VIRGINIA:

IN THE CIRCUIT COURT OF TAZEWELL COUNTY

REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE, BEN CLINE, U.S. Representative for Virginia's Sixth Congressional District, and MORGAN GRIFFITH, U.S. Representative for Virginia's Ninth Congressional District,	)	
Plaintiffs,	)	
v.	)	Civil Action No.:
STEVEN KOSKI, in his official capacity as Commissioner of the Virginia Department of Elections, VIRGINIA DEPARTMENT OF ELECTIONS, JOHN O'BANNON, in his official capacity as Chairman of the Virginia State Board of Elections, ROSALYN R. DANCE, in her official capacity as Vice-Chairman of the Virginia State Board of Elections, GEORGIA ALVIS-LONG, in her official capacity as Secretary of the Virginia State Board of Elections, CHRISTOPHER P. STOLLE, in his official capacity as Board Member of the Virginia State Board of Elections, J. CHAPMAN PETERSEN, in his official capacity as Board Member of the Virginia State Board of Elections, VIRGINIA STATE BOARD OF ELECTIONS, BRIAN EARLS, in his Official capacity as the General Registrar for Tazewell County, IRMA MITCHELL, in her Official capacity as Chairman of the Tazewell County Electoral Board, JANE SORENSEN, in her official capacity as Vice Chairman of the Tazewell County Electoral Board, and JAMES MCDONALD, Secretary of the Tazewell County Electoral Board,	)	
Defendants.	)	

MEMORANDUM OF LAW
IN SUPPORT OF PLAINTIFFS' MOTIONS FOR EMERGENCY RELIEF

INTRODUCTION

Less than a month ago this Court ruled that HJR 6007, which proposes a constitutional amendment to permit mid-decade partisan redistricting, is "VOID AB INITIO," a "blatant abuse of power," and a gross violation of "Article XII, Section 1 of the Virginia Constitution." *McDougle v. Nardo*, 2026 WL 243908, at **1-4 (Va. Cir. Ct. Jan. 27). Emergency relief is needed to prevent the General Assembly's disregard for this Court's order from turning into a full-fledged constitutional crisis. Defendants are proceeding as if HJR 6007 is good law rather than recognizing that it is "VOID AB INITIO." *Id.* They are moving forward with "an election" starting on March 6, 2026, *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568, to "tak[e] the sense of the qualified voters" of Virginia on the defective constitutional amendment that HJR 6007 proposes, HB 1384, §14. Those actions violate this Court's January 27 order and three provisions of Article XII of Virginia's Constitution.

Defendants are at least a year too early to hold a vote on the redistricting amendment. They must wait until the proposed amendment passes the General Assembly a second time in "2027." *McDougle*, 2026 WL 243908, at *3; Va. Const. art. XII, §1. Yet the General Assembly has scheduled the election to begin on March 6, 2026, a year earlier than Article XII and this Court's order allows them to start the election. *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568.

Article XII at least requires that any election concerning a proposed constitutional amendment that has been validly approved twice by the General Assembly be scheduled "not sooner than ninety days" after the second passage, Va. Const. art. XII, §1. But even assuming that the proposed redistricting amendment has been validly approved twice by the General Assembly, *contra McDougle*, 2026 WL 243908, at *3, the second passage of

the amendment occurred on January 16, 2026, *see* History, HJR 4, Gen. Assemb., Reg. Sess. (Va. 2026), perma.cc/LTU5-PRD8. Defendants are taking action to start the election on March 6, 2026, *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568. Unless enjoined, they will violate Article XII by opening voting on the amendment "*sooner* than ninety days after final passage by the General Assembly," *contra* Va. Const. art. XII, §1 (emphasis added).

The ballot question that Defendants will transmit to voters is also misleading, in violation of Article XII's submission clause. Article XII requires that Defendants present Virginia voters with the same amendment that has cleared the General Assembly so that Virginians can consider and properly consent to that amendment. This means that the "question presented should not be such as would mislead the voters." A.E. Dick Howard, 2 *Commentaries on the Constitution of Virginia* 1174 n.13 (1974) (cleaned up). A "misleading" ballot question therefore "invite[s] challenge." *Id.*

The ballot language proposed in HB 1384 violates Article XII because it submits a question that is "misleading" to the voters. *Id.* The ballot question contains a false opinion that the proposed constitutional amendment contained in HJR 6007 "restore[s] fairness" when it in fact destroys fairness, is the product of unfairness, and is intended to increase unfairness. HB 1834, §1; *contra McDougle*, 2026 WL 243908, at **3-4. It does not "restore fairness" to allow for the creation of "[a] map of districts" that "unduly favor[s]" the Democratic "political party." *Contra* Va. Code §24.2-304.04. And it does not "restore fairness" to submit a proposed constitutional amendment to Virginia voters that is a "blatant abuse of power" stripping Virginians of their constitutional right to a non-partisan redistricting process. *Contra McDougle*, 2026 WL 243908, at *3. Since the ballot question

Defendants will transmit to voters is misleading, Defendants will violate Article XII's submission clause unless restrained or enjoined.

With voting set to begin across the Commonwealth in less than a month on a defective proposal for constitutional amendment, emergency relief is necessary to vindicate Plaintiffs' constitutional right to "act on proposed constitutional amendments with confidence, secure in the knowledge that the proposals have been put to them for final action only after careful analysis." *Coleman v. Pross*, 219 Va. 143, 152-54 (1978). HB 1384 orders that the State Board of Elections send the defective ballot question and proposed amendment to electoral boards by Monday, March 2, 2026. So Plaintiffs require emergency relief before that date.

Plaintiffs move for a temporary restraining order and preliminary injunction to (1) restrain and enjoin Defendants from moving forward with the "election" called for by HB 1384 until the General Assembly approves the proposed constitutional amendment a second time in 2027; or (2) in the alternative, restrain and enjoin Defendants from beginning voting in the special election mandated by HB 1384 earlier than April 16, 2026.

LEGAL STANDARDS

Where "the equities of a case warrant" it, a temporary restraining order is appropriate to preserve the status quo pending a hearing. Va. Sup. Ct. R. 3:26(b). A temporary restraining order requires "adequate notice" to opposing parties, except where a verified complaint (or other sworn testimony) clearly shows that immediate and irreparable harm will result to the movant before the adverse party can be heard. *Id.* Plaintiffs' verified complaint shows immediate irreparable harm.

A preliminary injunction is appropriate if the Court determines that the movant will "suffer irreparable harm without the preliminary injunction." Va. Sup. Ct. R. 3:26(c). The

Court must also "determine" "whether the movant has asserted a legally viable claim based on credible facts (not mere allegations) demonstrating that the underlying claim will more likely than not succeed on the merits"; "whether the balance of hardships—that is, the harm to the movant without the preliminary injunction compared with the harm to the nonmovant with the preliminary injunction—favors granting the preliminary injunction"; and "whether the public interest, if any, supports the issuance of a preliminary injunction." Va. Sup. Ct. R. 3:26(d).

ARGUMENT

I. Plaintiffs have standing.

All Plaintiffs have standing to bring this suit. Plaintiffs have "an interest in a fair [electoral] process" that is at stake in these proceedings. *Bost v. Ill. Bd. of Elections*, 146 S.Ct. 513, 519 (2026). "Win or lose," Republican "candidates" and the political party organizations who represent them "suffer" when Virginia's electoral process "departs from the law." *Id.* As Republican political party organizations and as incumbent U.S. representatives seeking reelection in electoral districts in Virginia, Plaintiffs have a concrete interest in the "political legitimacy" of Virginia's electoral process. *Id.* at 520. "[W]hen public confidence in the election results falters, public confidence in the elected representative follows. To the representative, that loss of legitimacy—or its diminution—is a concrete harm." *Id.* "Reputational harms" are "classic" injuries sufficient for standing. *Id.* "But they are particularly concrete for those whose very jobs depend on the support of the people," such as U.S. Representatives Cline and Griffith, as well as other Republican U.S. Representatives from Virginia whom the RNC and NRCC represent. *Id.* Plaintiffs, in short, "are not mere bystanders" to Virginia elections. *Id.* "They have an obvious personal

stake in how the result is determined and regarded. Departures from the preordained rules cause them particularized and concrete harm." *Id.* (cleaned up).

In addition, as Virginia voters and organizations representing Virginia voters in an associational capacity, Plaintiffs have a constitutionally protected "right" to "act on proposed constitutional amendments with confidence, secure in the knowledge that the proposals have been put to them for final action only after careful analysis" with all "[d]efects and errors" removed. *Coleman*, 219 Va. at 158. And they have a constitutionally protected "interest" in contesting "unconstitutional manipulations of the electorate." *Howell v. McAuliffe*, 292 Va. 320, 333 (2016). To establish that interest, Plaintiffs need not show that the particular electoral districts in which they reside will be redrawn due to the proposed constitutional amendment. *Id.* Rather, Plaintiffs must merely "base their alleged standing on their status as qualified voters who live and are registered to vote in the Commonwealth, and who plan to vote." *Id.* at 330 (cleaned up). Plaintiffs thus have "a freestanding constitutional claim" to protect "the underlying interest" in constitutional elections. *Id.* at 333. "[T]he right of Virginia voters to seek judicial review of unconstitutional manipulations of the electorate" gives Plaintiffs standing. *Id.*

II. Plaintiffs are likely to succeed on the merits and are likely to suffer irreparable harm absent emergency relief.

A. HB 1384 violates the Intervening Election Clause, Timing Clause, and Submission Clause of Article XII of Virginia's Constitution.

Plaintiffs will likely succeed on the merits of their request for emergency relief for three reasons. HB 1384 submits a defective proposal for constitutional amendment by asking a defective ballot question to Virginia voters in violation of (1) the Intervening Election Clause, (2) the Timing Clause, and (3) the Submission Clause of Article XII of Virginia's Constitution.

1. HB 1384 violates Article XII's Intervening Election Clause.

Article XII's amendment process requires two different General Assemblies to adopt a proposed constitutional amendment. Those votes must be separated by an intervening "general election of members of the House of Delegates." Va. Const. art. XII, §1. The purpose of this "intervening election" requirement is not just to ensure that two separate General Assemblies agree with the amendment before it goes to the voters. As Article XII's ratification history shows, the intervening election is intended to "get the sentiment of the people on an amendment [the delegates] had acted on previously." *Proceedings and Debates of the Virginia House of Delegates Pertaining to Amendment of the Constitution*, p. 498 (1971). In other words, Article XII requires an intervening election to ensure that voters and government officials receive notice of the proposed amendment and an opportunity to hold their elected officials accountable at the ballot box in the "next general election." Va. Const. art. XII, §1.

For three reasons, an intervening election has not yet occurred. First, the November passage of the proposed amendment "violated House Joint Resolution 428 and House Joint Resolution 6001, and any action taken thereon is an invalid expansion of the General Assembly's own call to the Governor for the 2024 Special Session." *McDougle*, 2026 WL 243908, at *2. Second, because the General Assembly passed the proposed amendment after voting in the November 4, 2025 election was already underway, "there HAS NOT BEEN an ensuing general election of the House of Delegates, and such ensuing general election CANNOT occur until 2027." *Id.* Third, because the posting provisions of "Section 30-13 of the Code of Virginia have not been complied with," the "votes on the proposed Constitutional Amendment taken during the 2026 Regular Session of the General

Assembly are ineffective as being a "SECOND" VOTE OF THE General Assembly under Article XII, Section I of the Constitution." *Id.*

Each defect means "there HAS NOT BEEN an ensuing general election of the House of Delegates" after HJR 6007's passage and "such ensuing general election CANNOT occur until 2027." *Id.* Yet HB 1384 submits the proposed constitutional amendment in HJR 6007 to Virginia voters to vote on starting March 6, 2026, Va. Code §24.2-701.1; *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568. March 6, 2026 is a year *before* the General Assembly can approve the amendment a second time in 2027. *McDougle*, 2026 WL 243908, at *3. HB 1384 thus submits a proposed constitutional amendment to Virginia voters *before* "the next general election of members of the House of Delegates" in contravention of Article XII, Section 1 of Virginia's Constitution.

2. HB 1384 violates Article XII's Timing Clause.

Setting aside the countless other defects in the amendment process, the General Assembly has rushed the vote *again*. Article XII requires that once "the proposed amendment" passes the General Assembly for the second (and final) time, the amendment be submitted to Virginia voters "*not sooner than ninety days after final passage* by the General Assembly." Va. Const. art. XII, §1 (emphasis added). But under HB 1384, voting on the amendment will begin on March 6, 2026, Va. Code §24.2-701.1; *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568, less than two months after the January 16, 2026 final passage, History, HJR 4, Gen. Assemb., Reg. Sess. (Va. 2026), perma.cc/LTU5-PRD8. As this Court explained in its January 27 Order, an election begins when voting begins. *McDougle*, 2026 WL 243908, at *3. "There is no rational conclusion except that the ELECTION beg[i]n[s] on the first day of voting" and "[i]t is

legal, acceptable and even encouraged for voters to take advantage of the earlier voting statute." *Id.*

Unless this Court enjoins Defendants, the proposed constitutional amendment will be submitted by Defendants to Virginia voters for approval with early voting starting March 6, 2026. Va. Code §24.2-701.1; *Upcoming Elections*, Va. Dep't of Elections (2026), perma.cc/4MUN-B568. Since March 6, 2026 is less than 90 days following the amendment's passage by the General Assembly on January 16, 2026, the Timing Clause of Article XII has been violated.

Defendants have a non-discretionary duty to transmit any proposal for constitutional amendment to Virginia voters no sooner than 90 days after its final passage by the General Assembly. Va. Const. art. XII, §1; HB 1384 §14. The Court should order Defendants to perform this duty in accordance with the Constitution by opening voting on the proposed constitutional amendment at the very earliest "*not sooner than ninety days after final passage* by the General Assembly." Va. Const. art. XII, §1 (emphasis added).

3. HB 1384 violates Article XII's Submission Clause.

Even if the amendment procedures had been followed, and even if the start date for voting was timely, the language put to the voters is unconstitutional. Once an amendment has cleared the General Assembly for the second time, the Constitution makes it the "duty of the General Assembly to submit such proposed amendment" to "the voters qualified to vote in elections by the people." Va. Const. art. XII, §1. The word "submit" means "to present (something) to a person *for* criticism, consideration, approval, action, etc." *Oxford English Dictionary*, *submit*, sense II.7.a. The word "such" means something "previously described or specified," "the (thing) before mentioned." *Id.*, *such*, sense I.5. 134. So Article XII requires the General Assembly to present the people with the same amendment that

has cleared the General Assembly, so that the people can consider that amendment and decide whether to approve it.

This means that "'the Legislature cannot propose one question and submit to the voters another.'" A.E. Dick Howard, 2 *Commentaries on the Constitution of Virginia* 1174 n.13 (quoting 1949-50 Ops. Va. Att'y Gen 66). "'[A]nd the question presented should not be such as would mislead the voters.'" *Id.* "A palpably deceptive or misleading ballot" therefore "invite[s] challenge." *Id.*

Other state supreme courts have taken identical constitutional language to require accuracy in ballot language. For example, Florida provides that "[a] proposed amendment … shall be *submitted* to the electors." Fla. Const. art. IX, §5 (emphasis added). *Compare with* Va. Const. art. XII §1 ("[I]t shall be the duty of the General Assembly to *submit* such proposed amendment … to the voters.") (emphasis added). "Implicit in this provision is the requirement that the proposed amendment be accurately represented on the ballot; otherwise, voter approval would be a nullity." *Armstrong v. Harris*, 773 So. 2d 7, 12 (Fla. 2000). Minnesota provides that "[p]roposed amendments shall be ... *submitted* to the people for their approval or rejection." Minn. Const. art. IX, §1 (emphasis added). This means the language on the ballot "must not be so unreasonable and misleading as to be a palpable evasion of the constitutional requirement to submit the law to a popular vote." *Breza v. Kiffmeyer*, 723 N.W.2d 633, 636 (Minn. 2006). In Utah, "the said amendment … shall be *submitted* to the electors of the state for their approval or rejection." Utah Const. art. XXIII, §1 (emphasis added). This has not occurred "unless the proposed amendment is placed on the ballot in such words and in such form that the voters are not confused thereby." *League of Women Voters v. Utah State Legislature*, 559 P.3d 11, 29 (Utah 2024) (cleaned up). "The

proposition must be framed with such clarity as to enable the voters to express their will and ensure that no reasonably intelligent voter would be misled as to what he was voting for or against." *Id.* (cleaned up).

The ballot language proposed in HB 1384 violates Article XII because it submits to the voters a different question than the one that passed the General Assembly. The proposed text of the constitutional amendment "authorize[s] [the General Assembly] to modify one or more congressional districts at any point following the adoption of a decennial reapportionment law, but prior to the next decennial census, in the event that any State … conducts a redistricting of such state's congressional districts for any purpose" other than completing the decennial redistricting or as ordered by a court. HJR 4 (Jan. 14, 2026); HJR 6007 (Oct. 29, 2025). Yet the ballot language asks, "Should the Constitution of Virginia be amended to allow the General Assembly to temporarily adopt new congressional districts to restore fairness in the upcoming elections[?]" HB 1384, §14.

This ballot language asks a completely different question than the one proposed by the General Assembly in the redistricting amendment. The proposed amendment authorizes the modification of Virginia districts in response to actions by other states. It says nothing about fairness. Nor does claiming fairness as the goal help voters understand what the amendment proposes to do. It is also false to imply that the amendment would only affect the "upcoming elections" because the common understanding of that term is that it refers to the elections to be held this coming November (i.e., the 2026 mid-term elections), and the amendment would also empower the General Assembly to draw and/or re-draw district lines for the elections to be held in 2028 and 2030.

At the very least, the ballot language's framing of the amendment is misleading. It is akin to calling an amendment to abolish the Commonwealth's Governor and courts an amendment to "restore the legitimate power of the General Assembly." Here, the proposed amendment gives the General Assembly sweeping new powers—effectively neutering the Virginia Redistricting Commission. The proposed amendment aggrandizes power to the Democratic majority in the General Assembly in Richmond while diminishing the political power of Republican voters. The ballot language does not even tell Virginia voters that the amendment strips them of their constitutional right to a nonpartisan redistricting process. *See* Va. Const. art. II. §6-A. Because the ballot question in HB 1384 does not "submit" the proposed constitutional amendment to Virginia voters, it violates the Submission Clause of Article XII.

B. Plaintiffs will suffer irreparable harm without emergency relief.

All equitable factors favor issuance of emergency relief. The Virginia Supreme Court has emphasized that "[n]o single test is to be mechanically applied, and no single factor can be considered alone as dispositive," if equity otherwise favors an injunction. *Bowyer v. Sweet Briar Inst.*, 2015 WL 3646914, at *2 (Va. June 9, 2015). Virginia courts have nevertheless looked to the traditional federal test. *Winter v. NRDC*, 555 U.S. 7, 20 (2008); *see CFM Va., L.L.C. v. MJM Golf, L.L.C.*, 94 Va. Cir. 404, *2 (2016) (collecting cases); *Loudoun Cnty. Sch. Bd. v. Cross*, 2021 WL 9276274, at *5 (Va. Aug. 30, 2021) (affirming an injunction granted under the *Winter* factors). Under the *Winter* test, a preliminary injunction is warranted where Plaintiffs show that they are likely to succeed on the merits, that they will likely suffer irreparable harm absent the injunction, that the balance of equities tips in their favor; and that the injunction is in the public interest. *See Zachary Piper LLC v. Popelka*, 109 Va. Cir. 71 (2021). These factors correspond to those

listed in Virginia Supreme Court Rule 3:26 (c)-(d). For the reasons explained in Section I, Plaintiffs are likely to succeed on the merits.

Plaintiffs are also more likely than not to suffer irreparable harm without emergency relief. *See* Va. Sup. Ct. R. 3:26(c). A "presumption of irreparable injury" flows "from a violation of constitutional rights." *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996); *accord Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978). As Virginia voters and as major political competitors in Virginia elections, Plaintiffs have the right to participate in an amendatory process that complies with the Constitution. *See* Va. Const. art. XII, §1; *Coleman*, 219 Va. at 153. The loss of constitutional rights "for even minimal periods of time, rises to the level of irreparable injury." *Young v. Northam*, 107 Va. Cir. 281, *6 (2021) (unpublished op.) (citing *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020)). And any "restriction on the fundamental right to vote" constitutes "irreparable injury." *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012).

Absent emergency relief, Plaintiffs will lose their right to participate in an amendatory process that fully complies with Article XII of Virginia's Constitution. Plaintiffs' injuries are caused by the Defendants' acts in furtherance of an unconstitutional process. Courts recognize that "monetary damages are inadequate to compensate" for the deprivation of constitutional rights. *Legend Night Club v. Miller*, 637 F.3d 291, 302 (4th Cir. 2011). So no after-the-fact damages can make the Plaintiffs whole.

The balance of the equities tips in Plaintiffs' favor. *See* Va. Sup. Ct. R. 3:26(d)(ii). In Virginia, "the balance of equities weighs in favor of enforcing . . . agreements." *CG Riverview, LLC v. 139 Riverview, LLC*, 98 Va. Cir. 59 (2018). The Constitution is the

"fundamental" social contract. *See Coleman*, 219 Va. at 145. So equity favors strictly enforcing its terms. *Id.* at 158.

If this Court grants the injunction, the only harm to Defendants is that "at worst [they] will suffer the inconvenience of not being able to [submit the proposed amendment] for some period of time." *Fontaine v. Watson*, 106 Va. Cir. 430 (2020). By contrast, the deprivation to Plaintiffs, a loss of the constitutional right to vote on a proposed constitutional amendment with "confidence" and with all "[d]effects and errors" removed, *Coleman*, 219 Va. at 153, 158, will be "quite severe." *Id.* Because Defendants have no legitimate interest in submitting an unlawful amendment through an unconstitutional ballot question, the equities strongly favor Plaintiffs.

The public interest also supports a preliminary injunction. Va. Sup. Ct. R. 3:26(d)(iii). "The public interest advanced by granting a temporary injunction outweighs the public interest in denying the motion." *Young v. Northam*, 107 Va. Cir. 281 (2021). That is because "it is always in the public interest to protect constitutional rights." *Carson v. Simon*, 978 F.3d 1051, 1061 (8th Cir. 2020). And "the public interest favors enjoining a constitutional violation." *Elhert v. Settle*, 105 Va. Cir. 544 (2020). At the very least, a preliminary injunction "is not contrary to the public interest," which is all that is required here. Va. Sup. Ct. R. 3:26(d).

The *Winter* and Rule 3:26 factors thus support a preliminary injunction under Counts 5 and 6 of the Complaint. Emergency relief is necessary to prevent Plaintiffs' rights from being violated by having to participate in an amendatory process that does not strictly comply with Virginia's Constitution with the clock ticking and Defendants' scheduled date

for transmitting the defective ballot question on March 2, 2026 with voting to start on March 6, 2026.

Scott v. James, 76 S.E. 283, 283 (Va. 1912), is no obstacle to the relief sought here. To start, *Scott* doesn't apply at all to Count 5, regarding an injunction compelling the Defendant clerks to *hold* the election no sooner than 90 days after the January 16, 2026 passage of the proposed constitutional amendment. In *Scott*, the Supreme Court declined to enter an injunction prohibiting the *submission* of a proposed amendment to the voters, in part because it didn't want to "interfere with the process of legislation." 114 Va. at 304 (cleaned up). But compelling affirmative ministerial duties doesn't "interfere with the process of legislation." *Id.* And *delaying* the election to April 16 doesn't *prohibit* the election from taking place. It merely ensures that the timing of the election complies with the Constitution's requirements. So *Scott* doesn't apply to Count 5, requiring affirmative compliance with the Timing Clause of Article XII.

Neither does *Scott* cover Count 6. In *Scott*, "'a taxpayer and citizen'" sought to enjoin the Secretary from submitting a proposed constitutional amendment to the people for a vote. *Id.* at 302-03. The General Assembly had adopted two proposed amendments modifying the rules for re-election of city treasurers and revenue commissioners. *Id.* at 300. Those amendments were submitted to the voters as a package, and they failed. The General Assembly then sought to resubmit them to the voters on separate ballots. Scott objected, arguing that the amendments couldn't be resubmitted to the people without going through the amendment process again, and asked the court to enjoin the Secretary from enforcing the act establishing the election. *Id.* at 301-02. The court declined, reasoning that "with few exceptions," it could not "enjoin the holding of an election." *Id.* at 304-05 (cleaned up).

Even if Plaintiffs were seeking to enjoin an act that "direct[s] an election to be held upon the proposed amendments," *id.* at 305, the *Scott* Court itself acknowledged that there are a "few" instances in which enjoining an election is justified. *Compare Scott*, 114 Va. at 307. The unconstitutional submission of a defective ballot question on a proposal for constitutional amendment that this Court has already ruled is void ab initio is one of those "few" instances. *Cf. League of Women Voters v. Utah State Legislature*, 559 P.3d 11, 29 (Utah 2024) (upholding preliminary injunction that "remove[s]" defective proposed constitutional amendment "from the printed ballots" and voids "any votes for or against the amendment").

Coleman v. Pross confirms this conclusion. In *Coleman*, as in *Scott*, the General Assembly adopted an act directing officials to hold an election "upon the ratification or rejection of certain proposed amendments to the Constitution of Virginia" affecting legislative sessions. *Coleman*, 219 Va. at 145. The "Acting Comptroller entertained doubts as to the constitutionality" of the proposed amendment because the two versions of the amendment adopted in the two legislative sessions were not "the same." *Id.* at 145, 154. The Attorney General sought a writ of mandamus ordering officials to hold the election. Rather than apply *Scott*'s reasoning that it couldn't "'interfere with the process of legislation,'" 114 Va. at 304, the Court in *Coleman* held that the proposed constitutional amendment *couldn't* be submitted to the voters because it flunked the amendment procedures, 219 Va. at 1458-59. The two versions of the proposed amendment "were not the same," so "there ha[d] not been strict compliance" with "Article XII, Section 1 of the Constitution." *Id.*

Coleman, not *Scott*, applies here. "[I]n determining whether proposed amendments to the Constitution may properly be referred to the electorate, a standard of strict compliance with all specified prerequisites, rather than a standard of substantial compliance, must be applied." *Id.* at 158. That's because "[v]oters have the right to act on proposed constitutional amendments with confidence, secure in the knowledge that the proposals have been put to them for final action only after careful analysis, elimination of errors of form and substance." *Id.* The Plaintiffs in this case have no less a right today. They are thus entitled to emergency relief.

CONCLUSION

For these reasons, the Court should grant a temporary restraining order and preliminary injunction in Plaintiffs' favor on Counts 5 and 6 of the Verified Complaint. Plaintiffs respectfully request a hearing and ruling on their motion for preliminary injunction before March 2, 2026.

Respectfully submitted February 18, 2026

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