No. 26-1258

In the United States Court of Appeals for the Eighth Circuit

State of Missouri, ex rel.
Catherine L. Hanaway, Attorney General of Missouri,
Plaintiff-Appellant,

v.

Starbucks Corporation,
Defendant-Appellant.

On Appeal from the United States District Court for the Eastern District of Missouri No. 4:25-cv-00165
(Hon. John A. Ross)

BRIEF OF AMICI CURIAE FLORIDA, AND 19 STATES IN SUPPORT OF APPELLANT AND REVERSAL

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INTRODUCTION AND INTEREST OF AMICI

Missouri initiated this lawsuit to protect its citizens from invidious racial discrimination stemming from a Fortune 500 company's illegal employment practices. In doing so, Missouri engaged in the longstanding tradition of bringing a lawsuit in *parens patriae* to protect its "residents from the harmful effects of discrimination." *Alfred L. Snapp & Son v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 609 (1982). The State's ability to protect its citizens is part of a longstanding tradition that has always understood "[t]he sovereign, as parens patriae, is the general conservator of his people." 2 William Blackstone, Commentaries on the Laws of England 250 (Kerr, 4th ed. 1876).

Yet the district court refused to allow Missouri to challenge Starbucks' policy. It did so by turning *parens patriae* standing from a State power into "an additional hurdle" that the State must surmount. Order at 24 (quotation omitted). That conception of *parens patriae* standing, however, defies centuries of history and a wealth of binding precedent, and ensures that widespread discrimination in Missouri goes unresolved. That should not stand.

Amici Florida and 19 States have a clear interest in ensuring that *parens patriae* standing remains an active means of safeguarding their citizens' rights. States possess not only the authority, but the duty, to ensure their citizens are protected from harms such as illegal discrimination. And States equally bear an interest in ensuring that their unique prerogatives as sovereigns in this constitutional order remain potent and honored.

ARGUMENT

I. Introduction

As has been true throughout our Nation's history, the "[p]rotection to life, liberty, and property rests primarily with the states." *Orr v. Gilman*, 183 U.S. 278, 286 (1902). States are separate sovereigns with a duty to care for their citizens, and that duty often entails litigation to vindicate these rights. This separate sovereignty and duty to their citizens helps explain why the Supreme Court has long recognized that "States are not normal litigants for the purposes of invoking federal jurisdiction." *Massachusetts v. EPA*, 549 U.S. 497, 518 (2007).

Indeed, States are far from the position of normal private litigants. *Georgia v. Tennessee Copper Co.*, 206 U.S. 230, 237–38 (1907). This unique role within the constitutional order has solidified the doctrine of *parens patriae* standing, which affords States the ability to vindicate quasi-sovereign interests on behalf of their citizens and the general welfare. When acting in this capacity, States are "entitled to special solicitude in our standing analysis." *Massachusetts*, 549 U.S. at 520.

The district court in this case, however, flipped this long-standing principle on its head. Instead of recognizing *parens patriae* as a unique

State *prerogative*, the district court turned the doctrine into a *burden*—requiring that Missouri prove the normal Article III elements of standing plus "the unique, additional hurdles of *parens patriae* standing." Order at 27. This inversion of State power ignores the storied history of *parens patriae* as a distinct power of the State and places the doctrine out-of-step with numerous other jurisdictions. This Court should reverse and allow Missouri to vindicate its interests in protecting its citizens from racial discrimination.

II. *Parens patriae* standing has a storied history in our western legal tradition.

The district court's reinterpretation of *parens patriae* standing finds no support in our country's legal history or tradition. In contrast to the district court's formulation, *parens patriae* has always been understood as a power belonging to the State. This basic understanding has been established for centuries. As William Blackstone explained, the British Crown enjoyed a certain "prerogative," which granted him a "special pre-eminence . . . over and above all other persons, and out of the ordinary course of the common law." Blackstone, Commentaries 212. The King was the "fountain of justice and general conservator of the peace of the kingdom." *Id.* at 236 (emphasis removed).

From these general principles followed specific responsibilities. "The sovereign, as parens patriae, is the general conservator of his people"—namely those who couldn't care for themselves, such as children or the mentally infirm. *Id.* at 250. This *parens patriae* duty further extended to the "general superintendence of all charities." *Id.* at 253. The sovereign, therefore, was tasked with actively safeguarding the public interest, especially for those who otherwise might have lacked the ability or capacity to vindicate their own interests.

The already robust *parens patriae* power only expanded under our Constitutional structure. *See Hawaii v. Standard Oil Co. of Cal.*, 405 U.S. 251, 257 (1972) ("The nature of the parens patriae suit has been greatly expanded in the United States beyond that which existed in England."). As Joseph Story explained, "[a] sovereign without the means of enforcing civil rights, or compelling the performance, either civilly or criminally, of public duties on the part of the citizens, would be a most extraordinary anomaly." Joseph Story, Commentaries on the Constitution of the United States § 1668 (1833).

Importantly, the States did not forfeit this robust conception of *parens patriae* to the federal government at the Founding. "In the United

States, the 'royal prerogative' and the 'parens patriae' function of the King passed to the States." *Hawaii*, 405 U.S. at 257. This followed from the fundamental premise—well understood at the Founding—that States too are sovereigns. *See, e.g.*, The Federalist No. 39 (Madison) ("Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act."); The Federalist No. 32 (Hamilton) ("But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, EXCLUSIVELY delegated to the United States."). The Supreme Court has also acknowledged this fact. *See Alden v. Maine*, 527 U.S. 706, 713 (1999) ("[T]he founding document specifically recognizes the States as sovereign entities." (quotation mark omitted)); *Heath v. Alabama*, 474 U.S. 82, 89 (1985) ("The States are no less sovereign with respect to each other than they are with respect to the Federal Government.").

One tangible aspect of State sovereignty is that States retained their unique prerogative to sue on behalf of the common good. "The states, by entering the Union, did not sink to the position of private

owners, subject to one system of private law." *Tenn. Copper Co.*, 206 U.S. at 237–38. As such, States retained the ability to enforce their "interest independent of and behind the titles of its citizens, in all the earth and air within its domain." *Id.* at 237. So much so that the Supreme Court deemed the common-law prerogative to sue in *parens patriae* "inherent in the supreme power of every State," and "often necessary to be exercised in the interests of humanity, and for the prevention of injury." *Late Corp. of the Church of Jesus Christ of Latter-Day Saints v. United States*, 136 U.S. 1, 57 (1890).

This robust power includes the ability to vindicate "quasi-sovereign interests" or those "interests that the State has in the well-being of its populace." *Alfred L. Snapp & Son*, 458 U.S. at 602; *see also id.* at 602–03 (noting States are "entitled to seek relief . . . because the matters complained of affect [their] citizens at large"). These interests include "the health and well-being—both physical and economic—of its residents in general." *Id.* at 607; *cf. Maryland v. Louisiana*, 451 U.S. 725, 737 (1981) (noting that each State "may act as the representative of its

citizens in original actions where the injury alleged affects the general population of a State in a substantial way").[1]

More recently, the Supreme Court has explained that this unique aspect of sovereignty ensures States are "entitled to special solicitude in [the Court's] standing analysis." *Massachusetts*, 549 U.S. at 520.

III. Numerous other courts have understood *parens patriae* standing as a prerogative of the States, not as an additional burden to prove standing.

A. As early as 1890, the United States Supreme Court acknowledged "the supreme power of every state" to advance litigation *parens patriae*. *Latter-Day Saints*, 136 U.S. at 57; *Georgia v. Penn. R. R. Co.*, 324 U.S. 439, 447 (1945) ("Suits by a state, parens patriae, have long been recognized."). Most other federal appellate courts have done the same. *See Connecticut v. Am. Elec. Power Co.,* 582 F.3d 309, 334–36 (2d Cir. 2009), *rev'd on alternative grounds,* 564 U.S. 410 (2011); *Burch v. Goodyear Tire & Rubber Co.*, 554 F.2d 633, 634–35 (4th Cir. 1977); *Texas v. Scott & Fetzer Co.*, 709 F.2d 1024, 1028 (5th Cir. 1983); *Indiana v.*

[1] Federal courts in Missouri have properly recognized this authority. *See Missouri ex rel. Bailey v. People's Republic of China*, 769 F. Supp. 3d 877, 882 (E.D. Mo. 2025) (allowing Missouri to proceed as *parens patriae* in a suit against China regarding the Covid-19 pandemic).

E.P.A., 796 F.3d 803, 810 n.5 (7th Cir. 2015); *Sierra Forest Legacy v. Sherman*, 646 F. 3d 1161, 1178–79 (9th Cir. 2011); *Sierra Club v. Two Elk Generation Partners,* 646 F.3d 1258, 1268–70 (10th Cir. 2011).

B. Despite the widespread recognition of *parens patriae* standing, courts have applied the doctrine in various ways. But at its root, *parens patriae* should grant states special solicitude by "relax[ing] the showing required for a state to establish standing." *Louisiana v. Ctrs. for Disease Control & Prevention*, 603 F. Supp. 3d 406, 425 (W.D. La. 2022). This basic formulation tracks the Supreme Court's holding that a State "can assert [its] right[s] without meeting all the normal standards" in the standing analysis. *Massachusetts,* 549 U.S. at 517–18.

This modification to typical standing analysis is crucial because it advances and recognizes comity between federal and state sovereigns. *See McGee v. Estelle*, 722 F.2d 1206, 1210 (5th Cir. 1984) ("Mutual respect among sovereigns for the legislative, executive, or judicial acts of each other constitutes the heart of [comity]."). The doctrine reflects federal courts' recognition that co-sovereigns need not prove each element of standing as an individual litigant would. *See Tenn. Copper Co.*, 206 U.S. at 237. The sovereign's determination of a relevant harm is credited in

the standing analysis because the very act of rectifying that wrong—by instigating an enforcement action—is an exercise of sovereign discretion meriting substantial credit or special solicitude. *See Snapp*, 458 U.S. at 607.

The district court missed this basic fact and instead imposed a heightened burden on Missouri to sue in *parens patriae*. *See* Order at 24 (relying on the dissent in *Massachusetts v. EPA* to require "a state litigant" to satisfy "an additional hurdle" to establish *parens patriae* standing). That logic runs counter to ample precedent that applies the doctrine of *parens patriae* with relaxed standing requirements.

Imminence and redressability. In *Massachusetts v. EPA,* for example, the United States Supreme Court held that *parens patriae* relaxes the "redressability and immediacy" requirements of standing for a "sovereign State." 549 U.S. at 517–18. Other courts followed suit. *Texas v. United States*, 40 F.4th 205, 216 (5th Cir. 2022) (per curiam) ("[Because] Texas is entitled to 'special solicitude,' . . . imminence and redressability are easier to establish here than usual."); *Texas v. Biden*, 20 F.4th 928, 970–71, 973–74 (5th Cir. 2021) ("[i]f nothing else," special solicitude "means imminence and redressability are easier to establish

here than usual") *rev'd on other grounds*, 597 U.S. 785 (2022); *Texas v. United States*, 50 F.4th 498, 520 (5th Cir. 2022) ("With special solicitude, . . . a state can establish redressability 'without meeting all the normal standards.'").

Injury in fact. In *Snapp*, the Supreme Court relaxed the injury requirement. "One helpful indication in determining whether an alleged injury to the health and welfare of its citizens suffices to give the State standing to sue *parens patriae* is whether the injury is one that the State, if it could, would likely attempt to address through its sovereign lawmaking powers." *Snapp,* 458 U.S. at 607. Missouri did just that: raising claims of injury it previously attempted to address through its sovereign lawmaking powers.

Traceability. And rounding out the standing elements, courts have also relaxed the traceability requirement as an outworking of *parens patriae*. *Texas v. United States*, 809 F.3d 134, 159 (5th Cir. 2015) (because of Texas's "special solicitude," a mere "causal connection" suffices even when traceability is otherwise criticized as "incidental and attenuated").

Yet contrary to relaxing standing requirements, the district court placed Missouri at a disadvantage in its standing analysis. The court found that "the Attorney General lacks statutory authority to bring claims under Title VII, Section 1981, or the MHRA," Order at 33, despite the fact that "states have frequently been allowed to sue in *parens patriae* to enforce federal statutes that do not specifically provide standing for state attorney generals." *Connecticut v. Physicians Health Servs. Of Connecticut, Inc.*, 287 F.3d 110, 121 (2d Cir. 2002) (cleaned up). Examples of this basic principle abound. *See, e.g. Snapp*, 458 U.S. at 592; *see also New York v. 11 Cornwell Co.*, 695 F.2d 34, 37–38 (2d Cir. 1982) (New York suing in *parens patriae* for violation of 42 U.S.C. § 1985 on behalf of the mentally disabled), *vacated on other grounds*, 718 F.2d 22 (2d Cir. 1983) (en banc); *Pennsylvania v. Porter*, 659 F.2d 306, 316–19 (3d Cir. 1981) (Pennsylvania suing in *parens patriae* under 42 U.S.C. § 1983 on behalf of victims of police misconduct), *cert denied*, 458 U.S. 1121 (1982); *New York v. Operation Rescue Nat'l,* No. 92 Civ. 4884, 1993 WL 405433 at *2 (S.D.N.Y. Oct. 1, 1993) (New York suing in *parens patriae* to redress conspiratorial civil rights violations directed against its citizens by seeking injunctive relief under 42 U.S. §1985(3)); *Support*

Ministries for Persons With AIDS v. Village of Waterford, 799 F. Supp. 272, 273–76, 277 (N.D.N.Y. 1992) (New York suing in *parens patriae* under the Fair Housing Act).

In sum, the district court erred by imposing heightened standing requirements on Missouri. The power to sue in *parens patriae* is an inherent authority—confirmed through centuries of jurisprudence—that Missouri sought to utilize here. Encumbering that authority is antithetical to the doctrine and obstructs Missouri's defense of its own citizens. *See Illinois v. Bristol-Myers Co.*, 470 F.2d 1276, 1278 (D.C. Cir. 1972) ("The State's interests comprehend those of its citizens. It cannot be asserted that the Attorney General, as the chief legal officer of the State, does not have the common-law duty to protect the public . . . as a matter of general welfare."). It should not be allowed to stand.

CONCLUSION

This Court should reverse and remand.

April 23, 2026

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CERTIFICATE OF COMPLIANCE

1. This amicus brief complies with Federal Rule of Appellate Procedure 29(a)(5) because, excluding the parts exempted by Federal Rule of Appellate Procedure 32(f), it contains 2,182 words.

2. The brief also complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 29 and 32(a)(5)-(6) because it has been prepared in a proportionally spaced typeface in 14-point Century Schoolbook font using Microsoft Word.

3. Last, the brief complies with the electronic-filing requirements of Local Rule 28A(h)(2) because it was scanned for viruses with Windows Defender and no virus was detected.

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CERTIFICATE OF SERVICE

I certify that on April 23, 2026, I electronically filed this amicus brief with the Clerk of Court using the Court's CM/ECF system, which will send a notice of docketing activity to all parties who are registered through CM/ECF.

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