

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

MISSOURI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
LEAGUE OF WOMEN VOTERS OF
MISSOURI; D. RENE POWELL; and
KIMBERLY MORGAN;

Plaintiffs,

v.

STATE OF MISSOURI

SERVE: Missouri Attorney General's Office
Supreme Court Building
207 West High Street
Jefferson City, Missouri 65102;

JOHN R. ASHCROFT, in his official capacity
as Missouri Secretary of State

SERVE: Capitol Building, Room 208
Jefferson City, Missouri 65101;

Defendants.

Case No.

Division

PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs, Missouri State Conference of the National Association for the Advancement of Colored People, League of Women Voters of Missouri, D. Rene Powell, and Kimberly Morgan, upon knowledge with respect to their own acts and on information and belief as to other matters, hereby allege for this petition for injunctive and declaratory relief:

INTRODUCTION

1. The Missouri Constitution guarantees that “all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Mo. Const. Art. I, § 25.

2. The Missouri Constitution also clearly defines voter qualifications: “All citizens of the United States, including occupants of soldiers’ and sailors’ homes, over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people” Mo. Const. Art. VIII, § 2.

3. The Missouri Constitution further provides that: “[A]ll constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.” Mo. Const. Art. I, § 2.

4. The right to vote and the right to equal protection under the laws “are the core of Missouri’s constitution and, hence, receive state constitutional protections even more extensive than those provided by the federal constitution.” *Weinschenk v. State*, 203 S.W.3d 201, 204 (Mo. banc 2006).

5. In *Weinschenk*, 203 S.W.3d 201 and *Priorities USA v. State*, 591 S.W.3d 448 (Mo. banc 2020), *reh’g denied* (Jan. 30, 2020), the Missouri Supreme Court confirmed the fundamental right to vote and struck down laws requiring that only limited forms of photographic identification (“photo ID”) must be presented to vote. The Missouri Supreme Court has “made clear that

requiring individuals to present photo identification to vote is unconstitutional.” *Priorities*, 591 S.W.3d at 459.

6. Following the *Priorities* decision, Missouri voters maintained multiple options for voting in person at the polling place: (1) providing a form of photo ID, (2) providing an alternative secondary form of ID (e.g., a voter registration or notification card from the election authority, a Missouri student ID, or a copy of a current utility bill or bank statement), or (3) casting a provisional ballot. § 115.427, RSMo (2016).

7. House Bill 1878, effective August 28, 2022 (HB 1878), impinges upon the fundamental right to vote by restricting the identification options that registered voters may present to vote both in person at the polls and in-person absentee. HB 1878, § A (to be codified at § 115.427, RSMo and § 115.277, RSMo) (the “Voter ID Restrictions”).¹

8. The Voter ID Restrictions eliminate the second option of providing a form of secondary ID (e.g., a voter registration card, a student ID, or a copy of a utility bill or bank statement), and instead, require all registered voters in Missouri to either: (1) provide a non-expired acceptable Missouri or federal photo ID, or (2) cast a provisional ballot, which requires the voter to either return the same day with a non-expired acceptable photo ID or rely upon an arbitrary, standardless, and unreliable signature-matching process in order to count.

9. The Voter ID Restrictions will require those who lack one of the specified forms of photo ID, including individual Plaintiffs and members of organizational Plaintiffs, to expend time, resources, and effort navigating bureaucracies to acquire the requisite underlying documentation and an acceptable form of photo ID to vote.

¹ Section 115.277 provides that a person may cast an in-person absentee ballot if they meet certain requirements. Section 115.277 further provides that “[a] registered voter casting a ballot under the provisions of this subsection shall provide a form of personal photo identification that is consistent with subsection 1 of section 115.427.”

10. These burdens in obtaining the now required photo ID to vote will be faced by voters who have already overcome the bureaucratic hurdles necessary to register to vote and who have been deemed eligible to vote by the State.

11. Civic organizations that represent populations who disproportionately lack one of the acceptable forms of a non-expired photo ID to vote and face significant barriers to obtaining one (e.g., racial minorities, people living in poverty, rural Missourians, students, senior citizens, Missourians with disabilities, Missourians returning from incarceration, unhoused Missourians), including the Missouri State Conference of the National Association for the Advancement of Colored People (“Missouri NAACP”) and the League of Women Voters of Missouri (“LWVMO”), will now be required to expend and divert resources to ameliorate confusion among voters related to what identification will be needed to vote and to assist voters with understanding how to obtain acceptable forms of identification as well as documentation needed to acquire a non-expired acceptable photo ID.

12. The Voter ID Restrictions substantially and severely burden the fundamental right to vote by restricting the ability to cast a regular ballot to only those who possess certain limited, narrow forms of photo ID, by imposing unnecessary obstacles to voting for the population of Missourians who lack an acceptable form of photo ID, and by requiring civic organizations to expend and divert resources educating their members and the public about the new Voter ID Restrictions.

13. Because the Voter ID Restrictions impose a severe, substantial, and heavy burden on fundamental right to vote protected by the Missouri Constitution, they are subject to strict scrutiny. These onerous restrictions cannot satisfy any level of judicial scrutiny, however, as they are neither necessary nor narrowly tailored to advance any compelling state interest.

14. The Voter ID Restrictions are unconstitutional both facially and as applied to all Missourians who lack the limited photo ID required by this law to cast a regular ballot, including Plaintiffs' members and Plaintiffs D. Rene Powell and Kimberly Morgan.

15. Plaintiffs request that this Court declare the Voter ID Restrictions unconstitutional and enjoin their application in all future elections.

JURISDICTION AND VENUE

16. This Court maintains original subject-matter jurisdiction over this action under §§ 526.030 and 527.010 of the Missouri Revised Statutes and Missouri Rule of Civil Procedure 87.01.

17. Venue is proper in this Court because Secretary of State John R. Ashcroft maintains an office in Cole County, Missouri.

PARTIES

A. Plaintiffs

18. The Missouri NAACP is a statewide membership organization.

19. In Missouri, the Missouri NAACP is the chief unit of the National Association for the Advancement of Colored People ("NAACP"), whose mission is: (i) to ensure the political, education, and economic equality of rights of all persons; (ii) to achieve equality of rights and eliminate racial prejudice among the citizens of the United States; (iii) to remove all barriers of racial discrimination through democratic processes; (iv) to seek the enactment of federal, state, and local laws securing civil rights; to inform the public of the adverse effects of racial discrimination and to seek its elimination; (v) to educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof; and (vii) to take any other lawful action utilizing the tools available to a 501(c)(4) organization in furtherance of these objectives.

20. The Missouri NAACP has thousands of members across the state, divided into more than twenty local units.

21. The mission of the Missouri NAACP, which aligns with the NAACP, is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. Its objectives include seeking enactment and enforcement of laws securing civil rights as well as educating people as to their rights.

22. The issues upon which the Missouri NAACP and the NAACP are largely focused, include: Race & Justice (fighting racial injustice by building Black political, social, and economic power), Education Innovation (a world-class education for all students), Environmental & Climate Justice (an environmental, social and economic revolution), Inclusive Economy (mobility and a thriving Black economy), Health & Well-being (an inclusive culture of health and equitable social health systems), Next Generation Leadership (support for young leaders and change agents), Advocacy & Litigation (fair and just representation for all by standing up for the rights of Black Americans in the courts and in Congress).

23. A key objective for the Missouri NAACP and NAACP is to make sure that Black voters and other underserved communities are engaged and encouraged to vote in every election.

24. Voting is a foundational value of the Missouri NAACP. The organization believes that enabling all Missourians to exercise their fundamental right to vote is vital to ensuring equal citizenship and achieving the organization's substantive policy goals.

25. The Missouri NAACP is an active member of the Missouri Voter Protection Coalition, which works to secure the rights of all voters in Missouri.

26. The Missouri NAACP conducts substantial voter engagement and education work in furtherance of its mission, including outreach and activities that communicate and advance its views about the importance of voter registration and access to absentee voting.

27. The population that the Missouri NAACP strives to support and encourage to vote (marginalized and underserved populations) stand to be disproportionately impacted by the implementation of HB 1878 and, specifically, the Voter ID Restrictions.

28. The Missouri NAACP provides voting-related outreach to, and advocacy on behalf of, its members and community, including outreach and advocacy related to voting requirements under Missouri law.

29. In order to fulfill its mission and increase voter turnout among its members and the communities it serves, the Missouri NAACP is expending and diverting resources educating the public on the Voter ID Restrictions and assisting those who need support obtaining an acceptable form of identification or the underlying documents necessary to obtain that form of identification.

30. The LWVMO is a statewide membership organization.

31. The LWVMO is a state chapter of the League of Women Voters (“LWV”).

32. Rooted in the suffrage movement that secured the right to vote for women, the LWVMO has worked to foster civic engagement and enhance access to the vote since the organization was founded in 1920.

33. The LWVMO works to ensure every citizen has the information and resources necessary to register and exercise their right to vote.

34. The LWV and the LWVMO seek to expand voter access and fight voter suppression.

35. For almost 100 years, the LWVMO has been dedicated to ensuring a free, fair, and accessible electoral system for all eligible citizens.

36. The LWVMO's goal is to safeguard the rights of all qualified voters—specifically those from traditionally underrepresented or underserved communities, including first-time voters, youth (both college and non-college), people with disabilities, new citizens, minorities, seniors, those with low income, and women—populations who stand to be disproportionately impacted by the Voter ID Restrictions.

37. The LWVMO is an active member of the Missouri Voter Protection Coalition, which works to secure the rights of voters in Missouri.

38. As a membership organization, the LWVMO is the state chapter and has nine local league chapters throughout the state.

39. The LWVMO's more than 1,300 members reside throughout Missouri.

40. LWV members who reside in Missouri are members of the LWVMO as well as their local league chapter.

41. The LWVMO provides voting-related outreach to and advocacy on behalf of its members and community members, including outreach and advocacy related to voting requirements under Missouri law, including the Voter ID Restrictions.

42. The LWVMO has members and works with communities that include individuals who do not have a photo ID that satisfies the Voter ID Restrictions.

43. In order to fulfill its mission and increase voter turnout among its members and the communities it serves, the LWVMO is expending and diverting resources educating the public on the Voter ID Restrictions and assisting those who need support obtaining an acceptable form of identification or the underlying documents necessary to obtain that form of identification.

44. D. Rene Powell is a resident of Columbia, Boone County, Missouri.

45. Ms. Powell is an eligible Missouri voter and is registered to vote in Missouri.

46. Ms. Powell fifty-two years old and is disabled due to epilepsy and mobility issues. Ms. Powell lives alone. Because of her disability, she is unable to drive and must rely upon public transportation, transportation services like Uber and Lyft, or the assistance of friends to get around.

47. Ms. Powell does not have a Missouri driver's license.

48. Ms. Powell does not have a passport.

49. Ms. Powell has never served in the Missouri National Guard or United States Armed Forces.

50. Ms. Powell has a Missouri state non-driver's ID that expired on December 29, 2021.

51. Ms. Powell also has alternative forms of non-photo ID that she could use to vote under current law (e.g., a voter registration card and current utility bills).

52. The only reason that Ms. Powell would need to get her expired photo ID renewed would be to vote.

53. Ms. Powell has voted regularly in all local, state, and national elections for the past 20 years.

54. Ms. Powell voted in the August 2022 Primary Election and plans to vote in the November 2022 General Election.

55. Upon information and belief, the Voter ID Restrictions will prevent Ms. Powell from relying upon her expired state-issued photo ID or alternative forms of identification to cast a regular ballot in elections after the November 2022 General Election.

56. To obtain a new form of ID that complies with HB 1878 and to cast a regular ballot in future elections, Ms. Powell will need to engage in significant time, effort, and planning, including arranging transportation, complying with bureaucratic requirements, and making physical efforts to visit and wait at the appropriate agencies.

57. Ms. Powell is a current member of the LWVMO and a board member of the LWV of Columbia-Boone County league chapter.

58. Kimberly Morgan is a resident of Fenton, Jefferson County, Missouri.

59. Ms. Morgan is an eligible Missouri voter and is registered to vote in Missouri.

60. Ms. Morgan is thirty-five years old and stays at home raising her three young children.

61. Ms. Morgan does not drive.

62. Ms. Morgan's husband works fulltime.

63. Because of an error in 2003, Ms. Morgan's birth certificate incorrectly spells her first name as "Kimberley."

64. Ms. Morgan's current state issued non-driver's photo ID also spells her first name incorrectly as "Kimberley" as she had used her birth certificate to obtain her first state issued ID.

65. It was not until after Ms. Morgan had received her first state issued ID that she noticed the spelling error.

66. Ms. Morgan is married but did not change her name.

67. Ms. Morgan's marriage license also includes the incorrect spelling of her first name.

68. Ms. Morgan's social security card has the correct spelling of her name.

69. Ms. Morgan does not have a passport.

70. Ms. Morgan has never served in the Missouri National Guard or the United States Armed Forces.

71. Upon information and belief, the correct spelling of her first name was reflected on her original birth certificate, as it also appears on her social security card that was issued shortly after her birth, but despite her attempts, Ms. Morgan has been unable to locate the original birth

certificate and the only copy the department of vital records provided to her upon request includes the incorrect spelling of her first name.

72. Ms. Morgan was born in the City of St. Louis.

73. Ms. Morgan is registered to vote using her legal first name spelled correctly as “Kimberly.”

74. Ms. Morgan votes with her voter registration card.

75. Ms. Morgan has made attempts to correct the name spelling on her documents through administrative and bureaucratic means but has been unable to do so.

76. Ms. Morgan has voted regularly in local, state, and national elections for several years.

77. Ms. Morgan voted in the August 2022 Primary Election and wants to vote in the November 2022 General Election.

78. Upon information and belief, the Voter ID Restrictions will prevent Ms. Morgan from using her voter registration card and she cannot use her state-issued ID with the name misspelling or any other alternative forms of identification to vote with a regular ballot in future elections.

79. In order to obtain the necessary underlying documents for a photo ID acceptable for casting a regular ballot after August 28, 2022, Ms. Morgan will have to engage in significant time, effort, and planning, including determining as an initial matter whether she can obtain a corrected birth certificate, before identifying and complying with bureaucratic requirements to obtain a photo ID with the correct spelling of her name so that she can exercise her fundamental right to vote.

B. Defendants

80. Defendant State of Missouri is the entity responsible for enforcement of Missouri’s voting statutes, including the Voter ID Restrictions found in HB 1878, to be codified as § 115.427. It also provides state-issued IDs and certain underlying documents for voters who lack them.

81. Defendant John R. Ashcroft is the Missouri Secretary of State, the state's chief elections official, and responsible for implementation of laws related to voting, including HB 1878, to be codified as § 115.427, across the State. He is sued in his official capacity.

GENERAL FACTUAL ALLEGATIONS

Missouri's Constitutional Provisions and Established Legal Prohibition upon ID Laws

82. Missouri's "constitutional provisions establish with unmistakable clarity that the right to vote is fundamental to Missouri citizens." *Weinschenk*, 203 S.W.3d at 211; accord *Priorities*, 591 S.W.3d at 452; see also Mo. Const. Art. I, § 25; Mo. Const. Art. I, § 2; Mo. Const. Art. I, § 10; Mo. Const. Art. VIII, § 2.

83. The Missouri Constitution enumerates an exclusive list of qualifications that a person must have in order to have the right to vote in Missouri elections, guaranteeing that right to: "All citizens of the United States ... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if ... they are registered within the time prescribed by law." Mo. Const. Art. VIII, § 2. This exclusive list of qualifications establishes that individuals who are: (1) citizens of the United States; (2) over the age of eighteen; (3) residents of Missouri; (4) residents of the political subdivision in which they offer to vote; and (5) registered within the time prescribed by the law, "are entitled to vote at all elections by the people." *Id.*

84. The Missouri Constitution also provides the exclusive list of disqualifications to vote in Missouri: (1) a person who has a court-appointed guardian of his or her estate by reason of mental incapacity; and (2) a person who is involuntarily confined in a mental institution pursuant to a court adjudication. Mo. Const. Art. VIII, § 2.

85. Mo. Const. Art. VIII, § 2 grants the Missouri General Assembly the authority to make only one determination on qualifications to vote: the General Assembly may, if it chooses to do so, exclude by law from voting “persons convicted of a felony, or crime connected with the exercise of the right of suffrage.” *Id.*

86. In *Weinschenk*, 203 S.W.3d 201, the Missouri Supreme Court invalidated strict voter identification provisions implemented by S.B. 1014, 93rd Gen. Assemb., 2d Reg. Sess. (2006), which required Missouri voters to present certain limited forms of government-issued photo ID, specifically a document issued by a state or federal government that contains the person’s name as listed in the voter registration records, the person’s photograph, and an expiration date showing that the ID is not expired. § 115.427.1 (2005) (the court noted that “[i]n practical effect, the only documents that most Missourians would have that could meet these requirements are a Missouri driver’s or non-driver’s license or a United States passport”).

87. The *Weinschenk* court held that the ID requirements under SB 1014 violated fundamental voting rights and equal protection under the Missouri Constitution. *Id.* at 204.

88. The *Weinschenk* court emphasized the “practical costs” that would be incurred by Missouri voters seeking an acceptable form of photo ID, who would have to navigate complicated bureaucracies simply to exercise their constitutional right to vote, and the time it would take for a voter to receive the required documents—burdens that the individuals most likely to lack the required documentation were least likely to be able to surmount. *Id.* at 208–09, 214–15.

89. The *Weinschenk* court also found that the State’s asserted interest in preventing voter fraud could not justify this burden for purposes of the strict scrutiny analysis because the photo ID requirement “could only prevent a particular type of voter fraud [(voter impersonation)] that the record d[id] not show [wa]s occurring in Missouri.” *Id.* at 218.

90. Ten years after *Weinschenk*, Missouri legislators again attempted to implement strict photo identification requirements for voting by amending § 115.427, in H.B. 1631, 98th Gen. Assemb., 2d Reg. Sess. (2016).

91. HB 1631 maintained photo ID requirements, but also included an alternative option: otherwise-qualified voters who lacked one of the prescribed forms of ID could vote with a secondary form of ID, including: (1) any ID issued by the state of Missouri or the federal government, a state or federal agency, or a local election authority, (2) ID issued by a university, college, vocational, or technical school within the state of Missouri, or (3) a copy of a current utility bill, bank statement, government check, paycheck, or other government document showing the voter's name and current address. However, a voter using a secondary form of ID was required to sign an affidavit confirming their identity and averring that they “do not possess personal identification approved for voting, are eligible to receive a Missouri nondriver's license free of charge, and are required to present a form of personal identification to vote.” § 115.427 (2016).

92. In *Priorities*, the Missouri Supreme Court struck down the affidavit requirement of HB 1631's photo ID scheme. The court held that the affidavit language was unconstitutional because it was “misleading and contradictory.” 591 S.W.3d at 455. While the court invalidated the affidavit requirement, it maintained alternative secondary ID options, determining that voters could present any of the enumerated secondary forms of ID instead of limiting the statute to strict photo ID requirements (e.g., a voter registration card, a student ID, or a copy of a utility bill or bank statement). *Id.* at 458–59.

93. In preserving alternative secondary ID requirements, the *Priorities* court reaffirmed the fundamental voting rights established by *Weinschenk*.

94. The *Priorities* court found that removing the option to vote with a secondary ID, which would leave only the narrower photo ID provision and the provisional ballot signature-matching alternative (which is what HB 1878 also does with the mostly recently enacted Voter ID Restrictions), posed the same problems as the scheme invalidated in *Weinschenk* and “could not have been adopted by this Court.” *Id.* at 459.

95. The *Priorities* court noted substantial evidence that the inadequacy of signature-matching necessary to count a provisional ballot cast by a voter without a photo ID—lack of training or uniform standards, age, and illness—“could result in an over-rejection of legitimate signatures[.]” *id.* at 458, n.15, leaving voters who wanted to be certain their ballots were counted with the same, singular option they had under the statute challenged in *Weinschenk*: obtain a photo ID. *Id.* at 458.

96. The *Priorities* court reaffirmed that obtaining proper ID requires “appropriate documentation, time, and the ability to navigate bureaucracies.” *Id.* at 359. These hurdles “require substantial planning in advance of an election to preserve the right to vote,” burdening even those voters who successfully overcome them and disenfranchising those who cannot. *Id.* (quoting *Weinschenk*, 203 S.W.3d at 215).

97. The HB 1631 version of the statute also allowed an eligible voter to obtain one non-driver’s license and a copy of each the requisite underlying documents at no cost. *Id.*

98. The *Priorities* court rejected the dissent’s attempt to distinguish the two laws because HB 1631, unlike its predecessor, required the state to provide one non-driver’s license without cost as well as free underlying documentation necessary to get a Missouri ID, such as a certified birth certificate. *Id.* at n.16. As there was record evidence of a plaintiff wrongly having to pay for a non-driver’s license, and as only the first license was free, HB 1631 still unconstitutionally attached

direct financial cost to the fundamental right to vote (e.g., if someone possessed a non-expired ID but lost or could not locate it or had an expired ID on file with the state). *Id.* Moreover, the Court concluded that the severe practical burdens that accompany obtaining an ID were just as important to SB 1014’s unconstitutionality as its financial burden was. *Id.* Because of these burdens, and because “[i]n *Weinschenk* [the] Court made clear that requiring individuals to present photo identification to vote is unconstitutional,” the Court determined that HB 1631 could not have survived without the secondary ID alternative. *Id.* at 458-59.²

99. In effect, the Voter ID Restrictions imposed by HB 1878 implement a scheme that Missouri Supreme Court refused to accept in *Weinschenk* and *Priorities*: requiring a photo ID for in-person voting; eliminating all previously permissible secondary forms of ID; and offering as the only alternative casting a provisional ballot, which will only be counted if the voter returns to their polling place the same day with a photo ID or can have their signature accepted via the arbitrary signature-matching process. *Id.*

The Voter ID Restrictions

100. On May 12, 2022, the Missouri General Assembly truly agreed to and passed House Bill 1878, 101st Gen. Assemb., 2d Reg. Sess. (2022).

² Specifically, the *Priorities* court wrote:

“In effect, the dissenting opinion’s proposal to sever option two in its entirety would result in individuals having to present government-issued photo identification to ensure their votes are counted. In *Weinschenk*, this Court made clear that requiring individuals to present photo identification to vote is unconstitutional. 203 S.W.3d at 219. *Weinschenk* emphasized that some individuals, due to their personal circumstances, experience hurdles when attempting to obtain photo identification, *id.* at 215, a concern that remains relevant in the instant case. Obtaining photo identification requires appropriate documentation, time, and the ability to navigate bureaucracies. *Id.* “Those things that require substantial planning in advance of an election to preserve the right to vote can tend to ‘eliminate from the franchise a substantial number of voters who did not plan so far ahead.’” *Id.* (quoting *Harman v. Forssenius*, 380 U.S. 528, 539-40 (1965)). For these reasons, the dissenting opinion’s first proposed remedy poses constitutional concerns and could not have been adopted by this Court.”

101. Governor Michael Parson signed HB 1878 into law on June 29, 2022.

102. The provisions of HB 1878 will go into effect on August 28, 2022.

103. HB 1878 introduces sweeping restrictions on voting rights, including new limitations upon voter identification, voter registration efforts, and absentee voting.

104. Plaintiffs challenge the provisions of HB 1878 that effectively require a specific form of photo ID for all in-person voting at the polling place on election day under amended § 115.427 and for in-person absentee voting under amended § 115.277 (the “Voter ID Restrictions”).

105. HB 1878 repeals and amends certain voting identification provisions of § 115.427.

The newly effective provisions of 115.427.1 will establish the following photo ID requirements:

Persons seeking to vote in a public election shall establish their identity and eligibility to vote at the polling place or, if voting absentee in person under section 115.277, at the office of the election authority or other authorized location designated by the election authority by presenting a form of personal photo identification to election officials. No form of personal photo identification other than the forms listed in this section shall be accepted to establish a voter's qualifications to vote. Forms of personal photo identification that satisfy the requirements of this section are any one of the following:

- (1) Nonexpired Missouri driver's license;
- (2) Nonexpired or nonexpiring Missouri nondriver's license;
- (3) A document that satisfies all of the following requirements:
 - (a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;
 - (b) The document shows a photograph of the individual;
 - (c) The document includes an expiration date, and the document is not expired, or, if expired, the document expired after the date of the most recent general election; and
 - (d) The document was issued by the United States or the state of Missouri; or
- (4) Any identification containing a photograph of the individual which is issued by the Missouri National Guard, the United States Armed Forces, including the Space Force, or the United States Department of Veteran Affairs to a member or

former member of the Missouri National Guard or the United States Armed Forces, including the Space Force, and that is not expired or does not have an expiration date.

106. HB 1878 establishes a new requirement that persons voting absentee in person under § 115.277, at the office of the election authority or other authorized location designated by the election authority, must also show an acceptable form of personal photo ID.³

107. HB 1878 also repeals the previously available alternative secondary ID options under § 115.427 (2016) that were preserved by the *Priorities* court, which allowed a voter to cast a regular, non-provisional ballot if they signed an affidavit and could present certain specified secondary forms of ID (e.g., a voter registration card, a Missouri student ID, or a copy of a utility bill or bank statement).

108. Sections 115.427.2–4 and 115.427.3, as amended, provide the provisional ballot process for a voter who does not present the required photo ID at the polling place. To be counted, the affidavit on the provisional ballot envelope must be complete, must be signed by the voter, must be signed by a poll worker from each political party. *Id.*

109. A provisional ballot cast under this section shall not be counted unless the voter returns during polling hours with a valid and acceptable form of personal photo ID, or “[t]he election authority verifies the identity of the individual by comparing that individual’s signature to the signature on file with the election authority and determines that the individual was eligible to cast a ballot at the polling place where the ballot was cast.” § 115.427.2–4.

110. A voter who casts a provisional ballot must incur the additional burden of retrieving their acceptable form of photo ID, assuming they have one, and making another trip to the polling

³ Section 115.277 provides that a person may cast an in-person absentee ballot if they meet certain requirements. Section 115.277 further provides that “[a] registered voter casting a ballot under the provisions of this subsection shall provide a form of personal photo identification that is consistent with subsection 1 of section 115.427.”

place before the polls close on election day or subject their fundamental right to vote to the vagaries of an entirely subjective, standardless, unreliable, and arbitrary signature-matching process and ensure the affidavit on the provisional ballot envelope is complete and signed by multiple individuals.

111. HB 1878 requires all in-person voters to provide an acceptable form of photo ID to cast a regular, non-provisional ballot.

112. The Voter ID Restrictions do not provide any exceptions for voters who face barriers to obtaining a current Missouri or federal photo ID for various reasons, such as voters who are disabled, ill, elderly, hold religious objections, lack the underlying documentation necessary to get a state ID, or lack transportation or ability to get to a motor vehicle office.

113. By imposing a substantial and severe burden on the fundamental right to vote under the Missouri Constitution, the Voter ID Restrictions suffer from the same infirmities that the Missouri Supreme Court addressed in *Weinschenk* and *Priorities* and are therefore unconstitutional.

114. HB 1878 also amends current § 115.417.5 to eliminate existing requirements that the Secretary of State provide “advance notice” of personal identification requirements, including “at a minimum, the use of advertisements and public service announcements in print, broadcast television, radio, and cable television media, as well as the posting of information on the opening pages of the official state internet websites of the secretary of state and governor.”

115. Amended § 115.417.5 merely requires that “[t]he secretary of state shall provide notice of the personal photo identification requirements described in subsection 1 of this section on the official state internet website of the secretary of state.”

116. HB 1878 repeals current § 115.417.3, removing language providing for appropriation of implementation costs from the general revenue of state funds.

117. As a result of the elimination of State outreach and funding requirements under HB 1878, the Missouri NAACP and the LWVMO have been and will continue to shift their resources to provide education and assistance to their members and the public regarding the Voter ID Restrictions.

118. The Voter ID Restrictions will cause confusion to voters leading up to and during the upcoming November 2022 Missouri statewide General Election and future elections, particularly as they are being enacted mid-way through the 2022 election cycle.

119. The Voter ID Restrictions will result in disenfranchisement of eligible voters during the upcoming November 2022 Missouri statewide General Election and future elections.

120. The November 2022 Missouri statewide General Election ballot will include elections for the offices of U.S. Senator, U.S. Representative, State Senator, State Representative, State Auditor, Justices of the Missouri Supreme Court, and intermediate appellate court judges, along with local office and ballot measures.

***The Voter ID Restrictions Impose a Severe and Substantial Burden
Upon the Fundamental Right to Vote***

121. An individual seeking to obtain personal photo ID in order to vote will need to obtain underlying documentation, which may include: (a) a birth certificate; (b) a marriage license or certificate; (c) a divorce decree; (d) a certificate of decree of adoption; (e) a court order changing the person's name; (f) a social security card reflecting an updated name; and/or (g) naturalization papers or other documents from the United States Department of State proving citizenship.

122. Obtaining underlying documentation needed to apply for personal photo ID acceptable for voting may require the voter to identify, determine the requirements of,

communicate with, and visit various federal, state, and local agencies, such as the local health or vital records departments, the Missouri Department of Health and Senior Services, the Recorder of Deeds for the applicable county, the Circuit Court for the applicable county, the Social Security Administration, and the United States Department of State.

123. The Voter ID Restrictions do not provide any exception or alternative for eligible voters who are unable to obtain the underlying documentation or undertake the process to get an ID at a Missouri motor vehicle office to cast a regular, non-provisional ballot in person.

124. Although amended § 115.427.6 provides generally that an individual may obtain one free copy of a nondriver's license and of certain specific underlying documents for voting purposes and "may request the secretary of state to facilitate the acquisition of such documents," the statute does not provide specific guidance on how an individual may make or the Secretary of State may fulfill such a request nor would this cover someone who possesses such identification but lost or misplaced it or cannot locate it because it has been destroyed (e.g., in a fire or flood).

125. Amended § 115.427.6 does not provide for a free copy of a driver's license for voting purposes.

126. Hundreds of thousands of Missouri voters are likely to be impacted by the Voter ID Restrictions.

127. A February 2017 No-Match Analysis conducted at the request of Secretary of State Ashcroft comparing the voter rolls against those with state IDs on file with the Missouri Department of Revenue found: 137,723 registered voters in Missouri did not have a Department of Revenue ID (*i.e.*, a driver's license, non-driver's license, or instruction permit); 140,073 registered voters had an expired Department of Revenue ID (*i.e.*, a driver's or non-driver's license); and 2,040 registered voters had forfeited their driver's licenses.

128. The Voter ID Restrictions will likely increase the number of provisional ballots cast and lead to voter confusion. *See* L.R. No. 4557S.05T, Comm. on Leg. Research, Oversight Division, Fiscal Note (HB 1878), at 14 (June 3, 2002) (“Requiring photo ID for voters would likely increase the amount of provisional votes cast which would need to be processed by election board staff within the certification period...This provisions also eliminates the duty of the SOS to inform the public of the new ID requirement; lack of information would likely lead to confusion on the part of the voter; and lead to casting of more provisional ballots.”).

129. The Secretary of State previously noted that provisional ballots are not an acceptable substitute for voters lacking appropriate ID because they are so rarely counted. For example, “[i]n the 2012 Presidential Election, fewer than 3 in 10 provisional ballots were counted.” Office of the Missouri Secretary of State, *House Bill 1073 Impact Report: The Effect on Missouri Voters*, at 4 (Feb. 2014), <https://www.sos.mo.gov/CMSImages/NewsReleases/2014ImpactReport.pdf>.

130. A study of votes in recent elections “shows that strict photo identification laws have a differentially negative impact on the turnout of Hispanics, Blacks, and mixed-race Americans in primaries and general elections. Voter ID laws skew democracy in favor of whites and those on the political right.” Zoltan Hajnal, et al., *Voter Identification Laws and the Suppression of Minority Votes*, 79 J. OF POLITICS 2 (2017).

131. The Voter ID Restrictions will require Plaintiff Ms. Powell to expend substantial time, effort, and planning to obtain a new photo ID in compliance with the Voter ID Restrictions, including arranging transportation, determining and complying with bureaucratic requirements, and making physical efforts to visit and wait at the appropriate agencies. If she does not engage in efforts to navigate bureaucracies and undertake the processes of acquiring the proper

documentation and applying for a photo ID, Ms. Powell will be prevented from exercising her fundamental right to vote.

132. The Voter ID Restrictions will require Plaintiff Ms. Morgan to expend substantial time, effort, and planning in order to obtain underlying documentation and a photo ID that reflects her correct legal name and complies with the new law. If she does not engage in efforts to navigate bureaucracies and undertake the same time-consuming and confusing processes of acquiring the proper underlying documentation and applying for a photo ID, Ms. Morgan will be prevented from exercising her fundamental right to vote.

133. Upon information and belief, members of the Missouri NAACP and the LWVMO do not have acceptable photo ID that complies with the Voter ID Restrictions and will be prohibited from voting in future elections.

134. Upon information and belief, members of the Missouri NAACP and the LWVMO face uncertainty and confusion about the scope and requirements of the Voter ID Restrictions and will be dissuaded from exercising their right to vote.

135. Plaintiffs the Missouri NAACP and the LWVMO and other civic organizations are diverting resources, and will continue to do so, to educate and assist their members and eligible voters throughout Missouri to address confusion, uncertainty, and compliance with the Voter ID Restrictions.

136. The Missouri NAACP will be preparing public service announcements to air on local radio stations to educate their members and others in the community about the Voter ID Restrictions.

137. The Missouri NAACP is involved in the creation of ID assistance clinics that will help those who need acceptable forms of ID for voting obtain them.

138. The Missouri NAACP will develop educational materials to distribute to members and the public related to the Voter ID Restrictions. These materials would typically focus on increasing voter turnout and educating members on substantive issues in upcoming elections, but resources will now have to be shifted from those efforts to inform the public about the Voter ID Restrictions.

139. The LWVMO is preparing to participate in education, outreach, and other trainings to inform its members and the community about the Voter ID Restrictions.

140. The first page of the LWVMO's current website has a prominent message about HB 1878 and the Voter ID Restrictions.

141. The LWVMO plans to create additional paid media communications to notify members and other voters about the Voter ID Restrictions.

142. The LWVMO will train interested members on the availability of resources to help registered voters who lack the necessary underlying documents to obtain an acceptable photo ID for voting.

The Voter ID Restrictions Cannot Satisfy Any Level of Scrutiny

143. The Voter ID Restrictions impose severe and substantial burdens on the fundamental right to vote which are not justified by a sufficient state interest.

144. No change in any purported state interest has occurred since the Missouri Supreme Court held in *Weinschenk* that “the Photo-ID Requirement could only prevent a particular type of voter fraud that the record does not show is occurring in Missouri, yet it would place a heavy burden on the free exercise of the franchise for many citizens of this State.” *Weinschenk*, 203 S.W.3d at 218 (finding that photo ID requirement was not narrowly tailored to accomplish purpose

of preventing voter impersonation fraud); *see also Priorities*, 591 S.W.3d at 455 (finding affidavit requirement scheme did “not pass muster under any level of scrutiny”).

145. While legislative proponents have cited the prevention of voter fraud as the purported justification for the Voter ID Restrictions, there has been no evidence of voter impersonation fraud at the polls in the past twenty years since Missouri introduced its first voter ID law in 2002.

146. To the contrary, Secretary of State Ashcroft repeatedly confirmed that the most recent General Election in 2020 was “secure[]”⁴ and “successful”⁵ despite the many challenges to voting presented by the COVID-19 pandemic. Two rare cases of alleged voter fraud in Missouri in the 2020 election involved allegedly double voting rather than voter impersonation fraud, the only irregularity potentially addressed by the Voter ID Restrictions, and “Secretary Ashcroft is confident these isolated issues are not indicative of problems with Missouri elections.”⁶

147. The Voter ID Restrictions are not narrowly tailored to combating voter impersonation fraud, which is virtually non-existent in Missouri.

148. Additionally, HB 1878 eliminates the requirement under the pre-amended version of § 115.427.8, RSMo (2016), that voters sign a precinct register. This existing signature requirement already provided a safeguard for confirming a voter’s identity and qualification to vote. *Priorities*, 591 S.W.3d at 457 (finding that precinct register requirement made affidavit for voters presenting alternate forms of non-photo ID futile).

⁴ Jason Hancock, *Jay Ashcroft Touts Integrity of Missouri’s 2020 Election, but Supports an Audit*, Mo. Indep. (Nov. 22, 2021), <https://missouriindependent.com/2021/11/22/jay-ashcroft-touts-integrity-of-missouris-2020-election-but-supports-an-audit>.

⁵ Press Release, John R. Ashcroft, Mo. Sec’y of State, *Ashcroft Applauds Missourians for Smooth Election, High Turnout* (Nov. 4, 2020), <https://www.sos.mo.gov/default.aspx?PageId=9966>.

⁶ Press Release, John R. Ashcroft, Mo. Sec’y of State, *Ashcroft Uncovers Voter Fraud and Demands Prosecution* (Aug. 26, 2021), <https://www.sos.mo.gov/Ashcroft-Uncovers-Voter-Fraud-Demands-Prosecution>.

COUNT I

The Voter ID Restrictions Violate Fundamental Right to Vote under the Missouri Constitution

149. Plaintiffs reallege and incorporate by reference the allegations of the preceding paragraphs.

150. The Missouri Constitution expressly guarantees that “all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Mo. Const. Art. I, § 25.

151. The Missouri Constitution provides an exclusive list of qualifications necessary to vote in Missouri. Mo. Const. Art. VIII, § 2 (“All citizens of the United States ... over the age of eighteen who are residents of this state and of the political subdivision in which they offer to vote are entitled to vote at all elections by the people, if ... they are registered within the time prescribed by law”).

152. The Voter ID Restrictions burden fundamental voting rights in violation of Article I, § 25 of the Missouri Constitution by eliminating the option to provide certain alternative non-photographic forms of ID to vote, and requiring qualified Missouri voters, including Plaintiffs Ms. Powell and Ms. Morgan and members of the Missouri NAACP and the LWVMO, to either: (i) present a limited form of photo ID, which requires significant time, effort, and advance planning to obtain; or (ii) cast a provisional ballot, which will be subject to an arbitrary review process and the risk of rejection. *Weinschenk*, 203 S.W.3d 201; *Priorities*, 591 S.W.3d 448.

153. There is no compelling state interest that justifies the burdens upon the fundamental right to vote imposed by the Voter ID Restrictions.

154. The Voter ID Restrictions constitute an unconstitutional scheme that cannot withstand judicial scrutiny, as confirmed in *Weinschenk*, 203 S.W.3d 201 and *Priorities*, 591 S.W.3d 448.

155. Plaintiffs expressly state that they are not asserting or attempting to assert any claim under the United States Constitution or any federal statute.

156. Plaintiffs face irreparable injury to their—and, for Plaintiffs the Missouri NAACP and the LWVMO, their members’—fundamental right to vote absent an injunction of the Voter ID Restrictions.

COUNT II

The Voter ID Restrictions Unduly Burden the Fundamental Right to Vote in Violation of the Equal Protection Clause of the Missouri Constitution

157. Plaintiffs reallege and incorporate by reference the allegations of the preceding paragraphs.

158. Article I, Section 2 of the Missouri Constitution provides that “all persons are created equal and are entitled to equal rights and opportunity under the law.”

159. The Voter ID Restrictions impose severe and substantial burdens on the fundamental right to vote of a significant number of eligible voters that are neither justified by, nor necessary to promote any substantial or compelling state interest that is not already being adequately protected by existing election laws and procedures, or which could not have been advanced using other, less restrictive and less burdensome alternatives.

160. Defendants have not advanced any substantial or compelling state interest that justifies the severe burdens imposed by the Voter ID Restrictions upon Missouri voters, including Plaintiffs Ms. Powell and Ms. Morgan and members of Plaintiffs the Missouri NAACP and the LWVMO, who do not possess an acceptable form of photo ID.

161. The Voter ID Restrictions are not strictly necessary nor narrowly tailored to any State interest.

162. The Voter ID Restrictions will disproportionately impact protected classes of people, particularly voters who are people of color and voters with disabilities.

163. The Voter ID Restrictions have deprived and will continue to deprive Missouri voters of fundamental rights secured to them by the Missouri Constitution. Plaintiffs expressly state that they are not asserting or attempting to assert any claim under the United States Constitution or any federal statute.

164. The Missouri NAACP and the LWVMO are membership organizations and protecting voting rights and increasing voter participation is germane to their purpose.

165. The Missouri NAACP and the LWVMO have already and will continue to divert resources to educate and assist their members and eligible voters throughout Missouri to address confusion, uncertainty, and compliance with the Voter ID Restrictions.

WHEREFORE, Plaintiffs pray this Court:

- A. Enter a declaratory judgment that the Voter ID Restrictions imposed by HB 1878, to be codified at § 115.427, RSMo and § 115.277, RSMo, violate the Missouri Constitution both facially and as applied and may not be enforced;
- B. Issue a permanent injunction prohibiting Defendants and anyone acting in concert with them from enforcing the Voter ID Restrictions imposed by HB 1878, to be codified at § 115.427, RSMo and § 115.277, RSMo; and
- C. Allow such other and further relief as is proper under the circumstances.

Respectfully submitted,

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