shows
23 that the challenged districts in the 2025 plan falls within
24 the range of prior districts enacted by the legislature and
25 upheld by Missouri Courts. Second, the Missouri First Map

1 aligns with recognized factors. In every corner of the
2 revised plan the Missouri First Map better abides by county
3 and city lines. It follows natural boundaries and,
4 overall, provides Missouri voters with a better and fair
5 opportunity to exercise political power.

6 To the extent Plaintiffs disagree, their argument
7 either hinges on hypothetical maps or a Kansas City
8 centered analysis that advances one community interest over
9 the expense of the state and the rest of the district;
10 neither tactic finds purchased in Missouri law. Let's
11 start by talking about the state -- the map as a whole. On
12 a statewide level, the Missouri First Map out performs
13 historically enacted maps by the legislature on multiple
14 compactness metrics.

15 Doctor Trende, the State's expert, and the only expert
16 in this case who's been found credible and helpful by a
17 Missouri Court on a compactness claim -- and this includes
18 the Missouri Supreme Court -- conducted a historical
19 assessment of the 2025 plans average compactness with its
20 predecessors. He found that on average the Missouri First
21 Plan scores better than the 2022 and 2012 maps on Polsby-
22 Popper, Convex Hull, and I Know It When I See It scores.
23 He noted that the 2022 map had a higher Reock score, but
24 even there, the Missouri First Map fell within the range of
25 maps historically implemented by the legislature in the

1 last 50 years; outperforming the 2012 map, which we'll
2 discuss later on, and the 1972 map.

3 This is hardly surprising when one visibility inspects
4 the 2022 map and the 2025 congressional plans. And for
5 this, Your Honor, I'm going to direct your attention to
6 State Defendant's Exhibits 106 and 105; 106 being the 2022
7 plan and 105 being the 2025 plan. As you can see, by a
8 comparison of the two, the 2025 plan eliminates the inlets,
9 islands, and appendages that defined the 2022 plan. Gone
10 is this ugly hook in District 3, that strangles and grasps
11 Districts 2 and 1. Gone is the bottleneck in District 2,
12 and even turning towards District 4 and District 6, you
13 have Districts 4 curve over here eliminated and smoothed
14 out. District 6 also reduces in territory, whereas, the
15 combined District 4 and 5 also reduces in territory size.

16 Overall, the shapes are boxier. They have less
17 inlets. They have less jagged ends, and they more abide by
18 the natural boundaries, such as the Missouri River and
19 county lines. No expert disagrees that the Missouri First
20 Map fractures fewer counties than its predecessors. The
21 Missouri First plan splits five counties seven times. The
22 2022 plan splits nine counties ten times. Doctor Trende
23 testified yesterday that for an eight district
24 configuration, seven splits constitutes the practical
25 minimum a legislature could have enacted. And you can see

1 it on these two exhibits behind me, Exhibits one --

2 Defendant's Exhibit 115 and Defense Exhibit 116; 115 being
3 the 2022 map, 116 being the 2025 map.

4 You can see the multiple split districts -- oh, sorry

5 -- split counties in the pocket of CD1 and 2, but you also

6 see fewer split counties when we get to the western parts

7 of the state in the challenged areas in Districts 5 and 4.

8 And so we go from, again, nine counties split ten times, to

9 five counties split seven times. The same trend applies

10 for municipalities. According to Dr. Cervas, expert for

11 the Plaintiff's, particularly the Wise Plaintiffs, the

12 Missouri First Map splits 18 fewer municipalities than its

13 predecessor.

14 The Office Administration has created the visuals that

15 I have beside me. This includes Defense Exhibit 121 and

16 Defense Exhibit 119, as well as Defense Exhibit 117. You

17 can see from Defense Exhibit 117, that the plan reunites

18 cities in the St. Louis area, as well as St. Charles,

19 particularly along the I-70 corridor. This includes cities

20 like Wright City, Wentzville, Lake St. Louis, O'Fallon, and

21 even stuff towards the core of St. Louis -- as we get

22 closer to the core of St. Louis -- Glendale, Webster Grove,

23 and Ladue. But, it also does the same closer in.

24 Simply put, the Missouri First Map puts Missouri

25 first. Now, I want to talk about the challenged districts.

1 In their briefing and in their arguments, Plaintiffs
2 contend that the compactness requirement applies district
3 by district and, therefore, any statewide analysis is
4 irrelevant. We dispute that second implication. The
5 district lines interrelate, any changes to one district
6 necessarily affects its neighbors and informs the Court on
7 whether the legislature was complying with recognized
8 factors. However, even assuming Plaintiffs are correct,
9 the challenged district remains compact under the 2025
10 plan.
11 District 6 compactness score out performs the 2012 and
12 '22 plans under both Reock and Polsby-Popper; these two
13 metrics measure different types of compactness. District
14 4, meanwhile, matches its 2012 Reock score and beats the
15 2012 and 2022 plans under Polsby-Popper. Even District 5
16 which, admittedly grew in size, that remains within the
17 zone of prior districts enacted by the General Assembly.
18 The best evidence of this is Dr. Rodden's rebuttal report,
19 PX 28; which contains a histogram of every congressional
20 district since 1972.
21 It shows that while on the lower end, District 5
22 scores better than multiple congressional districts and is
23 not unique in Missouri redistricting. In fact, Dr. Trende,
24 in his report explains that the District 5 in the 2022 plan
25 -- sorry -- the 2025 plan scores better on multiple metrics

1 than the 2012 plan. The other problem Plaintiffs run into
2 is that the challenged districts adhere to the recognized
3 factors. And I'm going to go back to the Exhibits 121 and
4 117. Let's look at 117.

5 The City of Columbia in the 2022 map was split down
6 the middle, bisected, by the boundary line separating
7 District 4 and District 3. We turn to the 2025 plan and
8 the line almost perfectly abides by the City of Columbia's
9 municipal lines. The vast majority is now within District
10 3 and a small less populated -- I should say, almost zero
11 population area is within District 5. You can also go to
12 the other parts of the central Missouri region, such as the
13 boundary lines between Districts 4 and 3 near Lake of the
14 Ozarks. Before, you not only had a county split with
15 Camden County, but it split Sunrise Beach and Osage Beach
16 down the middle.

17 Here, in the 2025 plan, the boundary line for 5 and 4
18 follows the county line and keeps the vast majority of
19 Sunrise Beach and Osage Beach together. Plaintiffs
20 disagree because their so-called district oriented analysis
21 is nothing of the sort. Instead of asserting that -- and
22 assessing the districts as a whole, Plaintiffs focus their
23 attention on a small corner of the district, Kansas City.
24 Kansas City drives their conclusions, little to no heed is
25 paid to how other communities, urban, rural, or even

1 suburban benefit under the map.

2 If one looks at district -- sorry -- Defense Exhibit
3 121 which is a blow up of the municipalities and district
4 lines in the 2022 and 2025 plans for the Kansas City
5 metropolitan area -- I want you to take a look at the City
6 of Independence under the 2022 plan. It's split on three
7 different Congressional Districts, 6, 4, and 5. In a short
8 bus ride across town a voter could pass through three
9 different Congressional Districts, 4, 5, and 6. You can
10 take a look at Blue Springs which has the district lines
11 between 5 and 4 acting as an iron wall down the middle;
12 Lake Lotawana, the same.

13 Sugarcreek is split, Claycomo, Pleasant Valley, and
14 parts of Lee's Summit and Greenwood. And now, turn your
15 attention to the 2025 plan. The boundary lines shift and
16 they are now abiding by the municipal districts. And so
17 these political subdivisions are kept intact. Independence
18 is solely -- is wholly within District 5, with the
19 exception of a small part that, as the testimony shows, is
20 unpopulated. The same is true of Sugarcreek. Blue
21 Springs, Lee's Summit, Lake Lotawana, Greenwood, all of
22 these are actually unified in its entirety.

23 There were eight different political subdivisions in
24 the Kansas City area that were split under the 2022 plan;
25 that is corrected under the 2025 plan. Now, Plaintiffs

1 will, of course, focus on Kansas City; saying that, Well,
2 2025 splits Kansas City. Well, so did the 2022 plan. The
3 2022 plan cut Kansas City and Jackson County. Plaintiff's
4 response to that is, But, look at the substantive parts of
5 the split. Well, I have two rebuttals to that.

6 The first is that they don't care about the substance
7 of the split for the other communities in the area. Their
8 emphasis, again, is on one city and one city alone and
9 that's Kansas City. The second is if you look at how the
10 districts are split in terms of population, you now have
11 created three urban controlled districts where Kansas City
12 exercises a controlling influence over District 6, 4, and
13 5. You went from packing a district to having where their
14 representation -- it corresponds to their population.

15 In a nutshell, that is the affirmative case for the
16 map. I'll be it, there are more facts that will be
17 discussed both in our post-trial briefing and by
18 Intervenors when they present after me. But what about
19 Plaintiff's witnesses and the evidence they put on? Almost
20 without exception, the testimony either hinged on a false
21 assumption of what closely united territory means or it
22 emphasized facts that have minimal bearing to the question
23 of whether the 2025 map complies with Article 3, Section
24 45, and nowhere is this most evident than the experts.

25 The plaintiffs have put on four separate experts in

1 their case-in-chief. Doctor Stern, Dr. Cervas, Dr. Rodden,
2 Dr. Cromartie, and I'm going to address each one in turn.

3 Doctor Stern created an ensemble that he stated randomly
4 drew two separate collections of 100,000 maps. He then
5 compared the 2025 plan to that ensemble and only that
6 ensemble; 200,000 plans sounds like a lot, until you dig
7 down deeper.

8 When you consider the fact that there are an infinite
9 number of maps that can be drawn, but, moreover, that the
10 actual program only produced, in the second ensemble of
11 100,000 maps, 30 maps that were compliant with the
12 Constitution requirement of equal population. He also said
13 there were several plans in his first ensemble, but he did
14 not cite the number nor did he believe it was greater than
15 the 30 that was in the second ensemble. Of that 30, only
16 11 had the incumbents placed in different districts, which
17 the 2025 plan does. And so only 11 plans out of 200,000
18 that he identifies actually complied with those two
19 strictures; one that is required under the Missouri
20 Constitution and the other that was, in fact, decided by
21 the legislature to keep their incumbents separate.

22 Of the 11, Dr. Stern put visuals and discussed the
23 properties of the five most compact districts. He refused
24 by deliberate choice to put the six less compact districts
25 in his report in terms of visualization or discussion of

1 properties. The other problem with Dr. Stern's report is
2 that his analysis doesn't actually assess the full range of
3 possibilities. His program naturally prefers compact maps
4 and this means there is an entire category of maps that his
5 program is astronomically unlikely to draw.

6 Why does this matter? Well, I would refer you to the
7 testimony of Dr. Trende. There's a difference in how
8 political partisan gerrymandering cases go versus
9 compactness. In one, you're looking at intent and so you
10 want to have the same metrics as the legislature. In the
11 other, you need to understand the full survey of possible
12 maps in order to obtain what is the actual mean and average
13 of a compact map and what is, in fact, possible. Because
14 you have entire set of maps that are not going to be
15 considered by the program, it artificially -- or I can say
16 -- it, by its nature, tilts the analysis in favor of
17 Plaintiffs, as opposed to the legislature.

18 There are two additional problems with Dr. Stern and
19 this goes towards a legal -- a legal problem. There are
20 multiple ways the Court has acknowledged to draw a compact
21 map. All Dr. Stern had identified in his report are
22 additional maps that could, in fact, be compliant with
23 Missouri's Constitutional provision. It doesn't actually
24 establish that the 2025 plan is not compact or not within
25 the legal standard and we can tell this because we can't

1 see how those plans comply with recognized factors.

2 Doctor Stern doesn't know -- in part because of the
3 nature of his effort -- what cities, for example, were cut
4 and how they were cut under his ensemble. We do know that
5 with the 2025 plan, and it is much better than the
6 preceding plan that was enacted by the legislature. He
7 also did not compare his ensemble plan to prior plans that
8 were enacted by the legislature. Now, I understand he

9 doesn't believe that's an appropriate comparison. He
10 thinks the only appropriate comparison to the 2025 plan is,
11 in fact, his ensemble, which is convenient. But we need to
12 know, as a legal matter, whether or not the maps he drew
13 are the types of maps that have typically been enacted by
14 the legislature.

15 If his maps are outliers, either in how they abided by
16 recognized factors or even in their compactness, well, then
17 it doesn't show much about whether the 2025 plan is, in
18 fact, in violation of Article 3, Section 45. If his map --
19 his program also would've shown that the 2022 plan, the
20 2012 plan, 2002 plan, and its predecessors may have also
21 been in violation based on this hypothetical standard on

22 how a court program draws a map versus an individual.

23 Doctor Cervas has a similar problem. He creates a set
24 of alternative maps, specifically eight, that he says
25 undermines the constitutionality of the 2025 plan.

1 However, there are some instances where Dr. Cervas' plans
2 actually outperformed the 2022 plan, the plan that
3 Plaintiffs want to be the remedy for this case. Just
4 because one map can score better does not mean that the
5 other map is not compliant. The Missouri Supreme Court was
6 very clear on this *Faatz* and the reason was identified by
7 both Dr. Trende and Dr. Stern.

8 If you let the program run long enough you will always
9 find a more compact map and that is what we have here.

10 Doctor Rodden -- changing gears somewhat -- he introduces
11 legal analysis to this Court as opposed to expert
12 testimony. He has created his own understanding of what it
13 means to be a closely united territory and that definition
14 is nowhere within Missouri case law. Missouri case law
15 does not look at communities of interest in order to
16 determine whether or not a area is closely compact.

17 It does not look to see whether it is economically and
18 socially or culturally compact, that is not in the case
19 law. What the case law says is that you can look at shapes
20 and sizes and then you also can look at recognized factors.

21 Doctor Rodden, however, has interjected a new standard; one
22 that is tailored to achieving a political end, rather than
23 achieving a legal one. And you can tell based on his
24 testimony on some of the commonalities he says is shared by
25 rural communities but not shared by urban communities. And

1 this gets back to my early point in my opening which was
2 there's a complaint about bridging the rural-urban divide.

3 He does not believe that urban voters should be paired
4 with rural voters that, however, is not -- specified in the
5 Constitution. It is not contemplated by the Constitution
6 and, in fact, is impossible just based on the demographics
7 and population distribution of the state. Doctor Cromartie
8 engages in a similar type of analysis in that he is also
9 looking at communities of interest and economic and
10 demographic history. His testimony, he said, I define
11 territory based on a shared demographic history and on
12 shared -- again, the shared economic -- the shared needs of
13 the community that have been defined by that demographic
14 history.

15 Nowhere does Missouri law indicate that demographic
16 history and shared needs place a constitutional restriction
17 on the General Assembly's ability to redistrict or their
18 propogative to create the configuration that exists in the
19 2025 plan. Plaintiff's experts effectively adopt a myopic
20 view; focusing on Kansas City to the exclusion of the state
21 and the same is true of the fact witnesses. You heard
22 testimony from seven different members of the Kansas City
23 community, and each one voiced genuine concern and
24 expressed love for their community.

25 We love that in the state. We love to see when voters

are able to express their love for their neighborhoods,
their friends and family, and having their shared
interests, but that is not a part of redistricting
analysis; that is something that gets addressed by the
legislature. To the extent that the community believes
that they should be kept intact, that they are -- should --
that their needs should be balanced compared to some of the
other neighborhoods -- such as Independence, Blue Springs,
Lee's Summit, and Claycomo -- well, that has to be a
political choice.

Which city gets split; which one doesn't? That is not
a question for the Court. It is a question for the
legislature, and that is effectively the question that
they've brought you here today, after not achieving the
result that they wanted in the legislature during the
recent discussions. I want to talk very briefly about
Counts III and IV. Counts III and IV come from Plaintiffs
misunderstanding of House Bill 1. House Bill 1 has two
VTDs, 811, that are marked one to District 4 and one to
District 5.

The issue is that these are two distinct geographic
areas, and that is shown in the census data and it is shown
in the shapefiles. The shapefiles that were hosted by the
Office of Administration, communicated to the local
elections' authorities from the Secretary of State and show

1 that these are not the same VTD or precinct, but, instead,
2 two different distinct geographic entities, one assigned to
3 CD4, one assigned to CD5.

4 Plaintiffs have not put on any evidence in their case-
5 in-chief about claims three and four. Indeed, in their
6 request for admission, which is part of Defendant's
7 exhibits, they also concede that there are two separate
8 GEOIDs for the two different KC 811s, that should close the
9 matter. Doctor Cervas, he looked at the data from the
10 Office of Administration. He confirmed that that's what's
11 in it. Doctor Trende looked at the office -- the data from
12 the Office of Administration. He looked and confirm that's
13 within it.

14 You heard testimony from Mr. Kieffer who said that
15 there was an 811 that was mislabeled, and that he didn't
16 think it was possible for you to assign two -- the same VTD
17 to two different districts and that's because that's not
18 what the legislature did. As a matter of the evidence and
19 matter of the law, the legislator complied with the equal
20 population and contiguity requirements. And that case is
21 clear and to the extent it is not, we would remind the

22 Court that any ambiguity falls in favor of the State.

23 The State is presumed to apply a law constitutionally
24 and the same is true of its political subdivisions. And
25 you heard testimony from Mr. Kieffer that he -- that his

1 election authority -- the Kansas City Election Board who
2 oversees KC 811 -- would do their best to comply with the
3 Constitution as is their obligation under law. I lastly
4 want to talk briefly about *Purcell* since it was raised by
5 Plaintiffs at the end of their closing.

6 *Purcell* is an equitable doctrine designed to protect
7 voters and the reliance interest of voters in casting a
8 ballot. There are usually two ways the *Purcell* doctrine
9 gets triggered. The first is through election
10 administration; so if you have disruptions to election
11 administration, you can undermine the efficient workings of
12 an election and make it more difficult for a voter to cast
13 their ballot or perhaps even undermine the credibility of
14 the election because you're changing the rules midstream.

15 The second is about the public reliance of voters,
16 candidates, on what the law says and this is most relevant
17 in redistricting. The candidate filing deadline is next
18 week. At this point, candidates will have made decisions
19 on whether to submit their application for a specific
20 district. That decision, as you heard from Mr. Kieffer and
21 his two decades of experience, is informed by the district
22 lines and who they think their competitors are. New
23 district lines changes that analysis.

24 Voters, meanwhile, get the announcement that
25 individual candidates have been announced, that they are

1 running and that the campaigns are moving; donations go
2 through, advertisements go through, all the gears of the
3 election on the public side start and there is immense
4 reliance on the candidates and on the voters about the
5 election lines once that point passes. I will point this
6 court to *LULAC v. Abbott*, which was a recent Supreme Court
7 decision, US Supreme Court decision, where the State of
8 Texas was in a similar position.

9 It engaged in a decade redistricting and the Court
10 only was able to get a ruling out after the candidate
11 filing had passed. The Supreme Court determined that that
12 was too late because of that public reliance; that voters
13 and candidates would have already made -- taken actions
14 because of the map. We recognize that Missouri law is
15 still open to what the full contours of *Purcell* entails,
16 whether it would be adopted, and to the extent that the
17 Court will adopt.

18 For that reason, I'm not going to spend much time on
19 this issue and I'll simply refer the Court to our briefing,
20 both pre-trial and post-trial. To conclude, Your Honor,
21 it's clear that the 2025 plan does not plainly and palpably
22 affront Missouri's fundamental law. The 2025 plan is
23 compact, contiguous, and equipopulous. It improves
24 compactness metrics statewide across challenged districts
25 and right here in Kansas City, and any variances are well

1 within historical tolerance going back to 1972.

2 Throughout this trial, Plaintiffs never came close to
3 meeting their heavy burden. They merely repackaged a
4 political disagreement with the 2025 plan into a legal
5 case. A political disagreement properly assigned to the
6 halls of the capital, not the Missouri judiciary. Their
7 experts have tried to interject hypothetical alternatives,
8 speculative factors to try to discredit the 2025 plan.

9 They failed. And their failure to recognize how Missouri
10 assesses constitutionality, as well as the latitude
11 conferred on the General Assembly to draw compact maps
12 under Section 45, they have doomed an already meritless
13 argument.

14 For all these reasons, this Court should deny
15 Plaintiff's attempt to invalidate the legislation on the
16 basis of speculative and hypothetical assertions. The
17 Court should uphold the duly enacted 2025 plan and this
18 Court should defend the General Assembly's prerogative to
19 put all the Missourians, not just Kansas City, first.

20 THE COURT: Let me --

21 MS. HUNKER: Yeah.

22 THE COURT: I want to be fair and get everybody's
23 opinion on the same -- on the same issue. I'll ask it in a
24 mostly similar way but slightly different given the State's
25 position in the case.

1 Obviously, the *Pearson* Court contemplates at some
 2 point a court would have an obligation to intervene as it
 3 evaluates the evidence, right? There's no specific way to
 4 figure that out I think from looking at the evidence. And
 5 so, I guess, understanding your position is it certainly
 6 isn't here, how -- how could that happen? Because I --
 7 kind of reading again --

8 MS. HUNKER: Yeah.

9 THE COURT: -- the majority concurring opinions
 10 versus Judge Price's dissent. He, obviously, was very
 11 concerned that -- he felt like the majority had insulated
 12 any future map from getting struck down by a court.

13 MS. HUNKER: So let me take that through two
 14 different perspectives --

15 THE COURT: Sure.

16 MS. HUNKER: -- because, it seems like there's
 17 two question baked into yours.

18 The first is, what is sort of the line, like, how
 19 would you determine it? And then the other one is can the
 20 legislature go too far? So for the first question, I think
 21 the most obvious line is what has been upheld in the past.

22 So the question of when that line is actually past is not
 23 really before the Court, because the 2025 plan -- and this
 24 includes for CD5 looking -- sorry -- this one -- including
 25 CD5. When you compare the metrics of the CD -- CD5 under

1 the 2025 plan, it actually performs better than the one you
2 have here which is the 2012 plan.

3 Now, this is part of the Polsby-Popper, Reock scores,
4 all those various metrics. This -- this map does better
5 than the 2012. By the way, the 2012 exhibit is
6 Intervenor's Exhibit 208. The *Pearson* case actually
7 involved this district; it was CDs 3, 5, and 6. And so
8 when you're talking about: What is the line? And I think
9 that's a very important question that the Court is at some
10 point going to have to determine. I don't think it's in
11 this case, because when you actually look at what types of
12 maps have been held as compact, this is the -- this isn't
13 past that boundary line.

14 And it seems odd that the legislature -- sorry -- that
15 the Court would reject the 2025 CD5 but upheld other
16 districts that performed worse, including one that had the
17 name CD5. And this is true even when we look at the
18 recognized factors. I mean, I want to just give you a
19 quick look here. So you have this ugly hook in Jackson
20 County. This cuts through based on the -- and the Court's
21 -- has additional knowledge of where cities are located
22 within the county -- but it cuts across multiple
23 municipalities in the eastern parts of Jackson County. It
24 cuts into Clay County --

25 THE COURT: I'm sorry to interrupt.

1 Just to be clear for the record, you're pointing at
2 the 2012 map and I think --

3 MS. HUNKER: That's right, Your Honor. I
4 should've --

5 THE COURT: -- you called it a "hook," they call
6 it a teardrop there, but --

7 MS. HUNKER: Yeah.

8 THE COURT: -- same thing, the carved out portion
9 of Jackson County.

10 MS. HUNKER: The carved out portion of Jackson
11 County, also Clay County. It cuts through both a county
12 line and it cuts through the Missouri River which is a
13 natural boundary. And you have it cutting the Missouri
14 River a second time through Ray County. It goes all the
15 way out to Saline County. I mean, this is a district that
16 performs worse on all sides, both on shape and geography,
17 as well when you look at the recognized factors and this
18 map was upheld.

19 And so if this map is upheld, if -- it bears to
20 reason, that the 2025 CD5 would also be upheld; where it's
21 apparent, again, that the legislature was looking at the
22 recognized factors. I mean, the idea that the plaintiffs
23 give, that the legislature ignored them, honestly, it
24 doesn't align with just basic visuals of the map. You have
25 multiple counties that were kept intact and brought -- and

1 got reunited through the 2025 plan; you have the same with
2 multiple cities.

3 You have the fact that Missouri River, as well as
4 other clear natural boundaries, like north-south roads, are
5 aligned with. So when you do the comparison of the two, I
6 think that answers the question of: What is the line? The
7 line isn't relevant in the case, because we already have --
8 we have a map that performs better on all angles than a map
9 that was previously upheld by the Missouri Supreme Court.

10 THE COURT: If I can. So at a minimum, your
11 position is the line would be that, in some way -- whether
12 it's the mathematical measures or some other way -- it
13 needs to be worse than 2012?

14 MS. HUNKER: I think so. Yes, Your Honor.

15 THE COURT: Fair enough. Okay.

16 MS. HUNKER: And then you had asked the question
17 of, Well, can the legislature go too far? I think the
18 answer is yes. You know, if the legislature not only draws
19 something that is, you know, of this configuration but it's
20 obviously not going with the recognized factors, there's
21 not an attempt to maybe unify a city or there's not an
22 attempt to align with the counties -- that's where I think
23 you would get it. So if you saw really extreme shapes.

24 Now, the reason it hasn't happened yet is because the
25 legislature's actually pretty good at abiding by the

1 constitutional requirements. It's been doing so for
 2 multiple decades now and it knows those rules. And it's
 3 done a pretty good job when you compare it across states,
 4 that Missouri districts tend to be more compact. They keep
 5 counties whole. They keep cities whole, far more than you
 6 would find elsewhere.

7 And I think, again, the State's position is not that
 8 the legislature couldn't violate the Constitution, just
 9 that it hasn't yet.

10 Any other questions, Your Honor?

11 THE COURT: Not right now. Thank you.

12 MS. HUNKER: All right. Thank you.

13 MR. ELLINGER: I'll let them get out of the way
 14 here real quick, Judge.

15 Okay. Thank you, Judge.

16 **INTERVENOR'S CLOSING ARGUMENT BY MR. ELLINGER**

17 MR. ELLINGER: I don't know if I drew the
 18 enviable or unenviable task of being the last person
 19 between everyone here and lunch and their travel plans,
 20 etc. But I at least want to say thank you to the staff,
 21 the court reporters, the clerk for all the courtesies, to
 22 yourself certainly for being very patient and to all the
 23 counsel in this case. We've worked on a -- on a very
 24 expedited basis and I think all worked very well and I want
 25 to thank everybody for that.

1 And you have now set through over 90 minutes of
2 closing arguments, so I'll try to be a little bit shorter.
3 And, you know, I think you've heard presentation from the
4 State. You've heard a pretty in-depth presentation from
5 the plaintiffs. With my dear respect -- all due respect
6 for my friends from the East and West Coast, you know, I --
7 I think of it a little differently. I grew up and I became
8 a lawyer in Jeff City. I started out going to associate
9 and circuit courts and in places like Jeff City, Linn,
10 Versailles, Tuscumbia, all over those little courts.
11 And the one thing I kinda learned was the best thing
12 to start off with is: What's the case about? And what's
13 the case not about? And maybe we can start with that real
14 quick. This case is not about partisan gerrymandering.
15 You've heard lots of talk about representatives and who
16 they like and who they -- that's not what this case is
17 about. It's not about racial gerrymandering. I think in
18 some of the pleadings there's some allusion to that, but
19 that's not what this case is.
20 And this isn't a challenge because the legislature
21 took a line down a highway and then blew it up to grab an
22 area, like many annexations that you've seen in the past.
23 What it is about is really kind of an unprecedented
24 compactness challenge to a map duly enacted by the General
25 Assembly. I will note kinda that it appears the Wise

1 Plaintiffs have really, kind of, waived their contiguity
2 and equal protection claims, that's three -- Counts III and
3 IV -- because they didn't provide any evidence to that
4 effect.

5 I'm sure you'll get to see lots of this in findings of
6 facts and conclusions of law when we submit them in 10
7 days. And I note that the Healey claims appear to have
8 completely walked away from their challenge to

9 Congressional District 6. I think all the evidence has
10 been confined to Congressional Districts 4 and 5 by the
11 plaintiffs. The burden of proof becomes really important
12 in this case, and I'm going to apologize because you're
13 going to hear a bunch about it and you already have heard a
14 bunch about it.

15 The maps that we're talking about have to clearly and
16 undoubtedly contravene the Constitution. In the *Faatz*
17 case, the Supreme Court said that all doubts -- not some --
18 but all doubts have to be resumed in the favor of the
19 constitutionality of the statute; that makes this a really
20 heavy burden. It's not an easy one for anyone to overcome
21 and it's particularly difficult in this case, and I think
22 as the defense counsel noted, that burden never shifts.

23 There is no *prima facie* case where you have to rebut
24 it; the burden never shifts. In -- the *Koster II* -- excuse
25 me, the *Pearson II* case -- and we've talked a lot about

1 *Pearson v. Koster* and I know you -- obviously, you've read
 2 it. There's actually two of 'em. And I might mention
 3 *Koster I* here and there -- excuse me, *Pearson I* here and
 4 there. I'll try to confine myself to saying *Pearson I* and
 5 *Pearson II* when I -- if I'm changing about that.

6 So we have to look at what the evidence is in this
 7 case. We've got the burden. We know what it is. We know
 8 what the case is about. So let's look at it. So *Pearson*
 9 said the standard is as compact as may be and nobody really
 10 knows what that means. I think we've pretty much defined
 11 that. But the *Pearson* case said things that you can look
 12 at are boundaries of political subdivisions including
 13 counties, cities, and precincts. So let's look at some of
 14 the evidence that's just not an issue -- that's at page 50
 15 of the *Pearson II* --

16 THE COURT: Okay.

17 MR. ELLINGER: -- excuse me, *Koster* -- *Pearson*
 18 *II*, excuse me. Too many *Pearson*'s and *Koster*'s in the
 19 world. (Laughs.) So the first thing is, the Missouri
 20 First Map is more compact overall than the 2022 map is;
 21 that's undisputed. Nobody disputes that, on an overall
 22 basis. The number of counties that have been split under
 23 the Missouri First Map is less than the number of counties
 24 that have been split under the 2022 map; nobody disputes
 25 that fact. The number of cities that are split under the

1 Missouri First Map versus the 2022 map is less; nobody
2 disputes that.

3 There are fewer VTDs or -- we talked lots about that,
4 which are analogous to precincts. There are fewer VTDs
5 that have been split under the Missouri First Map than
6 under the 2022 map; nobody disputes that, and those were
7 all specific factors that were laid out in *Pearson II*. The
8 Court specifically referenced county splits, city splits,
9 and precinct splits. There's no dispute that Congressional
10 District 4, 5, and 6 are more compact than districts that
11 have previously been affirmed by the Missouri Supreme Court
12 in -- particularly, in *Pearson II*.

13 Judge, I think you referenced Judge Price's dissent
14 and I think it's probably important to note that if you
15 look at Judge Price's dissent, you also have to look at
16 what he was dissenting to; which was not just the primary
17 opinion, but Judge Fischer's concurrence, too. Judge
18 Fischer's concurrence actually makes some interesting
19 points in it, also. It's undisputed that Clay County is
20 now unified into one congressional district -- it had been
21 split before -- that's about 40 percent of the population
22 of Kansas City.

23 I want to pull up -- and I'm gonna have him put it up
24 on the screen so that all the counsel can see this and I'm
25 going to steal the State's very nice demonstrative. That

-- this is Intervenor's Exhibit 208. So Defense Counsel talked a little bit about this map, but I want to show something on this map. Let me start with the two districts that really were in question in *Pearson II*. And if you read that opinion, you'll notice there's a lot of detail on both of them -- Congressional District 3 and Congressional District 5.

Congressional District 3 starts in this corner of Camden County -- and if memory serves me, that's outside the lake area -- and it goes all the way across, including Callao, Osage, Callaway, Warren, Lincoln, Franklin, and then St. Charles County and Jefferson County. And it creates these claws, I mean, it literally has claws. It's about the least compact district you can possibly draw. I'm not sure you can come up with a least compact district than a district that has claws around it. And yet, the Court went through and said that's okay under their test; that's not a problem.

Then the Court looked at Congressional Districts 5 and 6 and focused on the teardrop. And the Court did a pretty detailed analysis in its opinion of the teardrop. And what did it do? It came back and said that's okay also, both of them are okay; both, 5 and 6 are okay. And, you know, this map shows and so did the prior maps that you've seen, that Jackson County's been split three times a number of times;

1 that's undisputed. Kansas City's been split three ways in
2 almost every map in one shape or another. Those are simply
3 undisputed facts.

4 And I think just on that basis, if I sat down right
5 now, that in it of itself is enough for Plaintiffs claims
6 to fail. If you look at Plaintiffs case -- and, again,
7 I'll note the Wise Plaintiffs put no evidence on in Counts
8 III or IV, nothing on contiguity, nothing on equal
9 population. Just on a basis of lack of evidence, those
10 claims fail. The Healey Plaintiffs put no evidence on
11 regarding CD6 -- Congressional District 6.

12 Their one witness, Dr. Rodden, focused almost
13 exclusively on 4 and 5 and glossed over CD6. And I think
14 that's also important to note, because in the *Pearson* case
15 there was a pretty good discussion about how, if your
16 you're challenging CD5, you're effectively dealing with
17 CD6. They haven't talked about CD6, because as all the
18 testimony's shown, CD6 is more compact. That part of the
19 *Healey* case has to fail.

20 Now, Plaintiffs have spent a lot of time pulling out
21 three words from *Pearson II* and those three words are
22 closely united territory and they sound really good, but
23 that's not what the evidence they put on was. The evidence
24 that put on is actually communities of interest. Now, I
25 could understand why people would want to call on

1 communities of interest. It makes a lot of sense. It
2 makes for great fact witnesses. They can talk about how
3 great their neighborhood is; how great the folks around
4 them are; how many social services they're involved in.

5 They get to talk about a lot of things that are near
6 and dear to them and, frankly, are near and dear to all of
7 us on a daily basis. They could talk about urban versus
8 rural. I mean, Dr. Cromartie spent his entire report
9 talking about how rural areas have different interests than
10 urban areas. Ironically, you'll note that in cross-
11 examination he conceded that a lot of the interests that
12 concern people in urban areas are the same interests that
13 concern people in rural areas and vice versa.

14 Doctor Rodden talked about how farmers had different
15 interests than city dwellers. Again, interests -- the
16 communities of interest. I think even in Plaintiff's
17 closing they used the Rodden report and that emphasized
18 that communities of interest. If you look at the fact
19 witnesses, I mean, we had two really delightful ministers
20 who talked about how they minister to an urban population
21 and that they just have different interests than people
22 that perhaps aren't in the urban core.

23 You heard one of the plaintiffs, Mr. Wise, talk about
24 the importance of things like Medicaid and minimum-wage,
25 and, again, those are interests; they're community

1 interests. They all admitted -- all of their fact
2 witnesses -- admitted that they were testifying they didn't
3 like the Missouri First Map solely on the basis of their
4 community interests. Mayor Lucas expressly stated that the
5 reason he was against the map and he was testifying was
6 because he wanted to -- he was concerned about the effects
7 on -- and he used the terms -- communities of interest in
8 Kansas City.

9 But the Supreme Court expressly rejected communities
10 of interest. So while it's great to talk about them and
11 they're near and dear to our hearts, Supreme Court's
12 already said that's not a factor, you don't look at it.

13 Now, the next thing that Plaintiffs try to do is bring in
14 other maps. Alternative maps are not the standard. As
15 you've heard all the experts say, you can always make a map
16 more compact. The Supreme Court even acknowledges that in
17 *Pearson II*. You can always make a map more compact, but
18 that's not the standard.

19 Even if you look at one or two districts, you can
20 always make a map more compact, but that's not the
21 standard. Those maps weren't before the General Assembly.

22 They weren't options put out on the table. Nobody brought
23 them. Even the mayor noted that he was opposed to the work
24 that was being done in Jefferson City in the special
25 session but didn't present any alternatives. The

1 plaintiffs aren't advocating for one of those alternative
2 maps. They're trying to shoe horn in the thing that under
3 a computer program if you run 200,000 maps, some of them,
4 many of them -- depending upon the constraints you put in
5 the programming -- will end up being more compact.

6 The Court's already acknowledged -- the Supreme
7 Court's already acknowledged, you can always do that.
8 Doctor Stern, with his 200,000 maps on the ensemble
9 analysis is interesting because the United States Supreme
10 Court on two separate occasions has expressly rejected the
11 ensemble analysis. In *Allen v. Milligan*, which is 599 U.S.
12 1 at page 35, it's a 2023 case, the Court said that the
13 ensemble analysis is quote, Flawed in its fundamentals.

14 And in *Alexander v. South Carolina Chapter of the*
15 *NAACP*, which is 602 U.S. 1 and this is at page 33, the
16 Court said that the ensemble analysis, quote, Has no
17 probative force. Don't take our word for it. Don't take
18 our experts word for the fact that the ensemble analysis
19 does not work, take the US Supreme Court's word. So the
20 only map that's really in question here is the Missouri
21 First Map.

22 And as the Supreme Court of Missouri said in *Faatz*:
23 Put simply, there is no perfect map. Therefore, the
24 Constitution doesn't require absolute perfection. Given
25 that maps can be drawn in all sorts of multiple different

ways, which might meet constitutional requirements, this Court -- that being the Supreme Court, and I wanted to quote this because I thought this was pretty important -- has recognized that these decisions are political in nature and best left to political leaders, not judges -- and that cites *Pearson I* -- The Court has thus held it's fundamental that redistricting is predominantly a political question. The Court has already said that. We know that. You know, none of the experts for the plaintiffs who came up here ever tried to talk to a member of the General Assembly to understand why the maps were drawn, what the rationale were. They didn't talk to the governor when he called the special session or any time since then. The governor said he wanted to reduce county spirits, the governor said he wanted to reduce municipal splits, but none of that -- none of the experts ever decided to try to engage and find out that information.

Very briefly, there was the Troost Avenue issue. It's raised in the Wise petition. I think Plaintiff Wise mentioned it on the stand. I don't think that's an issue in this case and I'm not going to spend a lot of time on it. I mean, it's the same dividing line that's used to divide Senate District 6 and 9 since 2012. One of which was by a bipartisan's commission and then the '22 senate maps were the judicial commission. So, obviously, it's not

1 a problem under those maps.

2 It's the mayor's preference. That's exactly how they

3 redistricted the city council maps, right down Troost

4 Avenue. It's a major thoroughfare, so I don't think that's

5 really an issue that's left in this case. Finally -- and

6 in their closing, they say, Just look at the maps. And

7 they put them up and they -- they put up the map and they

8 said, You know, the answer is just look at the map. That's

9 why I said Judge Fischer's concurrence is pretty important,

10 because Judge Fischer noted that that was an argument that

11 made in *Pearson I*, Just look at the maps -- and the Court

12 rejected it.

13 In fact, that's the reason the case remanded was you

14 can't just look at the maps. You have to look at the

15 legislative intent. You have to look at the rationale. So

16 let's look at a little bit of the effects of the Missouri

17 First Map, because perhaps that gives some insight into the

18 rationale. So if you look at the Missouri First Map,

19 you'll see that the St. Louis metropolitan area has three

20 congressional districts. I think we all know it's the

21 anchor to the eastern side of Missouri. Kansas City's the

22 anchor to the western side of Missouri. It now has three

23 urban majority districts and there's no dispute they are

24 urban majority districts.

25 All three of these, 6 -- 4, 5 and 6 -- are anchored

1 with Jackson County in the Kansas City metro area, just
2 like St. Louis, three of 'em. Jackson County's the most
3 populous county in all three -- excuse me -- in 4 and 5 and
4 it's not close; it's overwhelmingly the most populous
5 county. Kansas City is the most populous county in 4, 5,
6 and 6 -- excuse me -- city in 4, 5, and 6 and it's not even
7 close. It's more populous than any other city in any of
8 those areas by multiple factors.

9 So it's not unreasonable to assume that the rationale
10 for the General Assembly is give Kansas City three congress
11 people. Give 'em more representation and maybe that's
12 where the line ought to be drawn. And you asked: Where do
13 you draw the line? And I have a couple thoughts on that.

14 First and foremost, I think the lines drawn with deference
15 to the General Assembly. The case law is pretty clear on
16 that, and that any inference goes to upholding the map.

17 But, again, if you go back and you want to know where the
18 line is drawn, all you really have to do is look at the
19 2012 map, because that's where the Court drew the line.

20 And the Court said that CD3 with the claws that goes
21 from the Mississippi River and the confluence of the
22 Missouri River, down into Jefferson County, all the way
23 back to outside the Lake of the Ozarks, that was compact.

24 I think that tells us where the line's drawn. It said that
25 the teardrop that squiggles in and out of Jackson County

1 was compact and I think that shows where the line's drawn.
2 And none of the districts in the Missouri First Map have
3 any of those issues.

4 There are no claws. There are no teardrops. It is a
5 clean map. I think also you might consider drawing the
6 line at Pg. 56 of *Pearson II*, where the Court says, the
7 evidence supports, and I quote: While District 5 divides
8 certain political subdivisions, it maintained boundary
9 lines of other political subdivisions; specifically, in
10 municipalities north of the Missouri River.

11 That's this area up here, north of the Missouri River.
12 That's Clay County and it's all kept together this time.

13 One other little small note, I just -- Plaintiffs have
14 asked for injunctive relief, while there's also a
15 declaratory judgment that's asked in this case; under
16 injunctive relief, they do have to show some type of harm.

17 We've sat through two days of fact witnesses and three day
18 -- two and a half -- I think it was three days of expert
19 witnesses, and everybody talked about what they liked about
20 the old map. Nobody talked about how they were going to be
21 harmed by the new map.

22 That -- the fact that they like how it is now is not
23 indicative of harm; it's never been recognized as a
24 standard of harm in any Missouri case. So let's go back to
25 the burden of proof. I'm about done, I promise, Judge.

1 I'm trying to be as quick as I can. It's incredibly high
2 and it never shifts. And the 2012 map, that was the
3 standard there too and this was affirmed. Plaintiff's
4 haven't come close to showing that the Missouri First Map
5 gets into what the 2012 map was. In fact, really it's
6 quite the opposite.

7 The General Assembly has made the districts more
8 compact across-the-board. Every district in the Missouri
9 First Map, every one, is more compact than District 3 that
10 was affirmed by the Missouri Supreme Court. The General
11 Assembly expanded the number of urban districts across the
12 state. Our population in Missouri is predominantly urban.
13 They expanded the maps to give them more representation,
14 not less. The General Assembly eliminated a number of
15 county splits, a factor that *Pearson II* expressly
16 recognized.

17 The General Assembly eliminated a number of
18 municipality splits, a factor the General Assembly
19 recognized. The General Assembly eliminated a number of
20 VTDs splits, a factor that the Court in *Pearson II*
21 recognized. If you add in Defendant's evidence, if you add
22 in Intervenor's evidence, Congressional Districts 4, 5, and
23 6 are more compact than those that were approved in *Pearson*
24 *II*. Overall, the map is more compact than the 2022 map or
25 the 2012 map.

1 So in conclusion, Judge, we're one big diverse state
2 and I think we've made that pretty clear through all the
3 testimony in this case. The General Assembly, when they
4 did its redistricting, didn't redistrict Kansas City;
5 that's the job of the Kansas City, City Counsel. It didn't
6 redistrict Jackson County for Council Districts, that's the
7 job of the Jackson County legislature. The General
8 Assembly redistricted a map covering 6.1 Missourians. Now,
9 Plaintiffs want you to ignore almost all of those
10 Missourians.
11 They want you to focus on the 716,000 Missourians in
12 Jackson County or, perhaps, only the 300,000 Missourians
13 that live in the Kansas City portion of Jackson County.
14 The General Assembly had to put the interests of all
15 Missouri first, not just Kansas City first and that's
16 really what we come down here. What the plaintiffs don't
17 like is -- they don't like Missouri being put first, they
18 only want Kansas City being put first.
19 I mentioned that Missouri is a big diverse state. I
20 think Dr. Anatol, who was one of Plaintiff's exhibits[sic],
21 said that she moved to Kansas City because she wanted to
22 live in a diverse community and that diversity is what
23 makes our state great. Plaintiffs don't like the
24 diversity. They're opposed to diversity. They only want a
25 condensed urban area. They don't want the diversity of

1 interests that our state brings.

2 And, yet, the General Assembly chose to emphasize that

3 diversity. To let people in rural areas and urban areas be

4 together in congressional districts and have

5 representation. To weight those districts so urban areas

6 have more power in those districts. Plaintiffs don't like

7 that -- probably for political reasons, perhaps for

8 community of interest reasons -- but those were decisions

9 that are vested in the General Assembly. The General

10 Assembly rejected the idea of an island, where Kansas City

11 is sacrosanct and the rest of the state has to be drafted

12 around it.

13 It decided to celebrate the diversity -- to embrace

14 it. Plaintiffs have failed in their burden and as a

15 result, their claims have to fail in this case. Counsel

16 for, I believe, the Healey Plaintiff said, There's no

17 requirement of homogeneity. And that's really what their

18 experts were testifying they wanted, was a requirement of

19 homogeneity. They want only urban residents. Their fact

20 witnesses wanted to be in only urban -- with urban

21 districts. That's not diversity; that's the opposite of

22 diversity.

23 I grew up -- Judge, you probably noticed this when I

24 was talking to Mayor Lucas -- I grew up spending my summers

25 in Kansas City. And I remember as a kid coming up from

1 Jeff City and it was so interesting that the people I knew
 2 in Jeff City were just like the people I knew in Kansas
 3 City and I grew up out on the edge in the farmland.

4 Everybody's the same in this state. It's really what makes
 5 our state so great. Let's put Missouri first and keep the
 6 Missouri First Map.

7 And I'm certainly happy to answer any questions if you
 8 have any, Judge.

9 THE COURT: All right. Thank you, Mr. Ellinger.

10 MR. ELLINGER: Thank you.

11 THE COURT: We've gone over our time, but I
 12 typically do give the folks with the burden of proof a
 13 brief rebuttal. I'll give you no more than five minutes
 14 for a brief response.

15 MS. KHANNA: Five minutes a piece?

16 MR. MULJI: Five minutes per party?

17 MS. KHANNA: We'll not -- oh, yeah. Per party?

18 THE COURT: I'd prefer it be five minutes total,
 19 but I'm not --

20 MS. KHANNA: I can talk fast, Your Honor.

21 Got a lot closer to -- thank you, Your Honor.

22 I wanted to start with *Johnson*. The defendants have
 23 put a lot of stock in this idea -- their preferred reading
 24 of *Johnson* -- to suggest that consideration of communities
 25 of interest in Plaintiff's compactness claims are verbose.

1 These very pointedly do not actually quote or cite exactly
2 what *Johnson* says and I think it'd be helpful for us to see
3 that now.

4 If we could put that on the board. I don't expect us
5 all to -- I'm not gonna read all this in my five minutes
6 into the record. But the Court should be well aware of
7 exactly what the *Johnson* standard is and it is not at all
8 what the defendants seem to think it is. In *Johnson* the
9 Supreme Court of Missouri is describing factors that may
10 justify variances from mandatory State Constitutional
11 factors, such as equal population and compactness, in the
12 context of states maintaining communities of interest to
13 avoid -- as a justification for their deviations.

14 In other words, *Johnson* says that the State cannot
15 justify deviations from compactness -- defined as closely
16 united territory -- cannot justify those deviations based
17 on communities of interest. The State cannot come in here
18 and say, like, Yeah. I know it's an ugly map, Your Honor,
19 but I was really interested in this community or that
20 community. Frankly, much like -- much like they have
21 attempted to do in their Missouri First argument. That's
22 not what Plaintiffs have tried to do at all here.

23 Plaintiffs have -- have no argument that -- that
24 communities of interest are a reason to depart from
25 compactness. Plaintiff's argument is that these

1 communities along with all of the other factors are
2 evidence of the lack of compactness. We're not asking the
3 Court to deviate from that standard, we're showing that the
4 standard hasn't ever been satisfied in the first place.

5 And that is a very important distinction that the State
6 seems to miss and I really encourage the Court to read very
7 carefully *Johnson* there.

8 I want to go to the -- I think what has become kind of
9 the key question here about what is the threshold. And,

10 Your Honor, we talked -- we've talked *Pearson*, you asked
11 Ms. Hunker, I believe, you said, you know, So we can agree
12 then that the threshold is that it has to be worse than the
13 2012 map -- the *Pearson* map -- in some way? And I believe
14 that everybody -- or she agreed to that. And it's telling
15 that it was not in all ways. And we know that the 2012 map
16 was worse than the current -- than 2025 map -- sorry --

17 that the 2025 map is worse than the 2012 map in many ways;
18 including the three ways we discussed Kansas City central
19 district, Kansas City divisions, and the Jackson County
20 divisions and those are unprecedented and those are

21 undisputed. Official Court Document Not an Official Court Document N

22 We also discussed how it's longer and certainly orders
23 of magnitude stretches farther out. Other thing to
24 remember is if the 2012 *Pearson* standard is the only metric
25 here, we should be very careful about remembering that

1 there actually is no record in the *Pearson* case. The
2 plaintiffs there did not actually ask for factual findings,
3 so we don't -- we don't know much about what the evidence
4 was. We have no reason to think it was anywhere near as
5 robust as the evidence that we have here, because -- as Mr.
6 Ellinger said -- he described their evidence in *Pearson* as,
7 Just look at the map.

8 That's what he said. That Plaintiffs in *Pearson* told
9 the Court, Just look at the map. And that was deemed
10 insufficient and we, Your Honor, have done nothing of the
11 kind. We certainly started by looking at the map as
12 *Pearson* advises and then we provided all of the available
13 evidence. Just a quick question -- quick point here, Mr.
14 Ellinger, I believe, also referenced CD3 in *Pearson*. And I
15 want to be very clear, CD3 was justified in *Pearson* by the
16 Voting Rights Act and I don't understand anybody on any
17 side to be suggesting that there's any Voting Rights Act
18 justification that would justify these kinds of deviations
19 from compactness.

20 Last point, and then I will defer it to my -- to my
21 colleague. On Mr. -- Doctor Rodden, Counsel criticized Dr.
22 Rodden for providing legal analysis. Dr. Rodden read
23 *Pearson* and the legal standard in *Pearson* and he applied
24 that standard to know what question he was answering.
25 Doctor Trende, in case after case after case -- and I've

1 seen him in many of these cases -- does very much the exact
2 same thing. Where he looks at the law, has opined on what
3 does the law require, and is -- are those requirements
4 satisfied, within the realm of his expertise.

5 There's something very striking about Dr. Trende's
6 report in this case and that is, if you read it, that,
7 Counsel asked me to do X, so I did X; Counsel asked me to
8 do Y, so I did Y. There is very little independent
9 analysis, thought, or application provided by Dr. Trende
10 here and that is because Counsel shielded him from the
11 question that you're supposed to answer in Missouri about
12 whether -- what is compactness. And instead, he ended up
13 churning out a bunch of district compactness scores, which
14 Pearson said is actually not the standard.

15 And I want to be clear here, Your Honor, I believe
16 that under the Defendant's logic Plaintiffs would lose if
17 -- as the Pearson Plaintiffs had done -- all we had brought
18 to this Court was compactness scores and look at the map,
19 right? That's what the Pearson Plaintiffs had -- they had
20 stipulated on eight different metrics and they said, Look
21 at the map; and they lost. But Defendants can win if all
22 they bring is some compactness scores and ignore all the
23 rest of the evidence. That cannot be the standard. That
24 is a heads, I win, tails, you lose standard that defies all
25 logic and defies any meaning that Pearson might actually

1 have.

2 My last point, Your Honor, on Dr. Rodden, the --

3 Counsel suggested that he had invented some unique argument

4 here with his district sprawl. I already showed Your Honor

5 the slide, he merely showed that population is concentrated

6 here and dispersed here; that is what this metric shows and

7 also, we know that in *Pearson*. They criticized Plaintiffs

8 for not providing information and evidence about the

9 dispersion of population. Again, Plaintiffs in *Pearson*

10 were criticized and held to account for failing to bring

11 the kind of evidence we have brought here.

12 And what the defense is saying is that because we've

13 brought that, that we are somehow violating the standard.

14 And because they have somehow provided those myopic views

15 of the scores, that that creates this irrebuttable

16 presumption. That cannot be the standard. That is on the

17 plain face of the law and the law as it's defined in

18 *Pearson I*, *Pearson II*, and *Johnson*. That is not the law,

19 and under that law and these facts there is only one

20 reasonable conclusion, Your Honor, and that is that

21 Plaintiffs have far surpassed their burden. Thank you.

22 MR. MULJI: Your Honor, if we could -- if we

23 could suspend reality and pretend that I have the five

24 minutes or two minutes, at least, out of that five minutes.

25 I have a few points.

1 I wanted to respond to a number of the critiques that
2 were leveled at Dr. Stern's analysis. The first was that
3 the Supreme Court has made -- has made claims about
4 ensemble analyses; those were, of course, the application
5 of -- specific applications of the ensemble analysis.
6 Courts around the country -- state courts across the
7 country have considered ensemble analyses to analyze claims
8 like this one. And actually, rather than ask the Supreme
9 Court, rather than ask the courts, ask Defendant's own
10 expert.
11 He, as Ms. Khanna said, travels around the country
12 doing these cases and applying exactly the same methodology
13 as Dr. Stern; using, in fact, sometimes the same exact
14 algorithm to assess similar claims. And if you listen to
15 his testimony, read the transcript yesterday, you'll hear
16 him say that he doesn't actually dispute Dr. Stern's
17 methodology here. There were two specific critiques
18 leveled, one that Dr. Stern uses an ensemble that -- a
19 simulation method -- that doesn't produce exactly equally
20 populated districts, but within half a percent or 1 percent
21 of equal population.
22 Doctor Trende testified that he does precisely the
23 same, has seen other experts do the same. It's a feature
24 of this method and doesn't -- doesn't affect the relevance
25 of the conclusions you can draw from it. There was another

1 claim that Ms. Hunker made, that it has a natural
2 preference for compactness and somehow that's a problem. I
3 just want to note for the Court, that if you take a look at
4 Dr. Stern's rebuttal report, you'll see that the types of
5 maps that are excluded because of this preference or
6 probabilistic preference for compactness is that you don't
7 get maps like the one in the middle there.

8 If that's a problem, I'm not sure that -- that the
9 legislature would've ever considered those kinds of maps.

10 The claim was the -- this is getting rid of maps the
11 legislature might have reasonably considered; if that is
12 the type of map the legislature might have considered,
13 well, I just -- I think there would be a different problem,
14 we'd be -- might've had a summary judgment on this issue.
15 Those are the primary critiques against Dr. Stern. I
16 wanted to correct a few errors of law that I heard, Your

17 Honor.

18 Now, the -- I think most of the arguments of the
19 Intervenors and the State all boil down to map-wide
20 concerns. You hear a lot of: Overall, the map did this;
21 overall, it's better than the 2022 map, because, it, N,
22 overall, reduced county splits; overall, it reduced VTD
23 splits; overall, it might have improved some compactness
24 scores around the map. It might have improved the
25 compactness of the map -- map-wide average score -- which

1 is, by the way, not true. Under the Reock score it
2 actually went down map-wide.

3 That is all legal error. And I -- I would actually
4 just read to the Court Footnote 16 from the *Pearson II*
5 case. There the Court said -- Footnote 16 -- in essence,
6 the Court said that -- that -- oh, I have it here.
7 Speaking about the defense's expert in that case, they
8 said: Much of Dr. Hofeller's testimony, the defense expert,
9 addressed compactness of the map as a whole. But in
10 *Pearson I*, this court particularly noted that the
11 protection of Article 3, Section 45, applies to each
12 Missouri voter in every congressional district, as such,
13 each congressional district must be as compact as may be.
14 Testimony regarding the compactness of the map as a whole,
15 therefore, has limited relevance.

16 Same is true here. The compactness of the map as a
17 whole is not what is at issue. It is a district-by-
18 district claim as also been -- it's articulated in the
19 *Johnson* case. We've challenged -- and in our case,
20 Districts 4 and 5, in the *Healey* case also District 6 --
21 and that is why the focus of our analysis is on specific
22 districts. The explanations for why there have been such
23 dramatic departures from compactness need to concern those
24 districts.

25 But even if you took at face value that, okay, you

1 needed to change the compactness of these districts to
2 achieve certain goals map-wide -- well, as I've said, our
3 experts have shown through multiple methods that that just
4 wasn't the case. You cannot explain map-wide goals with
5 the way these districts were drawn. The second legal
6 error, I just want to point out, Your Honor, is legislative
7 intent.

8 I think Defendants have been trying to have it both
9 ways here. They say when it is useful to them that you
10 can't consider the intent of the legislature, which I will
11 submit to the Court in various exhibits we've submitted,
12 that it is quite clear what the legislative intent was of
13 this map. But when it's useful to them, they say that you
14 can't get into the -- you can't talk about legislative
15 intent. Or when they say, Oh, your experts can't know what
16 the legislature was thinking when they passed this map.

17 You can't know how they weighed these recognized factors.

18 The fact is that *Pearson* made very very clear -- both
19 *Pearson I* and *Pearson II* -- that this is an objective
20 standard. Subjective intentions of the legislature

21 actually are not legally relevant. And, in fact, when

22 Plaintiffs submitted subpoenas to State actors -- the
23 governor, and others -- they, in their responses, objected
24 on that very basis. They said, Our subjective intentions
25 are not relevant, because -- go read *Pearson*.

1 Lastly, Your Honor, I -- there was a reference to --
2 in *Pearson* -- that there being -- that there's some
3 necessity to provide deference to the legislature's -- to
4 the legislature's preferences here or the -- to decide
5 facts with deference of the legislature. In fact, what the
6 Court said there was that all deference is to the fact
7 finder in the case. So the -- this is -- this is really
8 about whether this Court is convinced by the facts in this
9 case and as our co-plaintiffs have indicated, as we've
10 shown over the last four days, this Court has a mountain of
11 evidence -- a mountain of ways to draw the line based on
12 different types of evidence and Plaintiffs submit that --
13 that the map undoubtedly and clearly violates the
14 constitution.
15 Thank you.
16 THE COURT: All right. All right. Thank you,
17 everybody.
18 It's been a long week for all of you, I know. I do
19 appreciate everybody's hard work and working together on
20 things that you could and everybody's professionalism. We
21 have a scheduling order in place for you all to submit
22 proposed judgments to us and then when you do that, if you
23 can just make sure you send us a courtesy copy because
24 there's the delay in processing so we see it as soon as we
25 get it. And then, after that, we'll get you a decision as

1 soon as you can, so.

2 Yes?

3 MR. MULJI: We appreciate that, Your Honor. We
4 have one last housekeeping matter.

5 THE COURT: Okay.

6 MR. MULJI: I believe, that we have -- we have
7 received the transcripts for the mornings but my
8 understanding is -- I'm sorry -- one afternoon is all we've
9 gotten and I know that there's been, I think, one -- I
10 think the afternoon court reporter may not have been
11 available for a couple of days. And so we just wanted to
12 check, because our deadline for the proposed findings of
13 fact is 10-days from the receipt of the last daily.

14 If there is some circumstance in which -- in which the
15 court reporter may be delayed because of some reason we're
16 not over aware of, that would significantly delay the
17 deadline for findings of fact and we just wanted to put
18 this before the Court. And rather than raise it next week
19 while we're here we thought we would potentially take care
20 of it while the Court has our attention.

21 THE COURT: Sure. I can answer what I can which
22 is I know our regular Division 11 court reporter who is
23 here, covered the full day yesterday and I think already
24 gave you yesterday morning. I know she was working on
25 yesterday afternoon when we came in here today. And so I

1 think from our other court reporter that's assisting,
2 you're just missing one afternoon?

3 MR. MULJI: Yes. That's correct. Yeah.

4 THE COURT: We'll check on that. I don't know
5 but we'll check on it and make sure that it gets sent to
6 you as soon as possible.

7 MR. MULJI: Okay. It may be two afternoons that
8 we're missing but, in any event, we appreciate the Court's
9 attention to this. And if it is the case that it's going
10 to be significantly delayed, I think we probably just want
11 to know so that -- and consider -- consider discussing with
12 State Defendants and the Intervenors alternatives for
13 deadlines and so forth.

14 THE COURT: I don't have any reason to think it
15 will be but if you need more time just let us know. I
16 mean, I want to work as quickly as you all want to work.
17 So if you're asking for more time, I'm not going to say no
18 but, again, I know you all want this done yesterday. And
19 so we'll set it as aggressively as you want, but if need
20 time, it's fine.

21 MR. MULJI: I guess, it wouldn't be more time,
22 Your Honor, I think. Thank you.

23 THE COURT: Anything else?

24 MS. HUNKER: No, Your Honor. I just wanted to
25 express my gratitude for this Court. The court reporters,

1 I know they had a very busy few days in getting those
2 transcripts would be very helpful. And so, again, just
3 wanted to express our gratitude for everybody in the
4 chambers, as well as everybody in the courtroom staff,
5 including those downstairs.

6 And I also wanted to express my gratitude for
7 Plaintiffs. I know we had a pretty stressful few months,
8 but I think we've worked together very well and it's been a
9 pretty smooth trial, considering those circumstances. So
10 thank you, again.

11 MR. MULJI: Same on all accounts. And I just --
12 if I can speak for Healey Plaintiffs, as well.

13 MS. KHANNA: Absolutely. Your Honor, thank you.
14 Thank you. Thank you to everybody in the courtroom.

15 THE COURT: All right. Thank you all and we'll
16 get you a judgment as soon as we can. Thanks.

17
18 (COURT ADJOURNED 11:51 AM.)

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REPORTERS' CERTIFICATE

I, Catherine Hernandez, Certified Court Reporter, certify that I am the official court reporter for Division 11 of the Jackson County Circuit Court, that on February 17 through February 20 of 2026 I was present and reported all of the proceedings in Terrence Wise, et al., Plaintiffs vs. State of Missouri, Defendants, Case No. 2516-CV29597 and Elizabeth Healey, et al., Plaintiffs vs. State of Missouri, et al., Defendants, Case No. 2516-CV31273. I further certify that the forgoing pages numbered 1-163, 299-445, and 580-960, inclusive, contain a true and accurate reproduction of the proceedings transcribed.

I, Barbara J. Lark-Weddington, Certified Court Reporter, certify that I am the official court reporter for Division 18 of the Jackson County Circuit Court, that on February 17 and February 18 of 2026 I was present and reported all of the proceedings in Terrence Wise, et al., Plaintiffs vs. State of Missouri, Defendants, Case No. 2516-CV29597 and Elizabeth Healey, et al., Plaintiffs vs. State of Missouri, et al., Defendants, Case No. 2516-CV31273. I further certify that the forgoing pages numbered 164-298 and 446-579, inclusive, contain a true and accurate reproduction of the proceedings transcribed.

In compliance with Supreme Court Rules 84.18, we further certify the cost of preparing this transcript (agreed to be split between all parties at an expedite rate) as follows:

951 pages @ \$4.00 \$ 3,804

Catherine Hernandez

Catherine Hernandez C.C.R. #1523

Barbara Lark-Weddington

Barbara J. Lark-Weddington C.C.R. #1423

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I certify that the foregoing document is a full, true and complete copy of the original on file in my office and of which I am legal custodian.

Beverly A. Newman
Court Administrator

Circuit Court of Jackson County, Missouri

13-Mar-2026 By *Catherine Hernandez*
Deputy