No. SC101570

In the Supreme Court of Missouri

ELIZABETH HEALEY, *et al.*,

Appellants,

v.

STATE OF MISSOURI, *et al.*,

Respondents.

Appeal from the Circuit Court of Jackson County
The Honorable Adam L. Caine, Case No. 2516-CV31273

BRIEF OF STATE RESPONDENTS

CATHERINE L. HANAWAY
ATTORNEY GENERAL

815 Olive Street, Suite 200
St. Louis, MO 63101
Phone: (573) 645-9662
Fax: (314) 340-7981
Louis.Capozzi@ago.mo.gov
Kathleen.Hunker@ago.mo.gov
Joseph.Kiernan@ago.mo.gov
Madeline.Lansdell@ago.mo.gov

LOUIS J. CAPOZZI, III, #77756
Solicitor General
KATHLEEN T. HUNKER, *pro hac vice*
Principal Deputy Solicitor General
JOSEPH KIERNAN, #77798
Assistant Solicitor General
MADELINE S. LANSDELL, #78358
Assistant Solicitor General

Counsel for Respondents

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Other Authorities

INTRODUCTION

In asking this Court to void House Bill 1 ("HB 1")'s congressional redistricting plan, Appellants invite this Court to disregard *two* levels of deference shielding the judgment below. *First*, Appellants must overcome the deferential standard of review this Court has established for compactness claims under the Missouri Constitution. *Pearson v. Koster*, 359 S.W.3d 35, 39 (Mo. banc 2012) ("*Pearson I*") ("[A]n appropriate standard of review must reflect deference to the predominate role of the General Assembly."). *Second*, and on top of that, Appellants ask this Court to disregard the Circuit Court's careful and exhaustive factual findings, made after a four-day trial. *See Bd. of Educ. of City of St. Louis v. Mo. State Bd. of Educ.*, 271 S.W.3d 1, 7 (Mo. Banc 2008) ("If the facts of a case are contested, then this Court defers to the trial court's determinations regarding those facts."). Appellants came nowhere close to meeting their doubly demanding burden, especially as HB 1 is clearly *more* compact than the repealed congressional map Appellants want to re-impose statewide.

This Court should affirm. Under the Missouri Constitution's compactness rule, enshrined in article III, § 45, "multiple district configurations can meet the constitutional requirements," and "there is no perfect map." *Johnson v. State*, 366 S.W.3d 11, 25 (Mo. banc 2012). The test for compactness is, admittedly, somewhat vague. Borderline cases undoubtedly exist, such as where a challenged district is a clear outlier with no comparison in the historical range of districts. But this case is truly easy because the 2025 Plan is, under this Court's legal framework, *see id.* at 28—*more compact* than the congressional

map which the General Assembly replaced. Additionally, the 2025 Plan splits fewer counties and fewer municipalities than the 2022 Plan, including in the districts which Appellants purportedly challenge. Trial Tr. 751:4–6, 77:25–78:4. Thus, the Circuit Court had little trouble upholding HB 1 through extensive factual findings, *see generally* D31 ¶¶ 1–132, and Appellants cannot show that those factual findings are erroneous, let alone "against the weight of the evidence." *Pearson v. Koster*, 367 S.W.3d 36, 51 (Mo. banc 2012) ("*Pearson II*").

In response, Appellants conjure several theories to allegedly thwart these straightforward determinations and, ultimately, the General Assembly's decision to enact a map which Appellants may not favor but still complies with Missouri's Constitution. Their theories are unavailing, especially unavailing in light of Appellants' demanding burden, which Appellants try to shift to the State.

First, Appellants fail to show that Districts 4, 5, or 6 depart from "principle[s] of compactness." *Pearson II*, 367 S.W.3d at 53. In fact, Appellants made little argument concerning Districts 4 and District 6 below, and on appeal, they purely challenge the Circuit Court's judgment on the weight of the evidence as it relates to District 5. *See* Appellants' Br. 46. To that end, Appellants concede any challenge to District 6 *and* District 4. *See Boyer v. Grandview Manor Care Ctr., Inc.*, 793 S.W.2d 346, 347 (Mo. banc 1990) ("It is, of course, axiomatic that issues not presented in the points to be argued in an appellate brief are abandoned and will not be considered by a reviewing court.").

And, unfortunately for Appellants, their own expert shows that Districts 4 and 5 fall well within historical tolerances. Unable to rebut these clear quantitative data, Appellants

resort to abjuring the use of any comparison against the historical performance of other Missouri districts. Appellants' Br. 26. However, without a meaningful or practical replacement for that comparison, Appellants improperly demand that the General Assembly justify the challenged districts' constitutional compliance.

Second, even entertaining Appellants' opinion that Districts 4 and 5 depart from "principles of compactness," *Pearson II*, 367 S.W.3d at 53, Appellants failed to show that *none* of this Court's well-established factors could justify a departure. Comparative performance and basic evidentiary facts confirm that the challenged districts *perform better* on these qualitative metrics than their counterparts under the 2022 Plan. Appellants downplay these facts, erroneously assuming that any arguable reduction in physical compactness from the 2022 Plan to the 2025 Plan evidences a departure from compactness.

Bereft of historical comparison, Appellants ask this Court, to privilege their hypothetical, third-party alternative maps as the proper benchmark to establish compactness compliance with § 45. *See* Appellants' Br. 44–46. The Circuit Court found these maps inapposite and for good reason. D31 p. 29. These alternative maps, not considered by the General Assembly, ignore this Court's command that "there is no perfect map." *Johnson*, 366 S.W.3d at 25. The fact that Appellants' experts could design a map which favored their preferences is far from indicative that the democratically enacted 2025 Plan does not comply with § 45.

Third, Appellants ask this Court to reform its compactness standard to make overturning the General Assembly easier. Critically—and fatally—Appellants reject the flexibility this Court has said the General Assembly must possess in redistricting. *See*

Pearson II, 367 S.W.3d at 42 ("[T]he phrase 'as compact . . . as may be' means that compactness cannot be achieved with absolute precision and permits districts to be drawn in multiple ways while still meeting the compactness requirement due to other factors."). Instead, Appellants sculpt a new, unmoored definition of the phrase "closely united territory"—ripped out of context from *Pearson II*—to import a host of new redistricting factors this Court has never imposed on the General Assembly. Appellants' Br. 55–56. Unfortunately for Appellants and their test, flipping the standard and importing extraneous factors runs headlong into this Court's longstanding precedents. And, even accepting Appellants' novel, unfounded test, their argument still fails. Fundamentally, Appellants' hyperfocus on a small portion of Jackson County, their experts' contradictory testimony, and their novel, unaccepted methodologies, such as "district sprawl," Trial Tr. 369:2–22, fall very short of undermining the Circuit Court's ruling.

Fourth, Appellants' requested remedy is as troubled as their arguments. Put simply, Appellants' demand to re-impose the 2022 Plan is improper. Appellants' Br. 69. They are not entitled to resurrect this repealed legislation. After all, injunctions are to be "narrowly framed." *Terre Du Lac Property Owners Ass'n v. Wideman*, 655 S.W.2d 803, 807 (Mo. App. E.D. 1983). Wiping out the General Assembly's 2025 Plan—as Appellants request—defies this universal equitable principle. Not only would Appellants' request to revivify the 2022 Plan impose costs on millions of Missourians in *presumptively constitutional* districts outside Districts 4, 5, and 6, but Appellants would strip the General Assembly of its longstanding corrective authority to fix legislation through democratic, political processes. *See Preisler v. Sec'y of State*, 238 F. Supp. 187, 191 (W.D. Mo. 1965) (per

curiam) ("*Preisler I*"); *Preisler v. Sec'y of State*, 257 F. Supp. 953, 956, 980, 984–85 (W.D. Mo. 1966) ("*Preisler II*"), *aff'd sub nom.*, *Kirkpatrick v. Preisler*, 385 U.S. 450 (1967); *Preisler v. Sec'y of State*, 279 F. Supp. 952, 955, 1004 (W.D. Mo. 1967) ("*Preisler III*"), *aff'd sub nom.*, *Kirkpatrick v. Preisler*, 394 U.S. 526 (1969); *Preisler v. Sec'y of State*, 341 F. Supp. 1158, 1160 (W.D. Mo. 1972) ("*Preisler IV*"). Appellants' sweeping remedy even conflicts with their own representations in this case. They tailored their pleadings and arguments to focus on Districts 4, 5, and 6. As masters of their own complaint and argument, Appellants do not have grounds to displace the 2025 Plan writ large.

Finally, even assuming that Appellants prevail on *all* their arguments, this Court should follow its own precedent and delay its remedy until after the 2026 midterm elections. Consistent with proper exercise of its equitable powers, this Court has done this before. *See Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1, 2–4 (Mo. banc 1970) (per curiam). In *Hadley*, this Court refused to enjoin the use of a voting district shortly *before the end* of candidate filing for an upcoming election. *Hadley*, 460 S.W.2d at 2. *Hadley* makes this a simple *a fortiori* case because the candidate filing period ended in late March. *See* DX114. Across Missouri, candidates are actively campaigning and raising money in the congressional districts established in HB 1. Changing the congressional map so late in the game would be extraordinarily disruptive and harm candidates, election officials, and the voting public. *See Democratic Nat'l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay) (holding that it is a "basic tenet of election law: When an election is close at hand, the rules of the road should be clear and settled").

That is why, just a few months ago, the U.S. Supreme Court applied the same rule at the *beginning* of candidate filing and barred changes to Texas's congressional map. *See Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419–20 (2025) (staying lower district court injunction issued after candidate filing for primary had started). Outside Missouri, courts recognize the *Hadley* doctrine as the *Purcell* principle. *See Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam) ("Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls."). Thus, under precedent from this Court and the U.S. Supreme Court, any remedy in favor of Appellants must wait until after the 2026 elections finish.

At their core, Appellants' repackaged political objections are best aired in Missouri's political branches, not the courts. This Court has repeatedly applied a deferential standard of review to assess compactness claims. It should stand by that precedent, lest it empower "plaintiffs who seek to transform . . . courts into weapons of political warfare that will deliver victories that eluded them in the political arena." *Alexander v. S.C. State Conf. of NAACP*, 602 U.S. 1, 11 (2024) (cleaned up).

The Court should affirm the Circuit Court's judgment.

LEGAL STANDARD

Following a bench trial, this Court "will sustain the circuit court's judgment unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law." *Brown v. Carnahan*, 370 S.W.3d 637, 646 (Mo. banc 2012). To that end, this Court reviews the Circuit Court's legal conclusions de novo, *id.*, but defers to the Circuit Court's factual determinations since the parties here contest numerous facts related to each of the issues presented, *White v. Dir. of Revenue*, 321 S.W.3d 298, 308, 312 (Mo. banc 2010); *see Ivie v. Smith*, 439 S.W.3d. 189, 200 (Mo. Banc 2014) ("When reviewing whether the circuit court's judgment is supported by substantial evidence, appellate courts view the evidence in the light most favorable to the circuit court's judgment and defer to the circuit court's credibility determinations."). Should a claim of error present a mixed question of law and fact, "the reviewing court applies the same principles articulated above except that it is necessary to segregate the parts of the issue that are dependent on factual determinations from those that are dependent on legal determinations." *Pearson II*, 367 S.W.3d at 44. In such scenarios, the "court will defer to the factual findings . . . so long as they are supported by competent, substantial evidence" and "will review de novo the application of the law to those facts." *Id.* (cleaned up) (quotation omitted).

It is not the appellate court's role to "re-evaluate testimony through its own perspective" or "second guess" the Circuit Court's evaluation of contested facts. *White,* 321 S.W.3d at 309, 312. Missouri law recognizes that the Circuit Court "is in a better position not only to judge the credibility of the witnesses and the persons directly, but also their sincerity

and character and other trial intangibles which may not be completely revealed by the record." *Pearson II*, 367 S.W.3d at 44 (quoting *White*, 321 S.W.3d at 308–09). A trial court is therefore "free to believe or disbelieve any or all of the contested evidence at trial." *White*, 321 S.W.3d at 312. And an appellate court will reverse "only if the circuit court could not have reasonably found, from the record at trial, the existence of a fact that is necessary to sustain the judgment." *Weeks v. City of St. Louis*, 721 S.W.3d 873, 877 (Mo. banc 2025) (quoting *Ivie*, 439 S.W.3d at 206). That said, in Missouri, the party without the burden of proof on an issue "need not offer any evidence concerning it." *Sneil, LLC v. Tybe Learning Ctr., Inc.*, 370 S.W.3d 562, 567 (Mo. banc. 2012) (quoting *White*, 321 S.W.3d at 307); *see also State Farm Mut. Auto. Ins. Co. v. Allen*, 744 S.W.2d 782, 787 (Mo. banc 1988) (refusing to weigh in on factual dispute in which judgment was for defendant). In this case, Appellants challenge the constitutionality of HB 1. "For a court to find that a statute is unconstitutional, the plaintiff must overcome a burden of proof that assumes constitutional validity." *Pearson II*, 367 S.W.3d at 43. That burden never shifts to the State. *Id*. at 47.

As will be explained below, Appellants have failed to meet their burden to reverse the Circuit Court's judgment. They cannot establish that this Court should depart from deferring to the circuit court's "assessment of the evidence." *Pearson II*, 367 S.W.3d at 44. Accordingly, this Court should affirm.

ARGUMENT

Echoing their *Wise* counterparts, Appellants' arguments—if accepted—would have the practical effect of transferring redistricting authority to the appellate courts. But the Missouri Constitution prohibits this because it expressly confers congressional redistricting power on the General Assembly. Mo. Const. art. III, § 45. This is consistent with Article III, § 1, which vests the General Assembly with "legislative power." "Unlike the United States Constitution, which grants specific powers to Congress, the Missouri Constitution only limits the General Assembly's plenary legislative power." *Luther v. Hoskins*, 730 S.W.3d 567, 571 (Mo. banc 2026). Accordingly, the General Assembly has discretionary authority to enact statutes—including congressional redistricting maps—so long as the statutes comply with constitutional requirements.

Section 45's plain text reinforces this setup. It expressly recognizes the General Assembly's legislative prerogative in this space, only requiring that "the general assembly . . . divide the state into districts . . . composed of contiguous territory as compact and as nearly equal in population as may be." *Id.* § 45. Because redistricting "maps could be drawn in multiple ways, all of which might meet the constitutional requirements," the General Assembly has great discretion over the final form a redistricting map will take. *Faatz v. Ashcroft*, 685 S.W.3d 388, 395 (Mo. banc 2024) (quoting *Pearson I*, 359 S.W.3d at 39) (describing redistricting decisions as "political in nature . . . best left to political leaders, not judges"). Indeed, this Court has acknowledged the "predominate role" the General Assembly occupies, stating that any "review must reflect deference" to the General Assembly's enacted plan. *Pearson I*, 359 S.W.3d at 39.

Appellants fundamentally disagree with this rule. As at trial, Appellants want this Court to put a thumb on the scale in favor of their political preferences in drawing a district—allegedly on behalf of the Jackson County portion of Kansas City. No one doubts the sincerity of Appellants' political objections to the 2025 Plan—as made clear by their repeated attempts to inject essentially political, rather than legal, considerations into this case. *See, e.g.*, Appellants' Br. 11–12, 29 (interpreting compactness as a means to keep "constituencies" together). Unfortunately for Appellants, those considerations should be addressed to the General Assembly. After all, "redistricting is predominately a political question." *Pearson I*, 359 S.W.3d at 39. And, it is the General Assembly's political discretion, not Appellants', which this Court should respect. "This Court's role is limited to interpreting and applying the text of the Missouri Constitution as it is written . . . ." *Luther*, 730 S.W.3d at 574. Claims "ultimately [] premised on a policy disagreement with the General Assembly" are beyond this Court's purview. *Id.*

Nevertheless, Appellants attempt to repackage their political complaint as legal claims, contending that the General Assembly's failure to abide by Appellants' preferred configuration for District 5 violates the Missouri Constitution. Appellants ask this Court to invalidate "Districts 4, 5, and 6," Appellants' Br. 69, but only focus their arguments on District 5, providing only passing references to Districts 4 and no arguments related to the constitutionality of District 6. Their attacks fail for myriad reasons. As a threshold issue, Appellants bear the burden—not the State. *See Pearson II*, 367 S.W.3d at 45. However, Appellants contort the standard to stop the General Assembly's purported "free rein to draw distorted districts." Appellants' Br. 31. Throughout their briefing, Appellants

mangle the legal standard, flipping the burden onto the State to justify a map, rather than carrying their burden to show that the challenged districts "clearly and undoubtedly contravene[]" the Constitution. *Pearson II*, 367 S.W.3d at 43. This runs against the entirety of Missouri legal doctrine, which presumes the "constitutional validity" of statutes. *Coleman v. Ashcroft*, 696 S.W.3d 347, 367 (Mo. banc 2024).

On the merits, Appellants have not met their burden to prove that the 2025 Plan and its challenged districts "clearly and undoubtedly contravene[] the constitution" and "plainly and palpably affront[] fundamental law embodied in the constitution." *Pearson II*, 367 S.W.3d at 43 (citations omitted). In fact, the record shows that District 5 is constitutionally compact. To the extent that Appellants even purportedly contest the constitutional sufficiency of Districts 4 and 6 on appeal, they provide no grounds to defeat the Circuit Court's judgment or the overarching presumption of statutory constitutionality.

According to this Court, § 45 requires "a single inquiry as to whether, under the totality of the evidence, the challenged district is 'as compact . . . as may be.'" *Pearson II*, 367 S.W.3d at 48. This "single inquiry" looks at "whether there is a departure from the principle of compactness in the challenged district and, if there are minimal and practical deviations, whether the district is nonetheless 'as compact . . . as may be' under the circumstances." *Id*. To make this determination, courts may consider the challenged districts' physical shape or size as a "relevant" but "not [] decisive factor." *Id.* at 48–49. But because the word "compact" does not refer solely to physical shape or size, courts must also ascertain whether any deviation can be explained by the recognized factors "incorporate[d]" into the constitutional requirement. *Id.* at 51. If a deviation occurs as a

result of these factors, then the district nonetheless is "as compact . . . as may be." Mo. Const. art. III, § 45; *Pearson II*, 367 S.W.3d at 51.

With their heavy burden, Appellants must prevail on both ends of the test articulated in *Pearson II*. They must show that the challenged districts not only depart from "principle[s] of compactness," but also that any such deviation cannot be explained by the General Assembly's adherence to the recognized factors. *Pearson II*, 367 S.W.3d at 48, 53. They have not done so for the reasons explained below.

As the Circuit Court correctly identified, the 2025 Plan and its challenged districts comply with "principle[s] of compactness." *Pearson II*, 367 S.W.3d at 48. Their quantitative performance (*i.e.*, geometric indicia) and their qualitative performance (*i.e.*, recognized factors) conform to past practice. Not only do the compactness scores of Districts 4 and 5 fall within the range of previous districts enacted by the General Assembly and upheld by this Court, but the districts better align with permissible factors than their predecessors. *See Johnson*, 366 S.W.3d at 28. This indicates that the districts comply with the law. And even if this Court refuses to compare HB 1 to prior maps, any deviations in Districts 4 and 5 are "minimal and practical" and can be explained by adherence to the recognized factors. *Pearson II*, 367 S.W.3d at 48. That Appellants would make a different judgment call does not invalidate the map. Most of the recognized factors are permissive in nature. *See id.* at 51 (highlighting "permissive" factors). The General Assembly has discretion on which factors to advance and by how much. *See id.* ("[M]aps could be drawn in multiple ways, all of which might meet the constitutional requirements.").

In addition, Appellants make several errors fatal to their claim. *First,* Appellants, like the *Wise* Appellants, reject "comparing the compactness metrics of individual districts in the 2025 Plan with the lowest-scoring districts from the 2012 and 2022 Plans." Appellants' Br. 26 (citing D31 pp. 7–8). The problem with this approach is that although the population has changed in Missouri, the Missouri Constitution has not. This Court has applied the same compactness test for decades. *See State ex rel. Barrett v. Hitchcock*, 146 S.W. 40, 61 (Mo banc. 1912). Prior districts can help identify a baseline for what constitutes compactness, because otherwise, there would be no comprehensive *benchmark*—subject to the same constitutional rules of § 45—that could inform whether a district complied or did not comply with "the principle of compactness." *Pearson II*, 367 S.W.3d at 48; *see also State ex rel. Gordon v. Becker*, 49 S.W.2d 146, 160 (Mo. banc 1932) (noting that among other considerations, "when comparisons . . . show that the variation in representation between districts and the total range of variation in the redistricting of 1931 are less than either of the others . . . we should not hesitate to declare the redistricting of 1931 constitutional").

Second, Appellants attempt to upend this Court's well-established standard for compactness by reengineering the term "closely united territory." *See* Appellants' Br. 28. Appellants would have this Court render permissive factors mandatory such that the legislature's failure to consider things like population density and transportation networks would violate § 45. Appellants' Br. 55–56. *Third*, Appellants rely on simulated, hypothetical maps to show that the General Assembly could have drawn a more compact district. *See* Appellants' Br. 44. That, however, has never been the standard since a map

drawer can always improve on a district. *See Johnson*, 366 S.W.3d at 25 ("[T]here is no perfect map."); DX101 at 16–17 (explaining that more compact maps can always be produced). Appellants had to show that the recognized factors could not explain any minimal and practical deviations. Their simulated maps, however, did not show the full range of possibilities and did not conform to the criteria employed by the General Assembly. The Circuit Court rightly found them to be an unhelpful comparator.

I. The 2025 Congressional Plan is constitutionally compact. (Responds to Appellants' Points Relied On I, II, V, VI, VII).

The challenged districts fall within historical tolerances in Missouri and do not depart from the principle of compactness both as a matter of law and fact. However, even if the districts lacked physical compactness, any deviations are both minimal and practical and can be explained by the General Assembly's adherence to the recognized factors. The challenged districts, in fact, better conform to the permissible factors than the 2022 Plan, which Appellant seek to reinstate.

A. The record demonstrates that the challenged districts comply with long-standing principles of compactness. (Responds to Points Relied On I and II).

District 5 does not depart from the "principle of compactness." *Pearson II*, 367 S.W.3d at 48. To the extent that Appellants even challenge Districts 4's sufficiency under § 45, they provide no argument that this district departs either.[1]

To the contrary, Appellants' own expert, Dr. Rodden, confirms in testimony that District 5 under the 2025 Plan falls within acceptable bounds of compactness in Missouri.

[1] Appellants provide *no* argument concerning District 6.

In his rebuttal report, Dr. Rodden developed two sets of histograms that measured: (1) traditional compactness metrics for all 61 congressional districts drawn since 1972, and (2) traditional compactness metrics for all Kansas City-based District 5 iterations since 1972. PX28 at 4, 7; *see also* Trial Tr. 344:8–15. The histograms showed how the challenged District 5 compared to prior districts enacted by the General Assembly and upheld by Missouri courts. PX28 at 4, 7. Although the challenged District 5 fell on the lower end of the spectrum, each histogram identified prior congressional districts that scored worse than the challenged District 5 on a variety of metrics. *Id.*; Trial Tr. 367:18–22. This includes the well-known teardrop district sustained by this Court in *Pearson II*. 367 S.W.3d at 55–56 (ruling that District 5 boundaries were "not so egregiously drawn that it could be found to violate the compactness standard as a matter of law").

Dr. Rodden did not provide in his report any histograms highlighting District 4. *See generally* PX28. However, the experts agreed that District 4 in the 2025 Plan had higher compactness scores than the challenged District 5. *See* Trial Tr. 738:6–16; *see also* PX23 at 10; DX102 at 5–7; PX27 at 30. It logically follows that District 4 aligned with past practice in Missouri too but by a greater margin. As for District 6, Appellants appear to have abandoned any argument through the course of litigation, making vague gestures at the inclusion of rural and urban voters in a single district rather than developing any cohesive argument alleging its noncompliance with § 45.

Dr. Hood's and Dr. Trende's analyses corroborate the Circuit Court's findings regarding Dr. Rodden's data. *See generally* DX101, DX102. Dr. Hood conducted a comparison of each congressional district in Missouri's 2012, 2022, and 2025 redistricting

plans that measured compactness scores under Reock, Polsby-Popper, and Schwartzberg. Trial Tr. 736:19–22. He found that the challenged District 5 performed better on all three metrics than District 5 in the 2012 Plan. DX102 at 5–7. It also performed better than District 3 in the 2022 Plan and District 6 in both the 2012 and 2022 Plans based on two of the three metrics. *Id.* The 2022 Plan, again, is the remedy Appellants request from this Court.

Dr. Trende, meanwhile, conducted a similar analysis of 2012, 2022, and 2025 Plans but looked at a wider spread of compactness metrics. Trial Tr. 592:8–597:4; DX 101 at 6–13 (discussing Reock, Polsby-Popper, Convex Hull, and IKIWISI metrics). He too identified multiple districts that had a less compact size and shape than the challenged District 5, including Districts 3 and 6 of the 2022 Plan. DX 101 at 17. Dr. Trende then went one step further. He compared the challenged District 5 with districts in the state house and state senate maps. DX 101 at 18. There too District 5 aligned with past practice. *Id.* As with Dr. Hood, no Appellant expert contested Dr. Trende's calculations or data. *See, e.g.*, Trial Tr. 117:3–9, 229:12–21.

Appellants have no evidentiary answer to the fact that both challenged districts fall within historical tolerances and perform better on multiple quantitative metrics than other districts in the 2022 Plan. For this reason, Appellants try to exclude the data from judicial analysis, arguing that the Circuit Court erred when it drew on historical comparisons for its factual findings and conclusions of law.

1. Appellants misunderstand the standard. (Responds to Point Relied On I).

Appellants misguidedly assault the Circuit Court's determination that the challenged districts do not depart from "principle[s] of compactness." *Pearson II*, 367 S.W.3d at 48; *see* Appellants' Br. 19–20. Their argument has several flaws. Broadly, Appellants have no basis to reject the Circuit Court's finding that the challenged districts complied with the "principle of compactness" by falling within historical statistical metrics of other, constitutionally compliant Missouri districts.

First, Appellants simply misread *Pearson II*. Parsing this Court's judgment, *Pearson II* says that "[b]ecause the word 'compact' does not refer solely to physical shape or size, a *visual observation*, although relevant, is not the decisive factor in determining whether a district departs from the principle of compactness." *Pearson II*, 367 S.W.3d at 48–49 (emphasis added). Here, *Pearson II* states that a district, with perhaps a seemingly "non-compact" shape—perceived as a visual observation—does not "decisive[ly]" determine whether that district "*departs from the principle of compactness*." *Id.* (emphasis added). This Court simply said that *visual observations* do not decisively determine whether a "district departs from the principle of compactness." *Id.* at 49.

The next line is telling. "In fact, scholars have recognized that 'compactness' is a vague standard and have developed various statistical measures to be utilized in determining compactness, as shown by two articles that were admitted into evidence." *Id.* "[S]tatistical measures" are distinct from a "visual observation." A "statistical measure" is a quantitative metric. A "visual observation" is not.

Second, perhaps emanating from their misconstrued interpretation, Appellants improperly reinvent the *Pearson* inquiry. As an initial matter, this Court's test requires that Appellants show that (1) the challenged district(s) depart from "principle[s] of compactness," and then, (2) if they do, that such deviations are not "minimal" or "practical" under the recognized qualitative factors. *Pearson II*, 367 S.W.3d at 48. Nowhere does *Pearson II* state that compliance from "principle[s] of compactness" cannot be sufficiently shown by holistic statistical comparison of a challenged district against the universe of other, historic Missouri districts.

If this Court adopted Appellants' novel view, the "deviation" element of the single test would be rendered meaningless since "principle[s] of compactness" would require that the district comply *with all* the qualitative as well as quantitative factors. And, against what benchmark? Appellants never provide a conclusive answer. They seem to prefer analysis against the 2022 Plan but conveniently ignore qualitative improvements in District 5 that cut against their demands.

Next, Appellants argue that "they presented a host of additional evidence to demonstrate that the challenged districts failed to encompass 'closely united territory.'" Appellants' Br. 22 (citing D30 at pp. 56–64). Appellants' novel definition of "closely united territory" swallows the enumerated list of factors, allowing anything from "transit infrastructure" to "industrial sectors" to allegedly render a district non-compact. *See* Appellants' Br. 22. If that was the case, then the guidance *Pearson II* and *Johnson* provide would be meaningless since the compactness requirement would become a "comply-with-

everything-Plaintiffs-pigeonhole-into-closely-united-territory" requirement. That is not the law.

2. Appellants misunderstand the Circuit Court's analysis. (responds to Point Relied On II).

Appellants' "Point I" errors are tied to their second flawed objection to the Circuit Court's methodology. *See* Appellants' Br. 23. Here, Appellants try to undermine the Circuit Court's use of comparison to ascertain if the challenged districts were following the "principle[s] of compactness" evidenced in prior Missouri congressional districts. This Court has applied comparative measures in redistricting cases before. *See Becker*, 49 S.W.2d at 160. Here, the Circuit Court looked at a variety of metrics to determine whether the challenged district departed from principles of compactness; it then examined whether any minimum and practical deviations were due to consideration of the recognized factors. D31 at pp. 22–26. It distilled comparative benchmarks from the totality of the evidence and examined each district in turn. *Id.* That is exactly what *Pearson II* requires.

Although the Circuit Court cited statewide averages in its opinion, the Circuit Court relied on district-specific facts in drawing its conclusion that the challenged districts meet the constitutional requirement. For example, the Circuit Court noted that the "three districts" challenged at trial all "outperform[ed] the least compact district in the 2022 Plan on the Reock and Polsby-Popper measures." D31 p. 24. And "[e]ven though District 5 on some measures scores lower than prior plans," the Circuit Court observed that "it remains within the range of compactness scores in the 2012 and 2022 Plans," while "Districts 4 and 6 . . . are more compact under several measures than prior plans." *Id.*

The findings of fact also confirm the Circuit Court's district-specific analysis. On multiple occasions, the Circuit Court made express findings about how the challenged districts compare to districts in prior redistricting maps, including their counterparts in the 2022 Plan. D31 ¶¶ 6–8, 11–14. The Circuit Court did the same when it assessed the credibility and helpfulness of expert testimony. For example, the Circuit Court noted that Dr. Rodden conceded that District 4 covers a smaller geographic area in the 2025 Plan than it did in 2022. D31 ¶ 80. That admission helped inform the Circuit Court's finding that Dr. Rodden's district sprawl methodology lacked persuasiveness since "District 4 became 'more sprawling' in the 2025 Plan even though it became geographically smaller compared to the 2022 Plan." *Id.* at ¶ 81. The Circuit Court pointed to Dr. Rodden's concession that District 5 "is more compact on each of the statistical measures than the 2012 version of District 5" and that "'there have been a handful of' districts since 1972 'that were less compact' than the 2025 version of District 5" as facts relevant to its assessment. *Id.* at ¶¶ 82–83.

The Circuit Court instead called it "a strong indication" that the districts do not "plainly and palpably" violate the compactness standard. *Id.* p. 23; *see also id.* ¶ 24 (stating that "mathematical performance against a mix of previously enacted plans is *helpful but not determinative* evaluation of the 2025 Plan's compactness" (emphasis added)). It would defy predictable principles of justice if districts that performed better on quantitative metrics were found to depart from principles of compactness as a matter of law, when earlier districts that had a more irregular shape did not. *See*, *e.g.*, *Pearson II*, 367 S.W.3d at 55–56. Moreover, Appellants failed to offer the Circuit Court a more persuasive

comparator that it could use to establish a baseline for when a district exceeded acceptable limits. The 2022 Plan, which Appellants prefer, again, had multiple districts that were less compact than either of the challenged districts. Meanwhile, Appellants' alternative maps had fundamental flaws in their development, and highlighted the shortcomings of the 2022 Plan—since many of the alternative maps had more compact districts than the previous plan.

What Appellants seem to suggest is that any discussion of statewide averages is grounds for error, Appellants' Br. 25, but nothing in Appellants' brief supports this proposition. Neither does the case law. As a general matter, the protection of Article III § 45 "applies to each Missouri voter, in every congressional district." *Pearson I*, 359 S.W.3d at 39. Statewide analyses therefore have less relevance to the compactness inquiry than district specific facts, *see Pearson* II, 367 S.W.3d at 54 n.16, but the inclusion of statewide data does not undermine a trial court's factual findings and conclusions when the Circuit Court conducted and relied on a district-by-district examination as well, which it did. Also, it would be absurd to disregard statewide facts entirely, particularly here, since district boundary lines often interact, and a change to one district could necessitate tradeoffs in another. *See Pearson II*, 367 S.W.3d at 54 (noting that "district boundaries for every district are interrelated"). Somewhat ironically, despite their protestations against even considering any statewide comparative evidence, Appellants seek *statewide* relief. *See* D31 p. 69.

The Circuit Court did not err in examining whether a reversion to the 2022 Plan would harm voters in non-challenged districts where compactness scores and adherence to the

recognized factors improved. However, in the end, Appellants' objections miss the mark. The Circuit Court did conduct a district-specific analysis of the challenged districts and relied on those facts when rejecting Appellants' claim. The Circuit Court committed no legal error. Its factual findings are owed deference. *See Pearson II*, 367 S.W.3d at 51–52.

B. Appellants failed to demonstrate that any minimal and practical deviations could not be attributed to recognized factors. (Responds to Points Relied On IV, V, VI).

The trial record also shows that, to the extent the challenged districts deviate from principles of compactness, the deviations are both practical and justified by the General Assembly's adherence to the recognized factors. The clearest evidence of this fact is how the 2025 Plan compares to 2022 Plan, both statewide and in the challenged districts. Put simply, the 2025 Plan performs better. According to Appellants' expert Dr. Cervas, the 2025 Plan split fewer counties than the 2022 Plan. Trial Tr. 132:15–19; PX23 at p.7 (Table 1). Whereas the 2022 Plan split nine counties ten times, the 2025 Plan splits five counties seven times. Trial Tr. 100:11–20; PX23 at p. 7 (Table 1). "Seven splits is the fewest you can achieve" in an eight-district configuration drawn to precisely equal population. Trial Tr. 620:6–16. The 2025 Plan likewise splits fewer municipalities, reducing the number from 31 divided municipalities in the 2022 Plan to only 13 in the newly enacted plan. PX23 at p.7 (Table 1); Trial Tr. 100:21–101:4. It also splits one fewer precinct or VTD. PX23 at p.7 (Table 1).

The comparative performance of the 2025 Plan continues even when the analysis homes in on the challenged districts. By reconfiguring Districts 4, 5, and 6, the 2025 Plan eliminated multiple county splits. *Compare* DX115, *with* DX116. Under the 2022 Plan,

the cluster of districts divided Boone, Camden, Clay, Jackson, and Webster Counties. *See* DX115. That same set of districts in the 2025 Plan kept Camden and Clay Counties intact. *See* DX116. This improvement in qualitative metrics is even more striking for cities. As the Circuit Court noted, the 2025 Plan eliminates splits of Claycomo, Pleasant Valley, Sugar Creek, Blue Springs, Lake Lotawana, Lee's Summit, and Independence (with the exception of unpopulated areas) that occurred in the prior map. D31 ¶ 93; *see* Trial Tr. 635:17–637:11; DX101 pp. 24–26; DX121. The split through Columbia in Boone County was also greatly improved. D31 ¶ 95. Whereas the 2022 Plan bifurcates the city center, in the 2025 Plan, the vast majority of Columbia is contained in a single district. *See* DX117; Trial Tr. 376:15–377:3.

1. Appellants misread the *Pearson* test. (Responds to Point Relied On IV).

Appellants allege that the Circuit Court "leapfrogged directly to considering whether other factors could explain the district lines" instead of whether deviations were "minimal and practical." Appellants' Br. 34. However, *Pearson II* forecloses this line of attack. As this Court explained, "[i]f a district seems not to be composed of closely united territory because of minimal and practical deviations, the district is still 'as compact . . . as may be' if those deviations are due to mandatory and permissive factors." *Pearson II*, 367 S.W.3d at 51. These "factors" are the *Pearson*/*Johnson* factors which the Circuit Court considered. *See Johnson*, 366 S.W.3d at 29; D31 pp. 22–23, 25–26 (recounting how improvements in county and municipal splits in Districts 4, 5, and 6 justify a "minimal and practical deviation"). Erroneously, Appellants try to add an additional step to the *Pearson* analysis.

This is improper. To determine whether a deviation was "minimal and practical" turns on whether a "mandatory" or "permissive factor[]" could explain the deviation. *Pearson II*, 367 S.W.3d at 51. This includes the 2025 Plan's improvements in county and municipal splits.

2. Appellants' objection to consideration of the enumerated political subdivisions and historical boundaries factors is unfounded. (Responds to Point Relied On V).

"[B]oundaries of political subdivisions, and historical boundary lines of prior redistricting maps" are two of the explicitly enumerated qualitative factors the *Pearson II* Court identifies. *Pearson II*, 367 S.W.3d at 53. Appellants complain that consideration of these factors is a "bean counting exercise." Appellants' Br. 36. They want this Court to ignore easily discernable improvements in these qualitative factors for "substantive"—meaning Appellants' subjective—"impact." *Id.* at 37. Appellants' objections have at least two critical flaws.

First, the Circuit Court assessed whether the 2025 Plan and its challenged districts evinced more respect for political subdivision boundaries than its historical predecessors. Appellants' flippantly dispute this method of "simpl[e] add[ition]." Appellants' Br. 36. As an initial matter, Appellants characterize the Circuit Court as preoccupied with the quantification of county and municipal splits. *Id.* However, they fail to note how these metrics have clearly improved under the 2025 Plan, especially in the eastern section of Jackson County where major municipal splits are now eliminated.

Moreover, Appellants provide no explanation how their supposed "qualitative" alternative would function. *Id.* As Appellants themselves quote, *Pearson I* explains that

"[t]he Missouri Constitution has historically recognized counties as 'important governmental units, in which the people are accustomed to working together,' and has provided for that policy to be considered in the redistricting process." *Pearson I*, 359 S.W.3d at 40 n.1 (quoting *Preisler v. Hearnes*, 362 S.W.2d 552, 557 (Mo. banc 1962)). Since "counties" are the premier "important governmental units," *Pearson II*, 367 S.W.3d at 49 (quoting *Hearnes*, 362 S.W.2d at 556), keeping counties together in redistricting maps is one of the clearest, if not the most pellucid, qualitative factors that can guide the General Assembly's redistricting plans. Reducing county splits, therefore, obviously advances this goal. Somehow Appellants read this discernable language to disfavor considering county splits, a workable metric of inter-district comparison. Instead, Appellants would have Missouri courts jettison these practical indicia in favor of ambiguous, particularized inquiries, unrooted from any benchmarks, that favor Appellants' own policy preferences.

Second, Appellants allege error from the Circuit Court's consideration, under the totality-of-the-evidence standard, of state senate districts. Appellants' Br. 38. Frankly, it is odd that Appellants import extraneous factors, such as soybean production and transit networks, Trial Tr. 332:7–13; 357:3–5, into this Court's analysis while shunning historical redistricting boundaries, *see Johnson*, 366 S.W.3d at 28 (identifying "historical boundary lines" as an important factor). Appellants seem to be under the mistaken impression that the Circuit Court treated the legislative districts as political subdivisions, Appellants' Br. 38, but that is not borne out by the opinion. Nor did the State make any such contention.

Furthermore, even if the legislative maps did not qualify as a recognized factor on their own, that does not eliminate their utility. The state senate maps highlight the importance

placed on Troost Avenue as a natural boundary. On that point, Appellants invoke the testimony of Mayor Quinton Lucas to explain that "not all subdivision splits are created equal." Appellants' Br 37. However, the 2025 Plan adhered to the very districts which Mayor Lucas and his appointed redistricting commission drew for representation on the City Council. Trial Tr. 534:7–13.

The maps therefore inform the Circuit Court about the weight it should place on facts related to that factor when conducting its analysis. As a rule, this Court shows deference to the Circuit Court's factual determinations. Appellants are aware of this standard and its impact on their case. They therefore have characterized their dispute with the Circuit Court as turning on legal error. The Circuit Court, however, applied the law correctly. Appellants have identified no grounds for reversal.

3. Appellants misread the Circuit Court's judgment as departing from the objective inquiry of the *Pearson* inquiry. (Responds to Point Relied On VI).

Appellants attack a strawman in suggesting the State favors replacing *Pearson*'s objective inquiry with a subjective one. *See* Appellants' Br. 40–41. That is not the State's position here, and it was not the State's position below. Rather, the Circuit Court recognized the General Assembly's inherently political decision-making as precluding Appellants' consequentialist argument that any district that breaks up the Kansas City part of Jackson County, whether through variations in density or reducing municipal divisions, must indicate a § 45 violation. The flaws in Appellants' assertion are threefold.

First, the Circuit Court found little value in Appellants' evidence because much of it, hypothetical in nature, required that third parties, rather than the General Assembly, make

the underlying policy choices in forming the maps. D31 at ¶¶ 102–03. For example, the alternative maps which Appellants touted were never before the General Assembly. D31 at ¶ 102. And Plaintiffs' experts conceded they did not consider all the factors that the General Assembly weighed in enacting the 2025 Plan. D31 at ¶ 104. Appellants' error was in building their case on a foundation that required substituting their experts' (and their own) subjective judgment about what is the *correct* policy goal, rather than demonstrating that the challenged districts have *no possible policy* goals that could justify them.

Second, the General Assembly may consider "other recognized factors that inherently are included within the constitutional standards governing the reapportionment process." *Pearson II*, 367 S.W.3d at 49. It is *not* a requirement of compactness that the General Assembly satisfy each and every of the *Pearson*/*Johnson* factors. Instead, it is Appellants' burden to show that the challenged districts depart from "principle[s] of compactness" *and* that any such departure cannot be justified by any of these qualitative factors. *Pearson II*, 367 S.W.3d at 45 ("Plaintiffs have the burden of proof at all times.").

Third, Appellants use the strawman of "density" to push their narrative that the Circuit Court prioritized subjective intent to "defeat Appellants' objective evidence." Appellants' Br. 43. Appellants improperly extrapolate a positive value from the neutral factor of density. In fact, population density is only relevant insofar as it drives potentially less compact maps in order to satisfy § 45's equal population requirement and adhere to county lines. *See Preisler v. Kirkpatrick*, 528 S.W.2d 422, 426 (Mo. banc 1975), *overruled on other grounds by Pearson I*, 359 S.W.3d at 39 ("The population density of the state is, of course, uneven and any effort to accomplish both the overriding objective of substantial

equality of population and the preservation of county lines reasonably may be expected to result in the establishment of districts that are not esthetically pleasing models of geometric compactness."). Missouri case law makes no statement concerning whether density, or lack thereof, is a freestanding consideration driving district compactness. To the extent that the 2025 Plan combines more dense areas—such as Kansas City's central business district—with less dense areas—is not relevant.

C. Appellants have not met their burden to overturn the Circuit Court's decision. (Responds to Point Relied On VIII).

Appellants' caviling with the Circuit Court's judgment that District 5 was constitutionally compliant is beset with the same errors that infect the rest of their argument. First of all, Appellants elide several key points. Their burden is heavy. *See Johnson*, 366 S.W.3d at 20 (holding that the map "is assumed to be constitutional and will not be held unconstitutional unless the plaintiff proves that it 'clearly and undoubtedly contravene[s] the constitution.'" (quoting *Mo. Prosecuting Att'ys v. Barton Cnty.*, 311 S.W.3d 737, 740–41) (Mo. banc 2010))). There is "no perfect map." *Id.* at 25. The General Assembly exercises political discretion in creating a redistricting map—not a ministerial duty. *See Pearson I*, 359 S.W.3d at 39 ("[R]edistricting is predominately a political question. Decisions must be made regarding a number of sensitive considerations to configure the various House districts."). And this Court will not search for supposed reasons, especially those outside the scope of § 45 compactness review, to try to defeat a map. *Id.* ("[A]n appropriate standard of review must reflect deference to the predominate

role of the General Assembly and the inability of anyone to draw compact districts with numerical precision.").

Eschewing these considerations, Appellants create their own definition of "closely united territory" utterly unmoored from this Court's compactness doctrine. This phrase was not used in *Johnson* or *Faatz* and has only appeared in in three other Missouri cases: *State ex rel. Barrett*, 146 S.W. 40 (Mo. 1912); *Preisler v. Doherty*, 284 S.W.2d 427 (Mo. banc 1955); and *Pearson I*. *State ex rel. Barrett*, actually quoting an 1895 Illinois case, *People ex rel. Woodyatt v. Thompson*, 40 N.E. 307 (Ill. 1895), defines "closely united territory" as synonymous with "compact." *State ex rel. Barrett*, 146 S.W. at 61 (stating that the Illinois Constitution "require[s] the Legislature to form districts, not only of contiguous, but of compact or closely united, territory" (quoting *Woodyatt*, 40 N.E. at 315)).

However, Appellants see "closely united territory" as sanction to sweep in a host of forbidden communities-of-interest elements. *See, e.g.*, Appellants' Br. 55–56 (redefining "closely united territory" to include "transit, housing patterns, industrial sectors, or economic needs and concerns"). This flaw carries through both their contentions that District 5 departs from the principles of compactness, Appellants' Br. Part VII.B.1, and that District 5's departures, to the extent they even exist, cannot be justified by *any* enumerated, qualitative factor, *id.* Part VII.B.2.

1. Appellants did not carry their heavy burden to show that the Circuit Court's judgment regarding District 5's compliance with principles of compactness was against the weight of the evidence.

Appellants' central theme attacking the Circuit Court's judgment turns on their unique definition of "closely united territory." Appellants' Br. 22 (introducing a "host" of extraneous "additional evidence" in their novel definition). Armed with this contrived understanding of "closely united territory", which departs from this Court's prevailing definition, Appellants characterize the Circuit Court's refusal to consider their extraneous elements as somehow showing that the Circuit Court's well-reasoned judgment was against the "weight of the evidence." Appellants' Br. 46. Appellants' reformulation of "closely united territory" encompasses a constellation of elements, such as "transit, housing patterns, industrial sectors, or economic needs and concerns," Appellants' Br. 55, without any rhyme or reason. One wonders where in § 45, or this Court's jurisprudence, Appellants are discovering these newfound Missouri principles of compactness.

Appellants' "closely united territory" element really means "communities-of-interest analysis." *See, e.g.*, Appellants' Br. 57 ("The 2025 Plan also runs through the center of campus of a longstanding church" placing the church in one district and the parking lot in another). And the "interest" at play really means whatever political preferences Appellants believe that residents of the Kansas City portion of Jackson County may have. For example, Appellants talk at great length about the importance of KCATA—the Kansas City Area Transportation Authority. Appellants' Br. 56 ("As several of Appellants' witnesses testified at trial, transit use is critical in the Kansas City area . . . ."). Fair enough. However, it is not this Court's place, nor any court's, to make a subjective judgment about

what policies voters may prefer. Perhaps voters oppose KCATA funding. Perhaps they support it. And it is particularly not this Court's province to override due deference to the General Assembly and the Circuit Court's well-reasoned decisions, as well as the weight of precedent and law, to reshape these irrelevant considerations into dispositive determinations of constitutional compactness. Similarly, Appellants add in another extraneous ingredient, objecting to mixing renters with homeowners in a single district. Appellants' Br. 56–57. While no one doubts the sincerity of Appellants' fact witnesses' views on rental issues, that is not a yardstick for determining the constitutional sufficiency of a congressional redistricting map passed by those witnesses' democratically elected representatives in Jefferson City. And, again, Appellants' invocation of *ultra vires* factors such as "biotechnology research," Appellants' Br. 57; PX27 p. 23, and hotel jobs, Appellants' Br. 58, simply do not feature in the *Pearson* analysis.

Fundamentally, Appellants' laundry list of supposed elements shows exactly why the *Johnson* Court excluded communities-of-interest analysis. *See* Appellants' Br. 55–60. It becomes an open invitation for creative plaintiffs to refashion an objective inquiry—quantifiable through county/municipal splits or easily observable through enhanced respect for natural boundaries—into an unlimited, subjective judgment based on purported political interests in certain issues. This is exactly the "subjective" legislative decision-making that is reserved to the General Assembly, and which third-party experts and plaintiffs cannot hijack to suit what they happen to think is important.

2. Appellants did not carry their heavy burden to show that the Circuit Court's judgment regarding District 5's departures from principles of compactness—to the extent they exist—were minimal or practical.

Appellants' allegation that the Circuit Court improperly considered the *Pearson*/*Johnson* factors fails for similar reasons. *See* Appellants' Br. 63–69. Appellants fall far from shouldering their heavy burden. Like their covert communities-of-interest arguments, here, Appellants rest their supposed refutation on "alternative maps," *see infra* at Section II, while discounting "the 2025 Plan's reduction" in county/municipal splits, and heightened respect for natural and historical boundaries. Appellants' Br. 67. Broadly, Appellants simply cannot refute the obvious improvements in *recognized* factors in the 2025 Plan, any of which are sufficient justifications for any supposed deviation from principles of compactness. Unsurprisingly, Appellants default to their political argument: allegations that there is "no legitimate justification for District 5's configuration." Appellants' Br. 68 (blaming "political actors" for making the map). Unfortunately for them, Appellants forget that "redistricting is predominately a political question." *Pearson I*, 359 S.W.3d at 39. Even entertaining Appellants' assertion that District 5 departs from principles of compactness, Appellants *cannot* carry their heavy burden to show that *none* of the *Pearson*/*Johnson* factors justify any departure. Attacking § 45's assignment of redistricting power to the "political actors" of the General Assembly does nothing to help carry that burden.

II. The Circuit Court properly determined that Appellants' alternate maps were not helpful. (Responds to Point Relied On VII).

Appellants presented the Circuit Court at trial with hypothetical maps purporting to show that challenged districts were not only outliers but that the recognized factors did not justify the challenged districts' size and shape. The Circuit Court found the maps to have limited utility and ruled against Appellants on this point. *See*, *e.g.*, D31 ¶¶ 100, 116–18. That decision was not legal error as Appellants contend, *see* Appellants' Br. 44–46, but rather the Circuit Court exercising its prerogative as the trier of fact to weigh evidence and credibility. And as this Court recently explained, "[w]hen there is contested evidence, this Court will affirm the circuit court's factual findings unless there is no substantial evidence to support the finding or the finding is against the weight of the evidence." *Mo. State Conf. of Nat'l Ass'n for the Advancement of Colored People v. State*, 730 S.W.3d 550, 560 (Mo. banc 2026) (quoting *Faatz*, 685 S.W.3d at 400) (footnote omitted)). "In reviewing a court-tried case, this Court accepts all evidence and inferences therefrom in the light most favorable to the prevailing party and disregards all contrary evidence." *Id.* (quoting *MC Dev. Co. v. Cent. R-3 Sch. Dist. of St. Francois Cnty.*, 299 S.W.3d 600, 602 (Mo. banc 2009)). "*Great deference* must be given to the [circuit] court's resolution of conflicts in evidence, and this Court gives due regard to the court's opportunity to have judged the credibility of the witnesses before it." *Id.* (alteration original) (emphasis added); *see also Weeks*, 721 S.W.3d at 876 ("To preserve the Circuit Court's role as the finder of fact, this Court gives the Circuit Court's factual findings 'the approximate effect of a jury verdict, especially when weighing and credibility are involved.'" (quotation omitted)).

Although this Court has recognized that alternative maps can act as relevant evidence, that recognition does not mean that all proposed ensembles have high probative value. Appellants still have the burden of proving that their experts adopted an appropriate methodology such that the alternatives tendered to the court constitute suitable comparators to the challenged districts.

In their brief, Appellants do not appreciate this distinction. They characterize the Circuit Court's credibility determination as a rejection of alternative maps altogether, but that does not reflect the Circuit Court's reasoning. The Circuit Court identified specific deficiencies in Dr. Cervas's and Dr. Stern's approaches that limited their usefulness in establishing that any departure from compactness was not the result of or necessitated by adherence to the recognized factors. D31 pp. 28–29. The trial record supports the Circuit Court's determination.

A. Dr. Stern did not create a true random sample of possible alternatives to the challenged districts.

In his report and in his testimony, Dr. Stern makes three key admissions that validate the Circuit Court's decision to give his ensemble analysis little weight. *First*, Dr. Stern acknowledged that because his program favors compactness, it is unlikely to draw the full range of possible maps. Trial Tr. 221:9–22:17. Dr. Trende, the State's expert, explained on direct examination why this matters. To have confidence in an inference, the ensemble maps must represent a true random sample. Trial Tr. 619:1–12. Just like a good poll must be able to sample every respondent in Missouri, a good ensemble must be able to draw every possible map available to the legislature. *Id.* Because Dr. Stern's program "cuts off

the most extreme maps just to start with," it skews the results. Trial Tr. 614:21–615:16. And instead of proving that Districts 4 and 5 in the 2025 Plan are outliers, the ensemble just shows that the enacted districts "are not within the range of whatever gerrychain is going to tend to draw." Trial Tr. 619:2–12.

Second, Dr. Stern conceded that he did not consider or weigh all the recognized factors the General Assembly used to create the 2025 Plan when generating his ensemble maps. Trial Tr. 213:20–24, 217:10–20. He instead imposed a handful of constrains, focusing on geography, population tolerances, contiguity, and county splits. *See generally* Trial Tr. 216:13–220:16. As an initial matter, the decision to limit his ensemble to the combined area of the challenged Districts 4 and 5 reduces the range of possible maps drawn. Dr. Stern's ensemble altered *only* the boundary line between Districts 4 and 5. Trial Tr. 157:18–24. Not only did the General Assembly have the option of drawing the boundaries for all eight congressional districts, but because of Dr. Stern's constraints, the main alternative before the General Assembly—the 2022 Plan—was not among the program's possible configurations since it would require territory from District 6. Trial Tr. 216:13–217:20. This again distorts the results of whether the 2025 Plan is an outlier, as it overlooks configurations available to the legislature that perform worse than the challenged districts on physical compactness (the 2012 Plan) and the recognized factors (the 2012 and 2022 Plans).

The other problem is that this decision to ignore the factors advanced by the 2025 Plan prevents Dr. Stern's ensembles from acting as a suitable comparator to the challenged districts. To show that the recognized factors could not explain the configuration of

Districts 4 and 5 in the 2025 Plan, the alternative maps must control for those factors by giving them the same weight as the legislature. If they do not, then the maps fail to rule out the likelihood that recognized factors were responsible for the districts' size and shape. This Court's precedent gives the General Assembly discretion over which permissible factors it advances and to what degree. *See Johnson*, 366 S.W.3d at 28–29; *Pearson II*, 367 S.W.3d at 53. If the alternative maps ignore some factors or favor others, then the maps no longer reflect what the General Assembly objectively enacted but rather the parameters and policy preferences chosen by Dr. Stern.

For example, the Circuit Court found that the contested districts resolved all eight municipal splits in Jackson County other than the longstanding split of Kansas City. D108 p. 25. Dr. Stern did not program a similar constraint into his algorithm. Trial Tr. 218:25–219:5. He instead generated his two ensemble sets and then assessed after the fact whether his maps or Districts 4 and 5 in the 2025 Plan were more likely to keep the largest portion of all municipalities intact—a metric, he admits, is driven by Kansas City. Trial Tr. 225:23–227:2. He never asked whether his program would have drawn the maps differently had it been programed to respect municipal boundaries. In addition, over 99 percent of Dr. Stern's maps were facially unconstitutional because of the population variance. Trial Tr. 248:20–23. Appellants attempt to minimize the discrepancy, but each variance from the criteria adopted by the General Assembly compounds the fundamental flaw in Dr. Stern's methodology: his program does not objectively reflect how maps are drawn by the legislature.

Third, Dr. Stern did not assess how his ensembles compared to previously enacted

maps, including the 2022 Plan. *See*, *e.g.*, Trial Tr. 229:22–230:4. By failing to conduct such analysis, Dr. Stern made it impossible to determine whether his algorithm produces districts that are typically drawn by the Missouri legislature. Or stated differently, Dr. Stern contends that the challenged districts constitute an outlier, but without a historic comparison, the Circuit Court could not tell whether it is Dr. Stern's ensembles that break Missouri redistricting norms or the 2025 Plan. What this means is that simulated maps did not provide much information about how the 2025 Plan performs. At best, they show that left running long enough, Dr. Stern's algorithm will produce a more compact map that better aligns with the factors as Dr. Stern understands them. But that is not the standard. *Johnson*, 366 S.W.3d at 25 ("Because multiple district configurations can meet the constitutional requirements, there is no perfect map."). The General Assembly must simply enact a map that is "as compact . . . as may be." Mo. Const. art. III, § 45. In passing the 2025 Plan, the General Assembly did just that. Dr. Stern's ensemble analysis does not prove otherwise.

B. Dr. Cervas likewise did not control for the recognized factors advanced by the General Assembly.

The alternative maps created by Dr. Cervas suffer from the same basic flaw as the ensembles generated by Dr. Stern. Namely, the maps do not control for the specific factors that the General Assembly advanced by means of the challenged districts. Dr. Cervas acknowledged this shortcoming at trial. Trial Tr. 121:7–13. He likewise acknowledged that he did not measure how his plans performed compared to the 2025 Plan on these metrics. Trial Tr. 126:23–127:17. The clearest example of this failing pertains to the

treatment of political subdivisions. As explained above, the reconfiguration of Districts 4, 5, and 6, eliminated multiple county and city splits, particularly in the greater Kansas City metropolitan area. *See*, e.g., DX 121. The remaining city splits were concentrated among municipalities that spanned numerous counties or involved no population. *See*, *e.g.*, DX129, DX131. Dr. Cervas did not account for all these considerations in his analysis. Trial Tr. 126:23–127:4. As with Dr. Stern, this limits the usefulness of his hypothetical maps as a comparator to the challenged districts or as evidence of a constitutional violation.

Appellants nonetheless contend that Dr. Cervas's eight maps are probative to the ultimate question because they show that the General Assembly could have achieved comparable results regarding certain criteria, while meeting or exceeding the challenged districts' compactness scores. Appellants' Br. 64–65. Once again, Appellants mix up the standard. Appellants needed to show that the 2025 Plan's configuration departed from principles of compactness and that any deviations could not be explained by the recognized factors. *See Pearson II*, 367 S.W.3d at 48. Simply showing the court that so-called better maps exist does not satisfy that burden—particularly when the challenged districts align with the recognized factors, and do so more closely than the 2022 Plan, which Appellants seek to reinstate. It bears repeating that Dr. Cervas's own data establishes that challenged districts split fewer counties, municipalities, and VTDs than Appellants' proposed remedy. PX23 at 7. That Appellants and their expert would have made different choices does not establish a violation, as the Circuit Court need only review the other evidence to conclude that the General Assembly complied with the law.

If anything, Dr. Cervas's maps highlight the transactional nature of map drawing that underlies the deference given to the political branches over redistricting. In order to improve compactness and improve on the recognized factors, Dr. Cervas's maps "produce some absurd results" as tradeoffs. D31 p. 17 ¶ 108. In two of Dr. Cervas's alternative maps, he chose to split Boone County twice and Jackson County once, if at all, *see* Trial Tr. 125:18–21, even though Boone County has an approximate population of 187,000, whereas Jackson County has a population over three times larger. D31 p. 17 ¶ 108; PX23 at 36–37. In another map, Dr. Cervas split Cooper County, which has an approximate population of 17,000—40 times smaller than that of Jackson County—twice. D31 p. 17, ¶ 108; PX23 at 35. As Dr. Cervas testified, the decision on which counties and cities should be split in a particular map is a "matter of legislative discussion." *See* Trial Tr. 127:14–17. So long as the General Assembly abides by principles of compactness as well as the recognized factors, this Court may not second guess its policy decisions. *See Pearson I*, 359 S.W.3d at 39 ("These maps could be drawn in multiple ways, all of which might meet the constitutional requirements. These decisions are political in nature and best left to political leaders, not judges.").

Appellant conflate submitting evidence with presenting a convincing case. While the alternative maps may, on a technical level, satisfy Appellants' "burden of production," Appellants "nonetheless may fail to satisfy their burden of persuasion with the trier of fact that, based on the evidence presented, the challenged districts clearly and undoubtedly contravene the constitution." *Pearson II*, 367 S.W.3d at 53. That is what happened here.

The Circuit Court applied the legal standard correctly. It simply found Appellants' evidence wanting.

III. Failing on the merits, Appellants attempt to upend this Court's well-established standard for compactness. (Responds to Points Relied On III and VIII).

Appellants fundamentally misunderstand and upend this Court's compactness analysis by manufacturing a novel compactness inquiry and infusing non-recognized factors into the definition of compactness. This Court has long recognized that "redistricting is predominantly a political question." *Pearson I*, 359 S.W.3d at 39; *State ex rel. Barrett*, 146 S.W. at 57, 62 (Mo. banc 1912). Accordingly, although the compactness standard is mandatory, this Court interprets it as allowing for some flexibility. *See e.g.*, *Johnson*, 366 S.W.3d at 24 ("The requirement that the map be 'as compact as may be' allows some flexibility . . . ."); *Pearson II*, 367 S.W.3d at 48 (stating that Missouri courts "reject[] the proposition that 'compact' refers solely to physical shape or size.").

Pearson II reflects this flexibility, by discussing compactness as "closely united territory." *See* 367 S.W.3d at 48. The "closely united territory" definition, first implemented by this Court in 1912, clarifies that considerations beyond contiguity inform whether a district meets the compactness standard under Missouri law. *See State ex rel. Barrett*, 146 S.W. at 62 (discussing the room left by the Constitution "for the exercise of the legislative judgment" and that "[t]he rule of mathematical approximation . . . could not, of course, be applied, and at the same time the other constitutional requirements be obeyed"). Notably, this flexibility is in favor of the legislature, recognizing that there are

political trade-offs inherent in redistricting better left to the legislature and not the "arbitrary opinion of judges." *Id.*

Consequently, this Court has long exercised judicial restraint in reviewing legislative maps for compactness. *See Pearson I*, 359 S.W.3d at 40 (quoting *State ex rel. Barrett*, 146 S.W. at 61). This, however, must be balanced with appropriate judicial restraint. *State ex rel. Barrett*, 146 S.W. at 62. Consequently, this Court has provided the legislature with a limited list of permissible factors inherently included in the constitutional compactness analysis. *See Pearson II*, 367 S.W.3d at 49–50 (collecting cases detailing the precedent for these factors); *see also Johnson*, 366 S.W.3d at 28. Only these factors may serve as justification for perceived deviations from compactness. *Johnson*, 366 S.W.3d at 30. In other words, these are the only considerations that this Court has told the legislature that it may safely consider when drawing a compact district. *See id.*; *Pearson II*, 367 S.W.3d at 49–50. And these are the only legitimate factors courts may consider in evaluating compactness under the "totality of the evidence." *See Pearson II*, 367 S.W.3d at 48.

A. Appellants invent a test that flips the standard.

Dissatisfied with Missouri's existing test for compactness, Appellants upend the constitutional standard. *See Pearson II*, 367 S.W.3d at 48. In doing so, they suggest that the definition of compactness includes mandatory factors that the General Assembly must consider in drawing a compact district but ironically cannot rely on to justify deviations from physical compactness. *See* Appellants' Br. 31. Specifically, Appellants read in additional factors into the definition of compactness. Appellants claim that beyond the size and shape of a district, a district can be non-compact if it is not interconnected enough or

hampers the ability of constituents to relate to their representatives. Appellants' Br. 28–29. To support their theory, Appellants concoct a definition of "closely united territory" that means territory "conducive to communication and interaction among representatives and constituents." Appellants' Br. 28 (quoting Kurtis A. Kempter, Annotation, *Application of Constitutional "Compactness Requirement" to Redistricting*, 114 A.L.R.5th 311 (2003)). But this finds no support in Missouri law.

Appellants' novel formulation is built upon a foundation of sand. The only support Appellants find for their innovative definition of compactness is an article that this Court has neither adopted nor relied upon in the context of redistricting. *See* Appellants' Br. 28–29. Appellants wildly mischaracterize this Court's prior reliance on Kempter. *See* Appellants' Br. 28 (claiming the *Pearson II* Court "relied on" Kempter). In *Pearson II*, the Court cited to Kempter as giving support to the proposition that "[s]ome courts define 'compact' as referring to 'the physical shape or size of electoral districts,' while others define it as referring to 'closely united territory, a phrase not necessarily limited to physical dimensions.'" 367 S.W.3d at 48 (citing Kempter, *Application of Constitutional "Compactness Requirement" to Redistricting*, 114 A.L.R.5th 311). This is the *only* reference to Kempter's article in *Pearson II*. *See generally*, *Pearson II*, 367 S.W.3d. 36. This Court did not cite to Kempter's article as providing the definition for compactness in Missouri, nor did it cite to the portions of Kempter's article that Appellants' rely on. *See id.* at 48. It certainly did not "instruct[] plaintiffs to offer evidence of 'closely united territory' that . . . examines whether districts are 'compact in interests' as well as geography such that they are 'conducive to constituent-representative communication.'" Appellants'

Br. 31. Instead, *Pearson II* cites to *State ex rel. Barrett* for the proposition that Missouri courts have adopted a definition of compact meaning "closely united territory." *See* 367 S.W.3d at 48 (citing *Pearson I*, 359 S.W.3d at 38 (quoting *State ex rel. Barrett*, 146 S.W. at 48)). And *State ex rel. Barrett* explains compactness, or closely united territory, as leaving room for legislative judgment. 146 S.W. at 62.

Appellants' reliance on Kempter's article is misplaced and in direct conflict with longstanding precedent. *See* 367 S.W.3d at 48. This Court has long defined compactness as a flexible standard, allowing the legislature to consider certain, neutral recognized factors alongside physical size and shape when creating compact districts. *E.g.*, *Johnson*, 366 S.W.3d at 28–29; *Priesler v. Kirkpatrick*, 528 S.W.2d 422, 425 (Mo. banc 1975). There are mandatory factors: the constitutional mandates of contiguity and population equality and compliance with federal law. *Pearson II*, 367 S.W.3d at 49. And there are permissive factors: "population density; natural boundary lines; the boundaries of political subdivisions, including counties municipalities, and precincts; and the historical boundary lines of prior redistricting maps." *Johnson*, 366 S.W.3d at 28; *Pearson II*, 367 S.W.3d at 50. No Missouri court has ever held that there are *additional* factors inherent to the constitutional compactness analysis. *See Pearson II*, 367 S.W.3d at 51. And Appellants cannot point to any source with precedential effect that states otherwise.[2]

[2] Appellants' reliance on *Shayer v. Kirkpatrick* is misplaced. 541 F. Supp. 922, 934 (W.D. Mo. 1982); *see* Appellants' Br. 32, n.5. The *Shayer* case involved a malapportionment claim in federal court after the General Assembly failed to enact redistricting legislation following the 1980 census. Although the court addresses Missouri's compactness requirement, the discussion was short and merely outlined different *policy* preferences it

Nonetheless, Appellants fault the Circuit Court for failing to consider a number of factors that this Court has never suggested are required. Appellants' Br. 28–31. Appellants suggest that beyond physical size and shape the General Assembly—and consequently the courts—*must* consider how interconnected a district is by looking at "transit infrastructure," "housing patterns," "predominant occupations and industrial sectors," "the needs of its underserved communities, its shared interest in federal funding for local projects," "and its long established and deeply-rooted relationship with its congressional representative, who has been integral to accessing federal funding." Appellants' Br. 29. However, not only has this Court never contemplated additional factors bearing on compactness beyond previously recognized factors, *see Johnson*, 366 S.W.3d at 28, n.10, this Court has previously disavowed the relevance of the very factors Appellants demand courts take into account, *id.* at 30 (rejecting communities of interest and contests between incumbents as factors justifying deviations from compactness).

---

would incorporate into the court drawn map. Indeed, the three-judge panel held that varied community interests are secondary to the compactness requirement. *Id.* at 934 (noting that "sentiment may conflict within a community and between communities"). And while it believes that grouping of urban interests might be necessary to some extent to meet the compactness requirement, that conclusions were fact specific, drawn from contiguity and equal population concerns.

Appellants' reliance on *Priesler v. Hearnes* is equally inapt. Appellants' Br. 32, n.5. *Priesler* was decided *prior* to *Johnson* and seems to suggest that urban conditions could be used by the General Assembly to "justify" the lines it chose. 362 S.W.2d 552, 556–57 (Mo. banc 1962). It does not suggest that urban conditions are an element of compactness that the General Assembly *must* adhere to as Appellants suggest. *See id.* And *Johnson* supersedes it, prohibiting courts from considering communities of interest as a relevant factor. 366 S.W.3d at 30.

The fallacy in Appellants' logic is three-fold. *First*, Appellants attempt to turn permissive factors into mandatory factors. Appellants select some permissive factors that benefit their policy goals and turn them from discretionary legislative objectives into compulsory requirements. *See e.g.*, Appellants' Br. 29 (suggesting that a lack of consideration for population density or failure to follow historic and geographic boundary lines demonstrates a lack of compactness). This approach, however, gets the standard backwards. The permissive factors may be used to justify deviations from compactness, but they are not tools for plaintiffs to demonstrate deviations from compactness. The General Assembly need not pursue them so long as the districts align with principles of compactness or can otherwise be explained by adherence to another recognized factor. *See Pearson II*, 367 S.W.3d at 48. The General Assembly certainly does not need to pursue them in the manner Appellants prefer.

Second, Appellants infuse a host of non-recognized factors into the analysis. This list largely includes communities-of-interest factors (*e.g.*, housing patterns, needs of underserved communities, transit infrastructure, predominant occupations and industrial sectors) and factors related to incumbent protection (*e.g.*, "its long-established and deeply-rooted relationship with its [incumbent] congressional representative," Appellants' Br., 29)—two categories that this Court has expressly disclaimed as having any bearing on the compactness analysis in *Johnson*. *See* 366 S.W.3d at 30 ("The [U.S.] Supreme Court also identifies other factors that may justify variances, which this Court does not recognize, such as maintaining communities of interest and avoiding contests between incumbents.").

Faced with countervailing case law, Appellants try to wave the *Johnson* opinion away by claiming that the holding only applied to the State when seeking to justify a departure from compactness—and not Appellants who cite it as evidence of a disunited territory. *See* Appellants' Br. at 30–31. However, that argument does not pass the smell test, as Appellants would impose on the General Assembly a duty to consider value-ridden policy objectives but deny the General Assembly the ability to cite said objectives as evidence of constitutional compliance. This connects to the next fallacy.

Third, Appellants would tie the General Assembly's hands. Appellants concede that some of the factors they contend that the General Assembly *must* consider when drawing a compact district—*i.e.*, maintaining communities of interest—could not be used to vindicate a redistricting map should a court find that its districts appear to lack in compactness. *Id.* In other words, what Appellants propose is a heads-I-win-tails-you-lose doctrine, where the General Assembly is subject to liability regardless of whether it adheres to Appellants' preferred criteria or rejects it. Fairness aside, that argument runs afoul of controlling precedent. Not only does it stretch the holding in *Johnson* beyond recognition, but this Court has long held that any standard of review "must reflect deference to the predominate role of the General Assembly and the inability of anyone to draw compact districts with numerical precision." *E.g.*, *Pearson I*, 359 S.W.3d at 39; *State ex rel. Barrett*, 146 S.W. at 62. A doctrine that penalizes the General Assembly for adhering to so-called mandatory factors achieves the opposite, as it invites judicial scrutiny and intervention.

Indeed, beyond having no foundation in this Court's precedent, Appellants' test forces courts to wade into the political mire. *Contra Pearson I*, 359 S.W.3d at 39 ("These

decisions are political in nature and best left to political leaders, not judges."). In this case, Appellants suggest that the Circuit Court should have found that the decision to split the Jackson County portion of Kansas City indicated a lack of compactness. *See* Appellants' Br. at 41 (taking issue with combining denser with less dense neighborhoods), *contra Pearson I*, 359 S.W.3d at 39 ("These maps could be drawn in multiple ways, all of which might meet the constitutional requirements."). This is the precise policy determination that this Court's precedent guards against. *Pearson I*, 359 S.W.3d at 39 ("[R]edistricting is predominately a political question. Decisions must be made regarding a number of sensitive considerations to configure the various House districts."). *State ex rel. Barrett*, 146 S.W. at 62 (discussing the problems with making value judgments and warning against "arbitrary opinion[s]" by judges).

This Court's precedent on constitutional compactness is one that recognizes the difficult policy determinations that the legislature must make in redistricting. *E.g. Pearson I*, S.W.3d at 39; *Faatz*, 685 S.W.3d at 395. The Missouri Constitution curbs abuse of redistricting by permitting the legislature to justify deviations from compactness with only a handful of neutral factors. *Johnson*, 366 S.W.3d at 28, n.10 ("As a whole, these recognized factors provide guidance in the redistricting process and protect Missourians from the risk of arbitrary decisions."). Defining compactness as closely united territory is another way to emphasize that "absolute precision is not required," and that there are many ways to draw a compact map that meets the constitutional requirements. *Pearson II*, 367 S.W.3d at 51. It is not, however, a Trojan horse for Appellants to smuggle in additional mandatory compactness requirements, such communities of interest and other notions of

social science. *See Pearson II*, 367 S.W.3d at 50 (describing the permissive factors as "legitimate considerations"); *Johnson*, 366 S.W.3d at 28, n.10 (emphasizing the exclusive nature of the recognized factors). Rather, it is a way to explain compactness in a manner that permits courts to look beyond the size and shape of a district and consider important, neutral factors deemed inherent to the constitutional definition of compactness. *Johnson*, 366 S.W.3d at 27–28 (describing recognized factors as "inherently included within the constitutional standards governing the reapportionment process."). The Circuit Court properly applied this Court's precedent and found Appellants' evidence lacking in relevance.

B. Even under their own invented test, Appellants have not met their burden to prove that the challenged districts clearly and undoubtedly contravene the constitution.

The Circuit Court properly applied this Court's test for compactness and determined that Appellants did not meet their burden of demonstrating that the districts were not as "compact . . . as may be." D31 p. 22 (quoting Mo. Const. art. III, § 45). In doing so, the Circuit Court properly recognized that Appellants' additional factors lacked relevance to the compactness determination, *id.* p. 27, and would cause the court "to make value judgments about *which* communities should be divided in redistricting plans," *id.* p. 20 (emphasis in original). Accordingly, as argued above, this Court should affirm the Circuit Court's reliance on precedent and find that it did not err in its interpretation of the compactness standard by eschewing reliance on non-recognized factors.

That said, should this Court adopt Appellants' creation, their claims still fall short. Appellants fail to acknowledge the Circuit Court's factual findings related to the persuasive

nature of Appellants' evidence. While the Circuit Court did primarily find Appellants' communities-of-interest evidence lacked relevance and sounded in policy, *id.* pp. 26–28, the Circuit Court found in the alternative that "[e]ven if [Appellants'] communities-of-interest arguments were supported as a factor under Missouri law, [Appellants] still fail to meet their burden," D31 p. 28. This decision was within the Circuit Courts prerogative to "consider the weight and credibility of the evidence on the record." *Pearson II*, 367 S.W.3d at 56. And while Appellants spill significant ink discussing the evidence they presented related to Kansas City, Appellants' Br. 49–60, there is sufficient evidence in the record supporting the Circuit Court's decision.

Based on the trial record, the Circuit Court had ample reason to find Appellants failed to meet their burden. Not only were the testimonies of Appellants' experts riddled with contradictions and methodological discrepancies, but Appellants only introduced evidence about one community affected by the new district configuration; their presentation ignored any benefits experienced elsewhere in the challenged districts.

In terms of the former, Drs. Rodden and Cromartie presented testimony about communities of interest that condemned the combination of rural and urban populations in the same congressional district. *See* Trial Tr. 438:8–440:13; PX27 at 1. This testimony undermines the alternative maps developed by Drs. Cervas and Stern, which do exactly what Drs. Rodden and Cromartie shun: combine disparate rural and urban populations in the same congressional districts. *See* Trial Tr. 125:18–126:1. The only distinction is that Drs. Cervas and Stern's alternative maps were drawn by unelected individuals, rather than the Missouri General Assembly. Dr. Cromartie's analysis suffers from the additional

problem that it excluded relevant areas from his analysis: namely, Platte County, one of four counties in which Kansas City lies. PX25 at 11; Trial Tr. 456:6–457:23. Dr. Cromartie also conceded that he was unfamiliar with important redistricting principles. *See* Trial Tr. 483:7–9. Added to this, Appellants' experts "advance[d] novel methodologies that have not been recognized by Missouri courts." D31 p. 28. Dr. Rodden admitted that he invented his "district sprawl" methodology for this case. Trial Tr. 369:2–22. That metric never had been subject to peer review or accepted by any court to date. Trial Tr. 369:2–16. The Circuit Court determined that it had "little value in comparison the historically recognized compactness metrics" that the Circuit Court analyzed in its opinion. D31 pp. 28–29. Dr. Stern conducted an ensemble analysis in an attempt to show that the 2025 Plan was a statistical outlier, but the maps he generated did not adhere to strict population requirements, *see* PX21 at 37; nor did he take into account all the permissible factors the legislature can consider when drawing a compact district, *see* Trial Tr. 214:8–16. Because Dr. Stern's analysis did not weigh all the factors, the Circuit Court determined that his ensemble could not act as an appropriate comparator. D31 pp. 28–29.

In terms of the latter, Appellants focused their presentation on the Jackson County portion of Kansas City. *See* Appellants' Br. 49–58; *see, e.g.*, Trial Tr. 310:9–324:15. This included their evidence on communities of interest. *See id.* For example, according to Appellants, District 5 is not compact because of the "fragmentation of Kansas City." Appellants' Br. 55. Appellants ignored the potential explanation that the General Assembly may have drawn the border of District 5 for the legitimate purpose of keeping together the Northland of Kansas City, previously split between Districts 5 and 6. D31

p. 28; *cf. Pearson II*, 367 S.W.3d at 56 (faulting plaintiffs for failing to demonstrate that deviations from compactness were not the result of keeping "a greater portion of Kansas City" united in district 5). In addition, one of Appellants' fact witnesses—Mayor of Kansas City Quinton Lucas—admitted that the Northland was its own community of interest. Trial Tr. 551:9–13. Appellants were not even consistent in their consideration of communities of interest—the only community of interest that mattered to Appellants was the Jackson County portion of Kansas City. *See* Appellants' Br. 49–60 (focusing on the interests of the Jackson County portion of Kansas City).

Appellants also offered no explanation as to why the unification of the Jackson County portion of Kansas City should take precedence over municipalities split by the challenged districts under the 2022 Plan that the 2025 Plan unified. For example, Blue Springs, Lake Lotawana, and Lee's Summit—municipalities split by the boundary of Districts 4 and 5 in the 2022 map—were unified into District 4 under the 2025 map. *Compare* DX121, *with* DX122. *See* D31 p. 28. Independence and Sugar Creek—municipalities split by the border of Districts 5 and 6 under the 2022 map—were unified within District 5 under the 2025 map. *Compare* DX121, *with* DX122; *see* D31 p. 28. Appellants' singular focus on the community of interest found in the Jackson County portion of Kansas City did not provide the Circuit Court with the amount of evidence necessary to demonstrate that the General Assembly ignored communities of interest, as opposed to demonstrating that the 2025 Plan advanced the interests of different communities than the one Appellants favor. *See* D31 p. 28. The Circuit Court was within its authority to determine that Appellants lack of

explanation for why a certain portion of Kansas City should be given deference over others harmed credibility.

Appellants cannot paper over the deficiencies in their case-in-chief by characterizing their evidence as "unrefuted" and therefore entitled to deference by the Circuit Court. *E.g.* Appellants' Br. at 29, 32. The argument falls flat for two reasons. *First*, the evidence was refuted. Each expert was subject to cross-examination and there were factual disputes about whether the boundaries of Districts 4 and 5 were "minimal and practical deviations that could have been drawn to take into account certain recognized factors." *Pearson II*, 367 S.W.3d at 56. Evidence is considered uncontested only "when the issue before the trial court involves only stipulated facts and does not involve resolution by the trial court of contested testimony." *Johnson*, 366 S.W.3d at 19. This is not the case here. *Second*, "[w]hen the burden of proof is placed on a party for a claim that is denied, the trier of fact has the right to believe or disbelieve that party's uncontradicted or uncontroverted evidence." *See White*, 321 S.W.3d at 305. Regardless of the nature of Appellants' evidence, the Circuit Court had the right to determine whether the evidence credibly demonstrated that District 4 and District 5 were not as compact as may be. *See Pearson II*, 367 S.W.3d at 56.

Just like the plaintiffs in *Pearson II* failed to demonstrate that deviations from compactness could not be accounted for by "the legitimate factor of keeping a greater portion of Kansas City in district 5," 367 S.W.3d at 56, Appellants failed to demonstrate that—even if their communities-of-interest analysis was relevant and indicated deviations from compactness—those deviations in Districts 4 and 5 could not be accounted for by

recognized factors. One such deficiency, as abovementioned, is that Appellants failed to address why the legitimate factor of keeping Kansas City's Northland together or keeping numerous municipalities whole in the Kansas City metropolitan area could not justify deviations. D31 p. 28. Just as in *Pearson II*, the Circuit Court "was free to consider the weight and credibility of the evidence on the record" and the Circuit Court's assessment that Plaintiffs failed to "prove clearly and undoubtedly" that Districts 4 and 5 were not as "compact . . . as may be" was within its discretion. 367 S.W.3d at 56.

Ultimately, the Circuit Court did contemplate how Appellants would fare when applying their communities-of-interest analysis. D31 p. 28–29. And it did not find that Appellants presented enough evidence to meet their burden of demonstrating the challenged districts depart from compactness "in a manner that cannot be justified by the *Pearson II* factors., Appellants' Br. 41; D31 pp. 28–29, a factual determination wholly within the Circuit Court's discretion. *Pearson II*, 367 S.W.3d at 68 (Fischer, J., concurring) ("When the burden of proof is placed on a party for a claim that is denied, the trier of fact has the right to believe or disbelieve that party's uncontradicted or uncontroverted evidence." (citing *Bakelite Co. v. Miller*, 372 S.W.2d 867, 871 (Mo. banc 1963))). The Circuit Court did not find Appellants' evidence persuasive and its decision to find against them was not improper. This Court should affirm the Circuit Court's determination that Appellants failed to provide sufficient evidence to prove substantial departures from compactness on the basis of their communities-of-interest evidence.

IV. Appellants' demand for immediate, statewide injunctive relief is improper.

Even if this Court entertains Appellants' arguments on the merits, Appellants seek the wrong remedy in asking this Court to resurrect the 2022 Plan. Appellants' Br. 69.

Appellants are not entitled to impose the repealed 2022 Plan on Missouri. *See* Appellants' Br. 69 (seeking to re-impose the repealed 2022 Plan). "An injunction should be narrowly framed to give the relief to which to which the parties are entitled but should not interfere with any legitimate or proper activities." *Terre Du Lac Property Owners Ass'n v. Wideman*, 655 S.W.2d 803, 807 (Mo. App. E.D. 1983) (citing *Comm'n Row Club. v. Lambert*, 161 S.W.2d 732, 736 (Mo. App. 1942); *Henson v. Payne*, 302 S.W.2d 44, 50 (Mo. App. 1956)). Those "legitimate or proper activities" include the General Assembly's improvements in compactness performance in Missouri's other districts and proper execution of the 2026 midterm elections across Missouri. Appellants want this Court to ignore the chaos and harm which would ensue from a statewide invalidation of the 2025 Plan. This Court should not award such far-reaching injunctive relief. After all, "[d]espite the court's considerable authority to fashion equitable remedies, its exercise of discretion must not impede the proper action against whom relief is sought." *Doe v. Phillips*, 259 S.W.3d 34, 38 (Mo. App. W.D. 2008) (citing *S. Star Cent. Gas Pipeline, Inc. v. Murray*, 190 S.W.3d 423, 432 (Mo. App. S.D. 2006)).

Instead, the proper course would be to resubmit the 2025 Plan to the General Assembly to cure any identified defects with the challenged districts. *First*, this adheres to this Court's repeated principle that it is "fundamental" that "redistricting is predominately a political question." *Faatz*, 685 S.W.3d at 395 (quoting *Pearson I*, 359 S.W.3d at 39).

Second, legislative resubmission is consistent with prior practice in Missouri. In 1965, a federal court declared the General Assembly's 1961 congressional map unconstitutional. *Preisler I*, 238 F. Supp. at 190. The court deferred drawing new congressional districts itself, reasoning that "the State Legislature of Missouri has an *unmistakable duty* to reapportion the Congressional Districts of that State." *Id.* at 191 (emphasis added). Again and again, the General Assembly redistricted and the federal district court rejected the map. *See Preisler v. Sec'y of State* (*Preisler II*), 257 F. Supp. 953, 956, 980, 984–85 (W.D. Mo. 1966), *aff'd sub nom.*, *Kirkpatrick v. Preisler*, 385 U.S. 450, 450 (1967); *Preisler v. Sec'y of State* (*Preisler III*), 279 F. Supp. 952, 955, 1004 (W.D. Mo. 1967), *aff'd sub nom.*, *Kirkpatrick v. Preisler*, 394 U.S. 526, 533 (1969); *Preisler v. Sec'y of State* (*Preisler IV*), 341 F. Supp. 1158, 1160 (W.D. Mo. 1972). In total, the General Assembly conducted three corrective redistrictings in the 1960s in response to previous maps being thrown out by the courts. Each time, the courts declined to redraw the map themselves, deferring to the proper political branch.

The proper legislative resubmission remedy also featured in this Court's ruling in *Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1 (Mo. banc 1970) (per curiam). There this Court declined to disturb an upcoming election by enforcing a judgment on an elections issue, waiting until after the election so the General Assembly could correct the issue. The *Hadley* Court pointed out that "[t]he Governor of Missouri has announced that a special session of the General Assembly will be called this spring" and "[t]his timetable is such that the law can be amended and be applicable to the elections which will be held in the junior college districts beginning in 1971." *Id.* Just as here, if

there was a constitutional defect found in the 2025 Plan, the course of action should simply follow the *Hadley* precedent. Allow the 2026 midterm elections to proceed on the 2025 Plan, and then allow the General Assembly to make any amendment or adjustment before the 2028 elections to comply with this Court's legal determinations.

The problems with Appellants' proposed remedy do not end there. Countermanding the General Assembly's repeal of the 2022 Plan would also extend beyond the scope of Appellants' own pleadings.[3] Appellants could have challenged each and every district. They did not. Alleged defects with one or two congressional districts around Kansas City are not cause for this Court to redraw congressional district lines in St. Louis, Cape Girardeau, or elsewhere. *See Gill v. Whitford*, 585 U.S. 48, 66–67 (2018) ("Plaintiffs who complain of racial gerrymandering in their State cannot sue to invalidate the whole State's legislative districting map; such complaints must proceed 'district by district.'" (quoting *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 262 (2015))). As established at trial, the 2025 Plan improved the compactness of other districts across the State relative to the 2022 Plan. Appellants' requested relief would diminish that improvement, potentially injuring voters in different parts of the State. For example, the 2025 Plan reduces the

[3] Appellants' desired statewide relief not only conflicts with the district-by-district lens of review used in congressional redistricting cases, *see Pearson I*, 359 S.W.3d at 39 (holding that § 45 "applies to each Missouri voter, in every congressional district"), but it ironically also conflicts with the particularized, Kansas City-hyperfocus which Appellants repeatedly trumpet. *See, e.g.*, Appellants' Br. 8, 32 n.5, 36–38, 50, 54–60, 64–65. While the State has demonstrated that the 2025 Plan broadly and the challenged districts individually comply with § 45, it is Appellants who seek to prevent any consideration of compactness anywhere outside the environs of Kansas City in Jackson County, whether that is the Lake of the Ozarks or Columbia.

number of county splits to five counties seven times, compared to nine counties split ten times in the 2022 Plan. D31 ¶ 27. It likewise reduces the number of split municipalities. *Id.* ¶¶ 30, 31. Reimposing the 2022 Plan would rewind these gains, harming the rights of non-parties with no corresponding benefit to Appellants. Appellants' requested invalidation of the 2025 Plan *in toto* is a covert, collateral attack on the 2025 Plan writ-large, and an implicit, and improper, re-litigation of this Court's recent decision in *Luther v. Hoskins*, 730 S.W.3d 567 (Mo. banc 2026). This Court should reject Appellants' effort to displace *Luther sub rosa*.

V. The *Purcell/ Hadley* doctrine strongly favors not enjoining the 2025 Plan until after the upcoming 2026 midterm elections.

Regardless of the relief this Court decides to award, and even if this Court opts to reverse the Circuit Court, the strong interests of equity counsel against enjoining the 2025 Plan until after the upcoming 2026 midterm elections. *First*, Missouri's recognized equitable principles support delayed relief, reducing chaos surrounding the quickly approaching upcoming election. See *State ex rel. Ellis v. Creech*, 259 S.W.2d 372, 374 (Mo. banc 1953) (highlighting that injunctive relief is discretionary and is "to be exercised in accordance with well settled equitable principles"). In fact, this Court *has already recognized and applied* an analogue to the *Purcell* principle. *See Hadley v. Junior Coll. Dist. of Metro. Kansas City*, 460 S.W.2d 1 (Mo. banc 1970) (per curiam). It should apply *Hadley* here and postpone relief until after the 2026 midterms when the General Assembly can make legislative adjustments to the map. *Second*, if this case was in federal court, the *Purcell* principle would apply under these circumstances, requiring any injunction in favor

of Appellants to be stayed until after the 2026 elections. *See Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419–20 (2025) (staying lower district court injunction issued during candidate filing period). *Third*, enjoining the 2025 Plan is simply not practicable at this stage. Candidate filing ended on March 31, 2026. The state and local election authorities are in the midst of preparing for the August 4 primary election. Universal equitable principles urge delaying relief until *after* the 2026 midterms. *See Hadley*, 460 S.W.2d at 3 (noting that the "overriding public interest in the ordered operation of . . . districts in Missouri requires, and this court so orders, that the elections of trustees of said districts . . . be held under the present provisions of Chapter 178"); *see also Merrill v. Milligan*, 142 S. Ct. 879, 882 (2022) (Kavanaugh, J., concurring) (describing the *Purcell* principle as "a sensible refinement of ordinary stay principles for the election context—a principle that is not absolute but instead simply heightens the showing necessary for a plaintiff to overcome the State's extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws and procedures").

A. Missouri has already recognized the *Purcell* principle: the *Hadley* principle.

In 1970, this Court applied the rule that federal courts would subsequently call the *Purcell* principle. On February 25, 1970, in *Hadley v. Junior College District of Metropolitan Kansas City*, 460 S.W.2d 1 (Mo. banc 1970) (per curiam), this Court received a mandate on remand after the U.S. Supreme Court found that districts for electing school officials were unconstitutionally apportioned. *Id.* at 2. As of that date, the candidate filing period was scheduled to end in a few days. *Id.* at 3. Under those circumstances, this Court

"concluded that the imminence of these elections is such that it would be unwise for this court hastily to attempt to implement the February 25, 1970, decision of the Supreme Court of the United States with respect to those elections." *Id.* Consistent with *Reynolds v. Sims*, 377 U.S. 533, 585 (1964), also the key basis for *Purcell*, this Court held that "the overriding public interest in the operation of respondent and other junior college districts in Missouri requires, and this court so orders, that the elections of the trustees of said districts scheduled in April, 1970, be held under the *present* provisions of Chapter 178, V.A.M.S." *Id.* at 2–3 (relying on *Reynolds v. Sims*, 377 U.S. at 585).

Hadley makes this is an *a fortiori* case. Whereas candidate filing was *ongoing* when this Court declined to alter election districts for an upcoming election, candidate filing in Missouri closed about one-and-a-half months ago. As in *Hadley*, "the election machinery [was] already in operation," *Hadley*, 460 S.W.3d at 3, as election officials have already been implementing the 2025 Plan.

B. Other courts would apply the *Purcell* principle under these conditions.

Under similar conditions, federal and other state courts, have applied *Purcell* when the threat of voter confusion and the severe risk to reliance interests—both candidates' and voters'—requires exercising equitable power to ensure democratic elections are executed properly. *See Purcell*, 549 U.S. at 4–5 ("Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls."). *Purcell*'s wisdom applies to this Court, and its logic is persuasive.

As the U.S. Supreme Court (and this Court) recognized long ago, "where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid." *Reynolds*, 377 U.S. at 585; *Hadley*, 460 S.W.2d at 2 (quoting this sentence in *Reynolds*, 377 U.S. at 585). "In awarding or withholding immediate relief, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws and should act and rely upon general equitable principles." *Reynolds*, 377 U.S. at 585; *Hadley*, 460 S.W.2d at 2 (same). Such "considerations" exist here, where many Missourians have already initiated campaigns for the duly enacted congressional districts and candidate filing deadlines approach. *See* § 115.349, RSMo. In such circumstances the U.S. Supreme Court "has recognized that 'practical considerations sometimes require courts to allow elections to proceed despite pending legal challenges.'" *Merrill*, 142 S. Ct. at 882 (Kavanaugh, J., concurring) (quoting *Riley v. Kennedy*, 553 U.S. 406, 426 (2008)). This is the "*Purcell* principle." *See id*.

The *Purcell* principle derives from a universal, "basic tenet of election law: When an election is close at hand, the rules of the road should be clear and settled." *Democratic Nat'l Comm. v. Wis. State Legis.*, 141 S. Ct. at 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). This logic applies with equal force in Missouri. *See Hadley*, 460 S.W. at 3 ("We conclude it would be wholly inequitable and impracticable to attempt at this late date to apply the principles enunciated in the decision of February 25, 1970, to the elections scheduled for April 7, 1970.").

Statewide elections are complex, and stability is important to several groups of people. *First*, candidates need to know what congressional map governs so that they can plan their campaigns; doing so, after all, requires fundraising, hiring, and other substantial planning. *Second*, "thousands of state and local officials and volunteers must participate in a massive, coordinated effort to implement the lawmakers' policy choices on the ground before and during the election, and again in counting the votes afterwards." *Democratic Nat'l Comm. v. Wis. State Legis.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). *Third*, voters need to know who their candidates will be, which is why alterations during elections damages voters' "confidence in the fairness of the election." *Id*. Allowing last-minute litigation challenges to congressional districts undermines all these reliance interests. *Id.* ("Even seemingly innocuous late-in-the-day judicial alterations to state election laws can interfere with administration of an election and cause unanticipated consequences.").

In light of these common-sense propositions, grounded in equity, this Court and other state courts have applied the *Purcell* principle—in name or practice. *See, e.g.*, *Moore v. Lee*, 644 S.W.3d 59, 65–66 (Tenn. 2022) (holding that a state analogue to the *Purcell* principle called for "restraint when asked to enjoin the effectiveness of constitutionally suspect reapportionment plans" and vacating a lower court injunction impacting "the electoral process in the state"); *Fay v. Merrill*, 256 A.3d 622, 638 n. 21 (Conn. 2021) (discussing how enforcing a declaratory judgment close to an election "presumably would implicate the factors identified by the United States Supreme Court in *Purcell v. Gonzalez* . . ."); *All. for Retired Americans v. Sec'y of State*, 240 A.3d 45, 50 (Maine 2020) ((discussing *Purcell* and noting that "when challenges to election laws are lodged on the

eve of an election it is imperative that plaintiffs act as expeditiously as possible in their pursuit of relief"); *Liddy v. Lamone*, 919 A.2d 1276, 1288 (Md. 2007); *Chi. Bar Ass'n v. White*, 898 N.E.2d 955, 961 (Ill. App. Ct. 2008); *State ex rel. Ohio Democratic Party v. LaRose*, 257 N.E.2d 130, 137 (Ohio 2024). As the Pennsylvania Supreme Court explained, *Purcell*'s wisdom applies to state courts. *See New Pa. Project Educ. Fund v. Schmidt*, 327 A.3d 188, 189 (Pa. 2024) ("This Court will neither impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election." (citing *Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016))).

C. This Court should wield its equitable authority to protect Missourians' reliance interests in the 2025 Plan.

Thus, even if this Court were to agree with Appellants' merits arguments, this Court should refrain from ordering Missouri to alter its election map until after the 2026 elections. Doing so is necessary to prevent courts from "improperly insert[ing] [themselves] into an active primary campaign." *Abbott*, 146 S. Ct. at 419. The gears of state and local government are turning to facilitate the upcoming 2026 midterm election in August. For example, the first day for candidate filing for the August 4, 2026, primary election was February 24, 2026, more than two months ago. DX114; *see also* § 115.349.2, RSMo (designating the "last Tuesday in February" as the start of declaring candidacy for nomination). The last day of candidate filing—March 31, 2026—has already passed. § 115.349, RSMo.

Since early December, when the State gave notice that HB 1 was in effect and would presumptively govern elections in 2026, candidates have built their campaigns around that

map. Candidates have been campaigning and fundraising based on HB 1's significantly changed borders. Missouri voters know who is running for office and where. They are already making their informed decisions based on campaign information predicated on the duly passed congressional map. After candidates entered the race and the filing deadline passes, the public becomes aware of their candidacy and the universe of choices available to them in August. *Cf. Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring) ("Filing deadlines need to be met, but candidates cannot be sure what districts they need to file for.").

Notably, under similar factual circumstances, this Court refused to "hastily attempt to implement" a judicial ruling with respect to upcoming elections. *Hadley*, 460 S.W.2d at 2. The U.S. Supreme Court did the same thing. Several months ago, it barred courts from altering Texas's congressional map during the 2026 congressional elections *at an earlier point in the elections calendar*. *See Abbott*, 146 S. Ct. at 419. There, a three-judge district court found that Texas's map was an unconstitutional racial gerrymander on November 18, 2025. *See League of United Latin Am. Citizens v. Abbott*, 809 F. Supp. 3d 502 (W.D. Tex. 2025). That was ten days after the opening—but still before the end—of candidate filing for the primary election, and the U.S. Supreme Court declared that "[t]he District Court improperly inserted itself into an active primary campaign, causing much confusion and upsetting the delicate federal-state balance in elections." *Abbott*, 146 S. Ct. at 419. Here, the candidate filing season is already over, *see* § 115.349.1, RSMo, and by the time this Court decides this case, local election authorities will be far along in implementing the 2025 Plan.

A final point bears emphasis. This Court's decision in *Hadley*—and the U.S. Supreme Court's recent application of *Purcell* in *Abbott v. LULAC*—confirms that litigants are *not* entitled to an effective litigation window to challenge election rules. *See Hadley*, 460 S.W.2d at 2–3; *Abbott*, 146 S. Ct. at 419. Even so, Appellants had plenty of time to litigate before the State started invoking *Purcell* toward the end of the candidate filing period in March. Appellants filed their lawsuit in September. They made the strategic decision *not* to seek a preliminary injunction on their compactness claim—instead seeking preliminary relief only on the claim this Court rejected in *Luther*. Even after that claim was stayed, Appellants chose to seek a quick trial instead of a preliminary injunction on their compactness claim—and the State worked extraordinarily quickly to accommodate Appellants' demands. Not only did the State comply with all accelerated deadlines and when faced with a decision between two trial dates that presented conflicts for the State's only expert, the State consented to the earlier trial date. Even after Appellants lost at trial, they then made the strategic decision not to ask this Court for an injunction pending appeal. Under such circumstances, it would be extraordinarily inequitable to give injunctive relief to Appellants—at the expense of candidates, election officials, and all Missourians. *See Hadley*, 460 S.W.2d at 2–3; *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 424 (2020) (applying the *Purcell* principle, noting "that the plaintiffs themselves did not see the need to ask for [preliminary injunctive] relief").

* * *

In politically sensitive cases like this, it is especially important for this Court to exercise restraint. After all, courts "must be wary of plaintiffs who seek to transform" the courts

"into 'weapons of political warfare' that will deliver victories that eluded them 'in the political arena.'" *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 11 (2024) (internal quotation omitted). Therefore, the Court should reject Appellants' brazen invitation to bulldoze the deference owed to the General Assembly and the Circuit Court's factual findings. Even if this Court accepts Appellants' arguments, it should not displace the enacted 2025 Plan until after the upcoming election. *See Reynolds*, 377 U.S. at 586 (holding that lower court "acted wisely" in maintaining existing map for upcoming elections even after entering final judgment finding that existing map was illegal); *Hadley*, 460 S.W. at 3 (requiring upcoming elections to be conducted "under the present provisions" of the law).

CONCLUSION

For the reasons stated above, this Court should affirm the judgment of the Circuit Court.

Date: May 6, 2026

Respectfully submitted,

CATHERINE L. HANAWAY
ATTORNEY GENERAL

/s/ Louis J. Capozzi III
Louis J. Capozzi III, #77756
Solicitor General
Kathleen T. Hunker, *pro hac vice*
Principal Deputy Solicitor General
Joseph Kiernan, #77798
Assistant Solicitor General
Madeline S. Lansdell, #78358
Assistant Solicitor General
Office of the Attorney General
Old Post Office Building
815 Olive St, Suite 200
St. Louis, MO 63101
Office: (314) 340-3413

Counsel for State Respondents.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief contains 18,135 words, complies with Missouri Supreme Court Rule 84.06(b), includes the information required by Rule 55.03, and includes information on how the brief was served on the opposing party.

/s/ Louis J. Capozzi
Louis J. Capozzi, III

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was filed and served electronically on all counsel of record via the Court's e-filing system on May 6, 2026.

/s/ Louis J. Capozzi III
Louis J. Capozzi, III