

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21- MI-55555-JPB
<p>GEORGIA STATE CONFERENCE OF THE NAACP, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRAD RAFFENSPERGER, in his official capacity as the Secretary of State for the State of Georgia, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01259-JPB
<p>SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRIAN KEMP, Governor of the State of Georgia, in his official capacity, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01284-JPB

**GEORGIA NAACP PLAINTIFFS' MOTION FOR A PRELIMINARY
INJUNCTION BASED ON IMMATERIAL VOTING REQUIREMENTS**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure and 52 U.S.C. Section 1010(a)(2)(A), Plaintiff Georgia State Conference of the NAACP, along with all additional signatory Plaintiffs below in the above-captioned cases, respectfully ask this Court to grant this motion for a preliminary injunction against enforcement of SB 202's immaterial voting requirement that voters include a correct birthdate on absentee ballot return envelopes. Plaintiffs request an order preliminarily enjoining Defendants, their agents, officers, employees, successors and all persons acting in concert with them from rejecting absentee ballots based on any error or omission relating to Senate Bill 202's requirement of birthdates on ballot return envelopes, ordering the Secretary of State to issue guidance to all counties to comply, and ordering the Secretary of State to count such ballots and refuse certification of election results until all such ballots have been counted.

Respectfully submitted, this 17th day of May, 2023.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a font size of 14.

Dated: May 17, 2023

/s/ Laurence F. Pulgram

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2023, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: May 17, 2023

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INTRODUCTION

The 2022 election results show that Senate Bill 202 (“SB 202”) has already denied the right to vote to hundreds and potentially thousands of qualified Georgia voters by rejecting absentee ballots without a correct birthdate on the return envelope. Absent a preliminary injunction, the birthdate requirement will, disenfranchise many more eligible voters in the upcoming 2024 primaries and general election. Because this “error or omission” on the ballot return envelope is “not material to determining” whether any person “is qualified under State law to vote”—as the State and counties admit—this requirement violates the Civil Rights Act (the “CRA”), 52 U.S.C. §10101(a)(2)(B). This Court should enjoin it.

Indeed, this District held twice before, in 2018, that laws requiring absentee voters to provide birthdates on ballot return envelopes violate the CRA. *See Martin v. Crittenden*, 347 F. Supp. 3d 1302 (N.D. Ga. 2018); *Democratic Party of Georgia, Inc. v. Crittenden*, 347 F. Supp. 3d 1324 (N.D. Ga. 2018) (the “Crittenden” cases). In both cases, the court granted injunctions ordering officials to count absentee ballots despite a then-existing Georgia law that required voters to write their birth years on the envelope. *Id.* Following these decisions, Georgia removed the birth-year requirement. House Bill 316 (“HB 316”) § 30. This slashed the rejection rate for absentee ballots, ensuring that many more valid votes were counted. Yet, despite

the prior injunctions, and with full knowledge that the immaterial birthdate requirement would increase rejections of valid ballots, the General Assembly and Governor Kemp in 2021 reintroduced a birthdate requirement in SB 202.

To stop SB 202’s immaterial birthdate requirement from disenfranchising more Georgians in the upcoming 2024 elections, the Georgia State Conference of the NAACP and other signatory Plaintiffs below (“Plaintiffs”) request that this Court enter an injunction that parallels those in the *Crittenden* cases: ENJOIN Defendants from rejecting absentee ballots based on any error or omission relating to SB 202’s requirement of birthdates on ballot return envelopes and ORDER the Secretary of State to count such ballots and refuse certification of election results until all such ballots have been counted.

BACKGROUND

A. GEORGIA REMOVED A SIMILAR BIRTHDATE REQUIREMENT AFTER THIS DISTRICT HELD IT VIOLATED FEDERAL LAW

1. This District Struck Down Birthdate Requirements in 2018.

Birthdate plays only one role in determining qualifications to vote under Georgia law. A voter must be “[a]t least 18 years of age on or before the date of the primary or election in which such person seeks to vote”—a determination made at the time of registration. O.C.G.A. § 21-2-216(a)(3) (2020).

From 2007 to 2018, Georgia law nonetheless required absentee voters to write their birthdates on ballot return envelopes, even though those voters had already proven their age eligibility when registering, and after election officials had already confirmed their eligibility to receive ballots. A registered voter could request an absentee ballot by completing an application requiring the voter's name, home address, the election the voter wished to vote in, and the voter's signature on an oath. O.C.G.A. § 21-2-381 (a)(1)(C) & (b)(2) (2018). Before mailing an absentee ballot and two envelopes to the voter, Georgia law required election officials to "compare the Identifying information on the application with the information on file in the registrar's office and, if the application is signed by the elector, compare the signature or mark of the elector on the application with the signature or mark of the elector on the elector's voter registration card." O.C.G.A. § 21-2-381 (b)(1) (2018).

To submit the absentee ballot, the voter had to place the ballot in a first envelope, and then place that envelope in a second, ballot return envelope. On the ballot return envelope, voters had to again sign an oath, and provide their home address and birthdate. Georgia law changed in 2017, requiring voters to instead write their year of birth on the envelope. O.C.G.A. § 21-2-384(c)(1) (2018). Georgia law further provided that, if the voter failed to put this information on the

return envelope, the absentee ballot “shall” be rejected. O.C.G.A. § 21-2-386(a)(1)(C) (2018).

During the 2018 election, this District held, in two separate decisions, that requiring birth year information violated the Materiality Provision of the CRA, which forbids officials from denying the right to vote “because of an error or omission on any record or paper relating to any . . . act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.” 52 U.S.C. § 10101(a)(2)(B). In *Martin*, the court held that “a voter’s ability to correctly recite his or her year of birth on the absentee ballot envelope is not material to determining said voter’s qualifications under Georgia law,” and accordingly enjoined Gwinnett County from rejecting absentee ballots for failure to provide year of birth on the return envelope. 347 F. Supp. 3d at, 1308-09. One day later, the court in *Democratic Party of Georgia* adopted “the rationale set forth in” *Martin* and confirmed “that absentee mail-in ballots rejected solely because of an omitted or erroneous birth date must be counted” state-wide and granted plaintiffs’ motion for a preliminary injunction concerning these rejected ballots. 347 F. Supp. 3d at, 1347.

2. The General Assembly Dismantled Birthdate Requirements in 2019.

Less than two months after the *Crittenden* decisions, the Secure, Accessible & Fair Elections (“SAFE”) Commission recommended changes to Georgia voting law. Then-Secretary of State Brian Kemp established the SAFE Commission “to thoroughly study and discuss all options for Georgia’s next voting system, with a focus on security, transparency, voter experience, accessibility and inclusion, voters’ ability to adjust to a new system, and the ability of election officials to adapt to a new system quickly and accurately.”¹ The Commission found that Georgia should update its absentee ballot process in light of recent court orders, including to “make clear that slight variations in any information on the envelope not be a reason to reject an absentee ballot unless the variation does not allow the election official to identify the voter and confirm that the voter cast the ballot.” *Id.* at 18.

In 2019, following the Commission’s recommendations, the Georgia General Assembly passed, and the Governor signed, House Bill 316 (“HB 316”). HB 316 removed the requirement that voters write their birth year on ballot return envelopes. HB 316 § 30.

¹ SAFE Commission Report to the General Assembly, p. 3 (Jan. 10, 2019), available at https://sos.ga.gov/sites/default/files/2022-03/safe_commission_report_final_1-10-18.pdf.

Eliminating the immaterial birth year requirement cut the rejection rate for valid absentee ballots. Just a few months before SB 202’s enactment, counsel for the Secretary of State and members of the Georgia State Election Board confirmed that HB 316 had “resulted in a significant decrease in the percentage of absentee ballots that were rejected at the outset” in the 2020 General Election as compared to the 2018 General Election, in part because “[t]here were quite a number in 2018 that were rejected for that missing [birthdate] information.” *See* Decl. of Laurence Pulgram dated May 17, 2023 (“Pulgram Decl.”) Ex. 1 at 51:12-15 (Oral Argument Transcript from *Wood v. Raffensperger et al.*, No. 20-cv-4651-SDG (N.D. Ga. Nov. 19, 2020), ECF. No. 64,).

B. SB 202 REINSTATES A BIRTHDATE REQUIREMENT THAT DISENFRANCHISES ELIGIBLE ABSENTEE VOTERS

Despite this history, SB 202 reinstates the very type of absentee-ballot-envelope birthdate requirement that the *Crittenden* cases held impermissible. Registered voters who submit an absentee ballot application must include their name, date of birth, address as registered, address where they want the ballot mailed, a signed oath, and the number on their driver’s license or identification card. SB 202 § 25 at 945-48. Election officials must compare the applicant’s “name, date of birth, and number of his or her Georgia driver’s license or identification card” in the application with the same information in the voter’s registration records to “verify

the identity of the applicant.” *Id.* at 1056-63. If the application contains all the required fields and the information on the application matches that in the voter file, then the applicant is considered “eligible to vote.” *Id.* The registrar will then mail an absentee ballot to the voter, along with two envelopes. *Id.* at 1074-76.

To submit an absentee ballot, a voter must place it first in one envelope, which then must be placed into a second, ballot return envelope. SB 202 § 28 at 1453-60. The ballot return envelope must now include not only the voter’s signed oath, but also the voter’s full date of birth, the voter’s driver’s license or identification card number, or if not available, the last 4 digits of his or her social security number. *Id.* The election official must then compare the date of birth and driver’s license or state identification number on the envelope with the same information in the voter’s registration records. *Id.* § 29 at 1570-79.

Under SB 202, if the voter does not properly write his or her birthdate or other identification number, the official *must* reject the ballot. *Id.* at 1593-99; Pulgram Decl. Ex. 2 at 211:6-213:5, 81:7-82:17 (Transcript of April 5, 2023 Deposition of Keisha Smith (“Smith Depo. Tr.”)). That is the case even though, as the State admits in its discovery responses, the birthdate requirement “is not used to determine whether the individual is ‘qualified’ to vote under Georgia law.” Pulgram Decl. Ex. 3 at 3 (State Defendants’ Responses and Objections to Plaintiff’s First Interrogatories

dated May 16, 2022). Upon rejection of an absentee ballot, voters have just three days from the date of the election, no matter when they receive notice of the error or omission, to “cure” the problem by submitting an affidavit to the county registrar or clerk, along with a valid form of identification. SB 202 § 29 at 1602-07. Otherwise, the lack of birthdate negates their vote.

The foreseeable consequence of the renewed birthdate requirement is more disenfranchised Georgians. The table below shows the number of absentee ballots rejected due to the birthdate requirement just before and after enactment of SB 202, as identified for just the six counties that have responded to Plaintiffs’ interrogatories.

County	Pre-SB 202		Post-SB 202	
	Nov. 2020	Jan. 2021	Nov. 2022	Dec. 2022
Athens-Clarke	0	0	17	3
Chatham	0	0	25	49
Cobb	0	0	0	180
Fulton²	0	0	16-283	1-279
Hall	0	0	3	1
Richmond	0	0	21	13

² Fulton County responded that it combines its count of ballot rejections due to the birthdate requirement with rejections due to the missing driver’s license number (or alternative identifications). This resulted in the ranges described in the text.

See Pulgram Decl. Exs. 4-9 (interrogatory responses of County Defendants). Even the limited information available shows that this birthdate requirement has already disenfranchised qualified voters in every county reporting.

ARGUMENT

To obtain a preliminary injunction, the movant must establish that: (1) it has a substantial likelihood of success on the merits; (2) it will suffer an irreparable injury unless the injunction is granted; (3) the harm from the threatened injury outweighs the harm the injunction would cause the opposing party; and (4) the injunction would not be adverse to the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The third and fourth factors merge when the government opposes injunctive relief. *Gonzalez v. Governor of Ga.*, 978 F.3d 1266, 1271 (11th Cir. 2020) (citing *Swain v. Junior*, 961 F.3d 1276, 1285 n.3 (11th Cir. 2020)). Here, all factors support a preliminary injunction.

A. PLAINTIFFS HAVE A SUBSTANTIAL LIKELIHOOD OF SUCCESS

1. Plaintiffs Have Standing.

To establish standing, a plaintiff must show (1) that it has suffered, or faces an imminent, “concrete and particularized” injury; (2) that defendant’s conduct caused that injury; and (3) that the injury or threat is redressable by a favorable outcome. *Democratic Party of Ga.*, 347 F. Supp. 3d at 1336. Each requirement is met here.

First, Plaintiffs have suffered and will suffer a concrete injury through their “diversion-of-resources” to address SB 202’s illegal requirements. “[A]n organization has standing to sue when a defendant’s illegal acts impair the organization’s ability to engage in its own projects by forcing the organization to divert resources in response.” *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1341–42 (11th Cir. 2014). An organization must show that it has “diverted its resources,” and that “the injury to the identifiable community that the organization seeks to protect is itself a legally cognizable Article III injury that is closely connected to the diversion.” *City of S. Miami v. Governor*, 65 F.4th 631, 638 (11th Cir. 2023). Plaintiffs satisfy both prongs.

Plaintiffs are organizations that aid underrepresented communities, including people of color and/or women, to participate in voting. Pulgram Decl. Ex. 10 at ¶ 2 (Decl. of Gerald Griggs dated May 16, 2023 (“Griggs Decl.”)); Pulgram Decl. Ex. 11 at ¶ 2 (Decl. of Susannah Scott dated May 15, 2023 (“Scott Decl.”)); Pulgram Decl. Ex. 12 at ¶ 2 (Decl. of Gerardo Gonzalez dated May 15, 2023 (“Gonzalez Decl.”)); Pulgram Decl. Ex. 13 at ¶ 4 (Decl. of Treanna (“Aunna”) Dennis dated May 16, 2023 (“Dennis Decl.”)); Pulgram Decl. Ex. 14 at ¶ 2; (Decl. of Helen Butler dated May 14, 2023 (“Butler Decl.”)); Pulgram Decl. Ex. 17 at ¶ 4 (Decl. of Shafina Khabani dated May 16, 2023 (“Khabani Decl.”)). The organizations’ core missions

include promoting voter registration, voter education, election protection, and maximizing voter participation. *Id.* Their limited resources have been and will continue to be diverted from other activities to address the immaterial birthdate requirement, through time spent educating voters about absentee ballots, constituting a “concrete and demonstrable injury.” *Havens Realty Corp. v. Coleman*, 455 US 363, 379 (1982). *See also, e.g.*, Griggs Decl. at ¶ 9 (“As part of this effort, for the first time in its history, the Georgia NAACP organized a statewide, 22-city voter education campaign, including town halls, civic engagement events, and church events throughout Georgia, to make sure that people were aware of SB 202’s voting processes and its new restrictions, and that they had available options to participate in the franchise.”); Scott Decl. at ¶ 7 (“In the wake of SB 202, the LWVGA also had to organize a number of town halls, information sessions, trainings and other civic engagement events with local Leagues and Georgia voters to educate them about SB 202’s new restrictions on the absentee ballot process and its changes to elections laws more broadly.”); *see also* Gonzalez Decl. at ¶ 7; Dennis Decl. ¶ 8; Butler Decl. ¶¶ 6-10; Khabani Decl. ¶¶ 6-8.

Using an immaterial birthdate requirement to reject valid votes also impairs Plaintiffs’ missions to maximize the right to vote. Griggs Decl. ¶ 10; Scott Decl. ¶ 9; Gonzalez Decl. ¶ 8; Dennis Decl. ¶ 7; Butler Decl. ¶ 8. This “concrete and

demonstrable injury to the organization’s activities—with the consequent drain on the organization’s resources—constitutes far more than simply a setback to the organization’s abstract social interests.” *Havens Realty Corp.*, 455 U.S. at 379.

These injuries to Plaintiffs and to the communities they represent—*i.e.*, people of color and women—is legally cognizable and is closely connected to the organizations’ missions. The failure to count votes is not hypothetical or conjectural; it has already happened and will continue to happen to the communities that Plaintiffs serve. *See Fla. State Conf. of NAACP v. Browning*, 522 F.3d 1153, 1160 (11th Cir. 2008). This injury is a direct consequence of SB 202’s reinstatement of an immaterial birthdate rule that Georgia abandoned in 2019. *Compare City of S. Miami*, 65 F.4th at 839 (finding no standing where “[t]he record is rife with *speculative* fears of future harm” but “fails to establish that local officers profiled *anyone based on* S.B. 168”) (emphasis added).

Alternatively, the Plaintiffs also have associational standing. As in *Crittenden*, given the tens of thousands of members of Plaintiffs’ groups collectively, it is highly likely that ongoing rejection of absentee ballots because of the birthdate requirement will affect some of Plaintiffs’ members. As this Court recently recognized, “[t]his probable danger is sufficient to satisfy the injury prong for associational standing.” *Vote.org v. Georgia State Election Board*, No. 1:22-CV-

01734-JPB, 2023 WL 2432011 (N.D. Ga. March 9, 2023) (quoting *Democratic Party of Ga.*, 347 F. Supp. 3d at 1337, and discussing *Browning* and *Arcia*).

Second, as to causation, the State’s reinstatement of the birthdate requirement and the Counties’ failure to count valid absentee votes directly cause both the diversion of resources and the frustration of the Plaintiffs’ missions. The Court “can trace a direct line between . . . any county’s[] decision to reject an absentee ballot for missing information, when that information is not material to verifying a voter’s identity, and the resulting injury when that person’s vote is not counted.” *Democratic Party of Ga.*, 347 F. Supp. 3d at 1338. There is no legitimate question that Defendants’ rejection of otherwise valid ballots due to immaterial paperwork requirements has directly caused and will cause the injuries discussed above. *Id.*

Third, a preliminary injunction can redress this injury to Plaintiffs and the communities they serve. After all, “any injunction that clarifies the legal requirements surrounding absentee ballots . . . can reduce the number of rejected ballots, thereby addressing the individual harm suffered by Plaintiffs’ members” and can “reduce Plaintiffs’ burden of assisting voters.” *Id.* at 1338.

2. The Birthdate Requirement Violates the CRA.

The Materiality Provision of the CRA prohibits “denying the right of any individual to vote in any election” based on an “error or omission on any record or

paper related to any application, registration, or other act requisite to voting, if such error or omission is not material to determining whether such individual is qualified under State law to vote in such election.” 52 U.S.C. §10101(a)(2)(B). No racially discriminatory intent or effect is required. Instead, this provision “prohibits denying the right to vote based on errors or omissions that are not material in determining voter eligibility,” *Browning*, 522 F.3d at 1173, “thus providing an excuse to disqualify potential voters.” *Schwier v. Cox*, 340 F.3d 1284, 1294 (11th Cir. 2003) (finding direct private right of action under the CRA, as well as right of action under Section 1983 to enforce CRA) (citation omitted); *Vote.org*, 2023 WL 2432011 at *6 (same for organizational plaintiff).

The elements of a CRA violation are met here because SB 202 (1) denies qualified voters the right to vote by rejecting their ballots (2) due to an “error or omission” in omitting or erroneously inputting birthdates (3) on a “record or paper relating to any . . . act requisite to voting,” *i.e.*, the absentee ballot return envelope required to submit the ballot, (4) which is immaterial to whether the voter “is qualified under State law to vote in the election.”

To evaluate materiality, the Court considers “whether, accepting the error as true and correct, the information contained in the error is material to determining the eligibility of the applicant” to vote. *Browning*, 522 F.3d at 1175. The ability of

voters to correctly write their birthdate on an absentee ballot return envelope has no bearing on determining their eligibility to vote under Georgia law. To the contrary, to be eligible to vote in Georgia, one need only meet the following qualifications: (1) U.S. citizenship; (2) Georgia residency; (3) at least 18 years old on or before the applicable primary or election; (4) no adjudication of incompetency; and (5) no outstanding sentence for a felony conviction. O.C.G.A. § 21-2-216(a) (2020).

Georgia confirms that a person is old enough to vote when they register. *See* O.C.G.A. § 21-2-216(a)(3) (2020). And SB 202 requires that election officials verify a voter's eligibility *before* sending out an absentee ballot and return envelope in the first place. Under SB 202, election officials check whether absentee voters are "eligible to vote" by comparing their absentee ballot *application* with their voter registration card. SB 202 § 25 at 945-48. Officials only mail an absentee ballot and return envelope after confirming eligibility to cast an absentee vote. *Id.* at 1074-76. The presence of the voter's date of birth on the return envelope *afterwards* is entirely unnecessary and therefore immaterial to eligibility.

The State's discovery responses admit as much. They state that "the requirement that the voter print his or her date of birth in the space provided on the outer oath envelope of the absentee ballot packet *is not used to determine whether the individual is 'qualified' to vote under Georgia law.*" Pulgram Decl. Ex. 3 at 3

(State Defendants' Responses and Objections to Plaintiff's First Interrogatories dated May 16, 2022) (emphasis added). Local elections officials have also that the birthdate on the absentee ballot envelope is not used to determine a voter's eligibility. Pulgram Decl. Ex. 2 at 213:2-13 ("Q. So the request for a birth date on the absentee ballot envelope is not then used to determine a voter's eligibility; is that correct? A. That's correct. Q. This was already done in the registration process? A. Yes.").

Georgia courts have repeatedly found that absentee ballots reflecting an inaccurate birthdate must still be counted. The Georgia Supreme Court recognizes that the law "does not mandate the automatic rejection of any absentee ballot lacking the elector's place and/or date of birth." *Jones v. Jessup*, 279 Ga. 531, 533 n.5 (2005) (finding that absentee ballots with an incorrect date of birth still counted because they "substantially complied with all of the essential requirements"). This District followed suit in the *Crittenden* cases, relying on *Jones* to enjoin election officials from rejecting absentee ballots where the voter did not provide their year of birth on the envelope. 347 F. Supp. 3d at 1308-11. Those courts held that "a voter's ability to correctly recite his or her year of birth on the absentee ballot envelope" violated the CRA because "election officials have already confirmed such voters' eligibility through the absentee ballot application process." *Martin*, 347 F. Supp. 3d at 1308-09; accord *Democratic Party of Ga.*, 347 F. Supp. 3d at 1347.

SB 202 revives the immaterial birthdate requirement struck down in the *Crittenden* cases with no legitimate justification. The State Defendants claim that “the voter’s date of birth is used by county election officials to *assist* them in verifying the identity of the voter.” Pulgram Decl. Ex. 3 at 3 (emphasis added). But at no point during discovery have Defendants offered any explanation on why such information is necessary for validating a voter that officials have already deemed eligible to vote and issued an absentee ballot. State Defendants’ expert Justin Grimmer, Ph.D., testified that he thought that “the ID requirements will ensure that voters are who they say they are,” without concluding that a birthdate was needed. Pulgram Decl. Ex. 16 at 180:22-181:17 (Transcript of May 1, 2023 Deposition of Dr. Justin Grimmer (“Grimmer Depo. Tr.”)).

Nor can the State Defendants salvage the birthdate requirement by a claim that there is a “lack of elector confidence in the election system” stemming from “allegations of rampant voter fraud.” *See* SB 202 Section 2 (1), (4). Federal law does not permit immaterial obstacles to voting because of unsupported claims they prevent fraud or promote public confidence. *See* 52 U.S.C. §10101(a)(2)(B). It prohibits exactly such requirements. “Whatever sort of fraud deterrence or prevention this requirement may serve, it in no way helps the [State] determine whether a voter’s age, residence, citizenship, or felony status qualifies them to vote.”

Migliori v. Cohen, 36 F.4th 153, 163 (3d Cir. 2022), *vacated as moot sub nom. Ritter v. Migliori*, 143 S.Ct. 297 (Oct. 11, 2022) (finding absence of handwritten date on absentee ballot return envelope immaterial under CRA).

In all events, there is no proof of significant absentee ballot fraud in Georgia, much less proof that a birthdate requirement would be material to reducing fraud. It is highly improbable to believe that a fraudster who somehow obtains an eligible voter's ballot and identification or social security number would not also know that voter's date of birth. If anything, just the opposite; the usual voter ID (*e.g.*, driver's license) generally includes the date of birth. Requiring a birthdate is immaterial even under the farfetched, hypothetical scenario of an effort to obtain, and return, a single fraudulent ballot. As the State's own expert witness, Dr. Justin Grimmer testified, "there is no evidence of meaningful fraud in Georgia [elections] in 2020." Grimmer Depo. Tr. at 36:19-20; *see also id.* at 38:11-39:2 (explaining analysis finding claims of fraud to be false).

The denial of even one qualified voter's ballot due to an immaterial requirement establishes a violation of the statute.³ The undisputed record to date shows at least hundreds in six counties, alone.

³ The superficiality of SB 202's "cure" process is magnified in that it grants absentee voters a mere three days after the election to cure. SB 202 § 27 at 1258-61. As the uncounted votes in 2022 reflect, voters do not always receive timely notice that a

B. IRREPARABLE HARM ABSENT AN INJUNCTION IS CERTAIN

Absent injunctive relief, organizational Plaintiffs will suffer irreparable harm as they will both continue to face frustration of their mission of maximizing voter participation and be required to divert resources to assist voters in addressing issues arising from the immaterial birthdate requirement. *See Georgia Coal. for People’s Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1268 (N.D. Ga. 2018) (finding that Plaintiffs, as organizations, suffer irreparable injury distinct from the injuries of eligible voters because, without an injunction, their organizational missions “will continue to be frustrated and organization resources will continue to be diverted to assist with [the challenged law]”). Both this frustration of purpose and diversion of resources constitute irreparable harm: Plaintiffs’ opportunities to increase voter participation “cannot be remedied once lost” (*id.*), and there is no monetary remedy that can correct it. *See Project Vote, Inc. v. Kemp*, 208 F. Supp. 3d 1320, 1350 (N.D. Ga. 2016); *see also Action NC v. Strach*, 216 F. Supp. 3d 597, 642 (M.D.N.C. 2016); *League of Women Voters of Fla. v. Cobb*, 447 F.Supp.2d 1314, 1339 (S.D. Fla. 2006).

Similarly, irreparable harm is threatened to the Plaintiff associations’ constituencies whose ballots will go uncounted. When restrictions threaten the right

cure is necessary or time to comply, particularly if they are submitting an absentee ballot because they will be out of the state on election day.

to vote, “irreparable harm is presumed and no further showing of injury need be made.” *Touchston v. McDermott*, 234 F.3d 1133, 1158-59 (11th Cir. 2000). That is because “a violation of the right to vote cannot be undone through monetary relief and, once the election results are tallied, the rejected electors will have been disenfranchised without a future opportunity to cast their votes.” *Martin*, 347 F. Supp. 3d at 1309.

C. THE BALANCE OF HARDSHIPS WEIGHS STRONGLY IN FAVOR OF A PRELIMINARY INJUNCTION

Any purported hardship that Defendants suffer from a preliminary injunction is outweighed by the harm that Plaintiffs seek to redress. SB 202’s birthdate requirement disenfranchises already eligible voters for simply failing to write a correct date of birth on a ballot return envelope. “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). Without an injunction, voters have been and will be stripped of their fundamental right to vote, for which there is no after-the-fact remedy: “[O]nce the election occurs, there can be no do-over and no redress. The injury to these voters is real and completely irreparable if nothing is done to enjoin this law.” *League of Women Voters of N.C. v. N. Carolina*, 769 F.3d 224, 247 (4th Cir. 2014).

In contrast, Defendants will suffer little, if any, hardship from an injunction. Plaintiffs request narrow and easily implemented relief that would not disrupt upcoming elections or even require change in forms. If anything, enjoining the Secretary of State and County Defendants from rejecting otherwise valid ballots based on the immaterial birthdate requirement would make review of absentee ballots *easier*, as birthdates need not be checked. The Secretary of State would also issue an Official Election Bulletin advising of this and be enjoined from certifying the election until county election officials confirm that they have complied. The relief sought is straightforward and mirrors the relief granted on a much shorter timeline in the two prior court decisions after the 2018 general election. *Democratic Party of Ga.*, 347 F. Supp. 3d at 1340-41 (enjoining certification of election results until Secretary “has confirmed that each county’s returns include the counts for absentee ballots where the birth date was omitted or incorrect”); *Martin*, 347 F. Supp. 3d at 1308-09 (enjoining Gwinnett County from rejecting absentee ballots because of omitted or incorrect dates of birth).⁴

⁴ Of course, if there is sufficient time before an election to eliminate the immaterial requirement from absentee ballot forms, that remedy is preferable. But if the State contends there is insufficient time, then counting absentee ballots regardless of birthdate information on the return envelope is an adequate alternative.

For these reasons, the prudential principles in *Purcell v. Gonzalez*, 549 U.S. 1 (2006) do not weigh against an injunction here. To the contrary, *Purcell* supports immediate issuance of an injunction now, to ensure relief is granted sufficiently in advance of coming elections to prevent any disruption or confusion.

D. THE PUBLIC INTEREST STRONGLY FAVORS AN INJUNCTION

Vindicating voting rights and enforcing “a federal statute serve the public interest almost by definition.” *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012); *see also Obama for Am. v. Husted*, 697 F.3d 423, 437 (6th Cir. 2012) (explaining that a preliminary injunction serves the public interest when it helps permit “as many qualified voters to vote as possible”).

Further, as explained above, Defendants have not and cannot show that the birthdate requirement will prevent even a single instance of fraud, and Congress enacted the Materiality Provision to eliminate exactly these kinds of clerical hurdles to the right to vote rather than subject them to a balancing test.

Accordingly, the public interest here is best served by a procedure that allows otherwise valid absentee ballots to be cast and counted without the risk of being rejected because the voter omitted immaterial information. Without an injunction, the State of Georgia will continue to enforce “an excuse to disqualify potential

voters” by creating immaterial requirements that needlessly “increase the number of errors or omissions on the application forms.” *Schwier*, 340 F.3d at 1294.

CONCLUSION

For the reasons above, Plaintiffs respectfully ask this Court to grant this motion for a preliminary injunction and enter an order: enjoining Defendants from rejecting absentee ballots based on any error or omission relating to SB 202’s requirement of birthdates on ballot return envelopes, directing the Secretary of State to issue guidance to all counties to comply, and ordering the Secretary of State to count such ballots and refuse certification of election results until all such ballots have been counted.

Respectfully submitted, this 17th day of May, 2023.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a font size of 14.

Dated: May 17, 2023

/s/ Laurence F. Pulgram
Laurence F. Pulgram
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2023, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: May 17, 2023

/s/ Laurence F. Pulgram
Laurence F. Pulgram
Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21- MI-55555-JPB
<p>GEORGIA STATE CONFERENCE OF THE NAACP, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRAD RAFFENSPERGER, in his official capacity as the Secretary of State for the State of Georgia, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01259-JPB
<p>SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRIAN KEMP, Governor of the State of Georgia, in his official capacity, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01284-JPB

**DECLARATION OF LAURENCE F. PULGRAM IN SUPPORT OF
GEORGIA NAACP PLAINTIFFS' MOTION FOR A PRELIMINARY
INJUNCTION BASED ON IMMATERIAL VOTING REQUIREMENT**

I, Laurence F. Pulgram, declare as follows:

1. I am a partner at the law firm of Fenwick & West LLP, counsel of record in this matter for Plaintiffs Georgia State Conference of the NAACP, Georgia Coalition for the People's Agenda, Inc., League of Women Voters of Georgia, Inc., GALEO Latino Community Development Fund, Inc., Common Cause, and the Lower Muskogee Creek. I have personal knowledge of the facts in this declaration and can competently testify to those facts.

2. Attached hereto as **Exhibit 1** is a true and correct copy of pages 1 and 46-53 of the oral argument transcript from *Wood v. Raffensperger et al.*, No. 20-cv-4651-SDG, Dkt. No. 64, (N.D. Ga. Nov. 19, 2020).

3. Attached hereto as **Exhibit 2** is a true and correct copy of pages 1-2, 12-13, 21-22, 81-82 and 211-213 of the transcript of the April 5, 2023 deposition of Keisha Smith, Executive Director of Voter Registration and Elections for DeKalb County.

4. Attached hereto as **Exhibit 3** is a true and correct copy of pages 1-3 of State Defendants' Responses and Objections to Plaintiffs' First Interrogatories dated May 16, 2022.

5. Attached hereto as **Exhibit 4** is a true and correct copy of pages 1, 9-11, and Exhibit A of Defendants Clarke County Board of Election and Voter Registrations, Willa Jean Fambrough, Hunaid Qadir, Ann Till, Rocky Raffle, Adam Shirley, and Charlotte Sosebee's, Responses to Plaintiff Sixth District of the African Methodist Episcopal Church's Interrogatories dated January 11, 2023.

6. Attached hereto as **Exhibit 5** is a true and correct copy of pages 1 and 3-6 of Chatham County Board of Registrars Defendants' Responses and Objections to AME Plaintiffs' First Interrogatories dated January 23, 2023.

7. Attached hereto as **Exhibit 6** is a true and correct copy of pages 1 and 4-8 of Cobb County Defendants' Response to AME Plaintiffs' First Interrogatories dated January 19, 2023.

8. Attached hereto as **Exhibit 7** is a true and correct copy of pages 1 and 3-10 of Fulton County Defendants' Responses to AME Plaintiffs' First Interrogatories dated January 11, 2023.

9. Attached hereto as **Exhibit 8** is a true and correct copy of pages 1 and 5-14 of Hall County Defendants' Responses to Plaintiff African Methodist Episcopal Church's First Interrogatories dated January 11, 2023.

10. Attached hereto as **Exhibit 9** is a true and correct copy of pages 1 and 4-14 of Richmond Defendants' Responses to AME Plaintiffs' First Interrogatories dated January 11, 2023.

11. Attached hereto as **Exhibit 10** is a true and correct copy of the declaration of Gerald Griggs dated May 16, 2023.

12. Attached hereto as **Exhibit 11** is a true and correct copy of the declaration of Susannah Scott dated May 15, 2023.

13. Attached hereto as **Exhibit 12** is a true and correct copy of the declaration of Gerardo Gonzalez dated May 15, 2023.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the declaration of Treanna (“Aunna”) Dennis dated May 16, 2023.

15. Attached hereto as **Exhibit 14** is a true and correct copy of the declaration of Helen Butler dated May 14, 2023.

16. Attached hereto as **Exhibit 15** is a true and correct copy of the Georgia Active Voters Report, downloaded from <https://sos.ga.gov/georgia-active-voters-report> on May 14, 2023.

17. Attached hereto as **Exhibit 16** is a true and correct copy of pages 1, 21, 35-37, and 180-181 of the transcript of the May 1, 2023 deposition of Defendant State of Georgia’s identified expert witness, Justin Grimmer, Ph.D.

18. Attached hereto as **Exhibit 17** is a true and correct copy of the declaration of Shafina Khabani dated May 16, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Francisco, California on May 17, 2023.



Laurence F. Pulgram

Exhibit 1

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 L. LIN WOOD, JR.)

5 Plaintiff,)

6 v.)

7 BRAD RAFFENSPERGER, in his)
8 Official Capacity as Secretary of)
9 State of the State of Georgia;)
10 REBECCA N. SULLIVAN, in her)
11 Capacity as Vice Chair of the)
12 Georgia State Election Board;)
13 DAVID J. WORLEY, in his Capacity)
14 as a Member of the Georgia State)
15 Election Board; MATTHEW MASHBURN,)
16 in his Official Capacity as a)
17 Member of the Georgia State)
18 Election Board; ANH LE, in her)
19 Official Capacity as a Member of)
20 the Georgia Election Board)

21 Defendants)

22 v.)

23 DEMOCRATIC PARTY OF GEORGIA, INC.,)
24 Democratic Party of Georgia; DSCC;)
25 DCCC; GEORGIA STATE CONFERENCE OF)
THE NAACP; GEORGIA COALITION FOR)
THE PEOPLES' AGENDA, INC.; HELEN)
BUTLER; JAMES WOODALL; and MELVIN)
IVEY)

Intervenor Defendants)

TRANSCRIPT OF PLAINTIFF'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
BEFORE THE HONORABLE STEVEN D. GRIMBERG
UNITED STATES DISTRICT JUDGE

1 A. We were never given envelopes. We never had them. Those
2 were already separated before we got the batch.

3 Q. You never saw any envelopes?

4 A. We never saw any envelopes.

5 Q. So you don't know if those pristine ballots were
6 provisional?

7 MR. HAMILTON: Objection; leading.

8 THE COURT: Overruled.

9 THE WITNESS: I do not know whether they were
10 provisionals or absentees. But either way, they would have been
11 folded, whether they were provisional or absentee, because the
12 absentee ballots have a white inner envelope and a yellow inner
13 envelope.

14 MR. SMITH: Nothing further, Your Honor.

15 THE COURT: All right. Mr. Smith, is that your only
16 witness?

17 MR. SMITH: Yes, Your Honor. Our only live witness,
18 Your Honor.

19 THE COURT: All right. And what other declarations
20 are you submitting or you propose to submit in support of your
21 motion or is it all of them?

22 MR. SMITH: I have a declaration that I submitted for
23 myself, Your Honor, and I'll read that. I filed it with the
24 Court earlier today. This is my analysis based on information
25 from the Secretary of State's website. It's publicly available

1 so anyone could replicate my analysis. This information I
2 reviewed was State-compiled mail-in ballot data from 2016, 2018,
3 and 2020.

4 My analysis shows that Georgia's rate of rejection
5 for mail-in ballots average 3.06 percent and 3.58 percent for the
6 2016 and 2018 general elections, Your Honor. For the 2020
7 primary elections, however, this rejection rate dropped from
8 1.02 percent and for the 2020 general election that rate dropped
9 to .32 percent, .0.32 percent. Your Honor, that's a 90-percent
10 decrease in the rate of mail-in-ballot rejections compared to the
11 2016 and 2018 elections. And that's with a huge increase in the
12 number of absentee ballots going from several hundred thousand to
13 1.2, 1.3 million.

14 The number of mail-in ballots cast in Georgia, on the
15 other hand, has increased nearly 500 percent from the 2016 and
16 2018 elections to the 2020 general election. We would expect to
17 see between 40,000 and 45,000 ballots rejected based on the
18 Georgia historical average rejection rate, but instead only 4,196
19 votes were rejected. Given how close the number of votes are
20 separating President Trump and Vice President Joe Biden, the
21 historical rejection rates were improper and illegal ballots
22 could have changed the outcome of the race here in Georgia.

23 I would also add, Your Honor -- and then I'll save
24 the rest for my closing -- Your Honor had asked about due
25 process. The *Baker vs. Carr* case, 369 US 186, "A citizen's right

1 to vote free of arbitrary impairment by State action has been
2 judicially recognized as a right secured by the Constitution of
3 the United States, when such impairment resulted from dilution by
4 a false tally." The plaintiffs there were voters who sued on
5 behalf of themselves, as Mr. Wood has here, Your Honor.

6 THE COURT: All right. Anything further?

7 MR. SMITH: Yes.

8 And Mr. Wood didn't vote in the other two elections.
9 Only in the 11-3 election. So as to why this is an emergency,
10 the plaintiff's rights as an individual voter, they weren't ripe
11 until 11-3, Your Honor, November 3rd election. So his vote
12 wasn't diluted before then. I'll save the rest of my -- but
13 that's our case, Your Honor. I'll save the rest of my argument
14 until my closing.

15 THE COURT: That information that you just gave about
16 Mr. Wood, is that in a declaration or in any sworn testimony?

17 MR. SMITH: No. No, Your Honor.

18 THE COURT: All right. Ms. McGowan.

19 MS. MCGOWAN: Your Honor, Mr. Willard from our office
20 is going to do the argument but the State would first like to
21 object to Mr. Smith's affidavit. Mr. Smith is serving as counsel
22 for plaintiff and it's improper for him to act also in the
23 capacity as a fact witness and much of his testimony involves
24 statistical analysis, providing factual evidence, and I believe
25 the last part of his affidavit is even highly argumentative so we

1 object to the admissibility of that evidence.

2 THE COURT: Well, I don't have the declaration in
3 front of me. Those percentages that you read off, Mr. Smith, are
4 those straight from the Secretary of State's website or did you
5 have to run calculations?

6 MR. SMITH: No. That was just a calculation from --
7 it was like an advanced spreadsheet, Your Honor.

8 MS. MCGOWAN: The issue, though, Your Honor, is that
9 the reason for rejection --

10 MR. SMITH: Anybody can do that with a calculation
11 based on the information at the Secretary of State website.

12 THE COURT: Ms. McGowan, go ahead.

13 MS. MCGOWAN: The rejection rates vary from
14 year-to-year because there were different requirements for the
15 absentee ballots verified that had changed over time and so it's
16 sort of an apples-to-oranges comparison, but I believe my
17 co-counsel is going to address that in our argument.

18 THE COURT: Okay. I'll allow the admission of the
19 declaration, but I'm happy to hear argument as to its weight.
20 Mr. Willard.

21 MR. WILLARD: Thank you, Your Honor.

22 As Ms. McGowan said -- and just a couple of
23 housekeeping matters before we get started to really clear up
24 some of the confusing and leading terms that plaintiff has
25 bandied about, just to bring the Court back to what we actually

1 have in front of us.

2 First, he continually interchanges a hand recount
3 with the manual tabulation and the audit process. Just to be
4 clear, and as our response that we filed today sets out, what has
5 just been conducted is the audit that is called for as part of
6 the State's move to this new election system. It is not a hand
7 recount or a recount of the race as the Georgia Code set out.
8 That is not a process that is triggered until after the
9 certification and Mr. Smith and his client, Mr. Wood, have no
10 role in that process. The only people who can request a recount
11 in a particular race is a losing candidate for that particular
12 office and we haven't gotten to that point yet because the
13 Secretary is not scheduled to certify the election results until
14 tomorrow at which point a recount does not become ripe until
15 after that fact.

16 He has also thrown out today - it is not briefed in
17 either his emergency motion or any of his pleadings - a
18 vote-dilution claim. He has failed to sufficiently allege that.
19 If the Court would like us to go into that despite the fact that
20 he has not pled it, we will be happy to do that post-hearing, but
21 I won't be getting into that today because he has not established
22 the elements of a vote-dilution claim.

23 Further, he threw out today for really the first time
24 an allegation that the signature-match process was either not
25 done or was done improperly, but he has provided no evidence to

1 the Court supporting that, nor any cognizable argument that that
2 has happened.

3 And, finally, as Ms. McGowan said, in terms of the
4 plaintiff's apples-to-oranges comparison, he's comparing the
5 totality of the absentee-ballot rejections from 2018. As our
6 brief response makes clear, the General Assembly made a policy
7 decision following the 2018 election to change the evaluation of
8 absentee ballots partially due to identity theft concerns and the
9 fact that voters felt uncomfortable putting their date of birth
10 on the outside of the envelope. The General Assembly took that
11 off the outer envelope where it was no longer visible to anyone
12 during the mail transmission. That resulted in a significant
13 decrease in the percentage of absentee ballots that were rejected
14 at the outset. There were quite a number in 2018 that were
15 rejected for that missing information.

16 In terms of when you actually do an apples-to-apples
17 comparison - and it is referenced in Chris Harvey's affidavit
18 that we will be moving into evidence, it's an exhibit in our
19 brief response - when you actually look at ballots from 2018 that
20 were rejected signature match and you look at ballots from 2020,
21 after the cure period, those numbers are identical in terms of --

22 MR. SMITH: Your Honor, if he continues on he's going
23 to become a fact witness.

24 MR. WILLARD: I am referencing what is in our
25 affidavit, Your Honor. It is in our brief response, as well. I

1 will point the Court to both of those and, like I said, we'll be
2 moving Mr. Harvey's affidavit into evidence at the conclusion of
3 our argument in chief.

4 THE COURT: Now, you said that the numbers of
5 absentee ballots that were rejected in this election as compared
6 to 2018 was the result of the change in the requirement of the
7 date of birth being placed on the outside of the envelope. Did I
8 understand that correctly?

9 MR. WILLARD: Your Honor, when you look at the 2018
10 numbers that were rejected for signature mismatch and compare
11 them with the rejected numbers of absentee ballots in 2020 that
12 were rejected for signature mismatch, the percentage of rejection
13 is identical to what it was in 2018. And that is after you take
14 out the oranges that Mr. Smith was talking about because the
15 numbers that he's using from 2018 to arrive at the percentage of
16 rejection incorporates the date-of-birth rejections from 2018,
17 the missing information. In addition, at the outset the initial
18 rate of rejection in 2020 was higher than it was in 2018.

19 MR. SMITH: Excuse me, Your Honor.

20 MR. WILLARD: But the General Assembly had made the
21 policy argument --

22 THE COURT: Mr. Smith, let him finish. I'll give you
23 an opportunity to respond.

24 MR. SMITH: Okay.

25 MR. WILLARD: The General Assembly had made the

1 policy determination to allow voters the opportunity to cure a
2 signature mismatch or missing signature. And so it's only after
3 that cure process reduced the number of rejected ballots down
4 that you arrive at the final number for 2020 and even with that
5 reduced number the rejection rate for signature mismatch in 2020
6 is practically identical to what it was in 2018 as a percentage
7 of the rejected ballots.

8 THE COURT: How do you know and what evidence have
9 you submitted that tethers the difference to be because of the
10 date-of-birth requirement?

11 MR. WILLARD: We have the 2018 numbers based on --
12 they had a registrar -- the county officials have to note in the
13 system the reason for an absentee-ballot rejection and what
14 Mr. Smith is apparently relying on is the totality, all the
15 little codes that county election officials put in in 2018 for
16 rejecting the ballot. The Secretary of State's office did an
17 analysis of only the 2018 ballots that were rejected for
18 signature mismatch based on the coding that county officials put
19 in, compared that with the 2020 rejection rate, and determined
20 that the percentages were practically identical between the 2018
21 general election rejection for signature mismatch and the 2020
22 rejection rates for signature mismatch.

23 THE COURT: All right. Anything more you want to
24 say, Mr. Willard?

25 MR. WILLARD: Yes, Your Honor. That was just the

Exhibit 2

KEISHA SMITH
IN RE GEORGIA SENATE BILL 202

April 05, 2023

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IN THE UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202,) Master Case No.:
ASIAN AMERICANS ADVANCING JUSTICE) 1:21-MI-55555-JPB
ATLANTA, et al.,)
Plaintiffs,)
vs) Civil Action No.:
BRAD RAFFENSPERGER, in his) 1:21-CV-01333-JPB
capacity as the Georgia Secretary)
of State,)
Defendants,)
REPUBLICAN NATIONAL COMMITTEE, et)
al.,)
Intervenor-Defendants.)

STENOGRAPHIC & VIDEOGRAPHIC
DEPOSITION OF KEISHA SMITH

10:02 a.m.

APRIL 5, 2023

BY: Susan Bell; Certified Court Reporter, CSR, CCR#14

1 Like I said, I can't see everybody
2 so I feel like --

3 MS. RAMAHI: I think that may be
4 it. That looks like it from my end.

5 COURT REPORTER: Okay. Thank you.

6 I will swear in the witness now.
7 You can unmute.

8 Ms. Smith, can you raise your
9 right hand for me, please?

10

11 KEISHA SMITH, first having been
12 duly sworn (affirmed) and testified as
13 follows:

14 COURT REPORTER: Okay. Thank you.

15

16 EXAMINATION BY MS. RAMAHI:

17

18 Q. Good morning. Ms. Smith, can you
19 hear and see me okay?

20 A. Yes, I can. Thank you.

21 Q. Great.

22 Like I said, my name is Zainab
23 Ramahi and I represent the Asian Americans

1 Advancing Justice Atlanta in this matter.

2 We're here today for the 30(b)(6)
3 Deposition of the Dekalb County Board of
4 Elections and Registrations.

5 Could you please state your name
6 for the record?

7 A. Keisha Smith.

8 Q. Ms. Smith, have you been deposed
9 before?

10 A. No, I have not.

11 Q. Do you understand that today you
12 are being deposed in your capacity as a rep-
13 resentative of the Dekalb County Board of
14 Registrations and Elections?

15 A. Yes.

16 Q. So, if I say "you" in my question-
17 ing today, will you understand that's to
18 refer to the Board?

19 A. Yes.

20 Q. And is there any reason that you
21 cannot give true and complete testimony to-
22 day?

23 A. No.

1 Administration.

2 Q. Did you complete all those degrees
3 at the same university?

4 A. No. My undergrad was completed at
5 Old Dominion University in Norfolk, Virginia
6 and my graduate degree was completed at
7 Baruch College, CUNY, in New York.

8 Q. Do you have any professional cert-
9 ifications?

10 A. No.

11 Q. And where do you currently work?

12 A. With Dekalb County. I'm sorry,
13 I was just trying see if the professional
14 certifications -- no, I don't.

15 I am certified through the State
16 Certification for Election Officials. So I
17 just wanted a clarification on that.

18 Q. Thank you for clarifying, yes; and
19 at any time, if you feel the need to clarify,
20 please let me know and we can do at that.

21 So you work -- currently work at
22 Dekalb County; correct?

23 A. That's correct.

1 Q. And what is your title there?

2 A. I am the Executive Director of
3 Voter Registration and Elections.

4 Q. And how long have you been in that
5 position?

6 A. I have been in the position for 13
7 months, since February of 2022.

8 Q. And, prior to February, 2022, did
9 you hold any other positions at Dekalb?

10 A. No.

11 Q. And what are your job duties as
12 Executive Director?

13 A. As Executive Director I'm respons-
14 ible for the administration of the Voter Reg-
15 istration and Elections Department of Dekalb
16 County overseeing operations, the implementa-
17 tion of all activities related to registra-
18 tion and fa -- the facilitation of elections.

19 Q. And what are the main functions of
20 the Dekalb County Board of Registrations and
21 Elections?

22 A. To ensure that the registration
23 and elections activities are in compliance

1 envelope?

2 A. Yes.

3 Q. Before SB 202 was there a require-
4 ment that voters fill out ID info on the
5 outside of the envelope?

6 A. No.

7 Q. And how does the identification
8 verification process work for absentee bal-
9 lots?

10 A. So there are absentee technicians
11 again that receive the application -- or the
12 ballots and verify that it is, you know, that
13 the information is there; that the oath below
14 it is signed; that there is a signature; and
15 that the information matches the information
16 that's in the system, the information provid-
17 ed.

18 Q. And, if voter -- I'm sorry. Go
19 ahead.

20 A. No. I was saying the information
21 provided matches the information in the sys-
22 tem.

23 Q. And is a voter notified if the

1 County determines that their ballot did not
2 meet ID requirements?

3 A. Yes.

4 Q. What does the notice say?

5 A. There's -- there's a -- a letter
6 that is sent to the voter. Again, if we have
7 an E-mail or a phone number in the registra-
8 tion system, we contact them that way as well
9 but the letters -- the cure letters are mail-
10 ed to inform them that their ballot was, you
11 know, incomplete and it provides the informa-
12 tion that was missing and with instructions
13 on how to cure the ballot and when.

14 Q. And how long after the County's
15 determination of a rejection is this notice
16 mailed?

17 A. Typically within the 24 hours.

18 Q. And is the -- is there any guid-
19 ance in the language other than English in
20 this notice?

21 A. No, not -- not presently.

22 Q. Okay. Do you track the number of
23 rejections?

1 dation Voting Rights Project and I'm repre-
2 senting AME Plaintiffs here in this matter.
3 I just want to say thank you again for taking
4 the time to answer all our questions today.
5 I do really appreciate it?

6 I'm going to be asking you some
7 questions about the date of birth requirement
8 on absentee ballot applications and ballot
9 envelopes and then some questions pertaining
10 to voters with disabilities.

11 Is that all right?

12 A. Yes.

13 Q. Are you familiar with the changes
14 in SB 202 regarding the mandatory requirement
15 that a voter provide their date of birth on
16 the absentee ballot application and ballot
17 envelope?

18 A. Yes.

19 Q. And is it your understanding that
20 voters who don't provide a birth date and who
21 don't cure the omission have the ballot
22 rejected?

23 A. Yes.

1 Q. And is it your understanding that
2 voters who provide an incorrect birth date
3 and do not cure the error will have the bal-
4 lot rejected?

5 A. Yes.

6 Q. And is it your understanding that
7 following the enactment of HB316 in 2019 that
8 Georgia voters did not have to provide their
9 birth date on the absentee ballot envelope or
10 application until SB 202 went into effect?

11 A. Yes.

12 Q. So, by adding birth dates as a
13 required field, SB 202 provided another basis
14 to reject absentee ballots?

15 MS. VANDER ELS: Object to the
16 form of the question.

17 A. So our process -- right, we have
18 to verify that information in order to accept
19 it.

20 Q. (By Mr. Campbell-Harris) In your
21 understanding, voters provide evidence of
22 their birth date when they register to vote;
23 is that correct?

1 A. Yes.

2 Q. So is it your understanding that
3 after a voter is registered they have been
4 determined eligible to vote in terms of age?

5 A. Yes.

6 Q. So the request for a birth date on
7 the absentee ballot envelope is not then used
8 to determine a voter's eligibility; is that
9 correct?

10 A. That's correct.

11 Q. This was already done in the reg-
12 istration process?

13 A. Yes.

14 Q. And the same is true for absentee
15 ballot applications?

16 A. Yes.

17 Q. Those are all the date of birth
18 questions I have.

19 I'm going to transition now to
20 some of the questions pertaining to voters
21 with disabilities. Are you familiar with the
22 Americans with Disabilities Act, the ADA?

23 A. Yes.

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

THE NEW GEORGIA PROJECT, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as the Georgia
Secretary of State, *et al.*,

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-01229-JPB

**STATE DEFENDANTS' RESPONSES AND OBJECTIONS
TO PLAINTIFFS' FIRST INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33, State Defendants Brad Raffensperger, Sara Ghazal, Matthew Mashburn, Edward Lindsey, and Janice Johnston hereby respond to Plaintiffs' First Interrogatories.

PRELIMINARY STATEMENTS

1. State Defendants have responded to the Interrogatories as they interpret and understand them. If Plaintiffs subsequently assert an

interpretation of any Interrogatory that differs from State Defendants' understanding, State Defendants reserve the right to supplement or amend their objections and/or responses.

2. The Responses are based on information currently known to State Defendants and are provided without prejudice to State Defendants' right to produce or rely on any subsequently discovered facts, contentions, or documents that State Defendants may later learn of, recall, or discover. The Responses are based on State Defendants': (i) reasonable search of facilities and files that could reasonably be expected to contain responsive information; and (ii) inquiries of staff and/or representatives who could reasonably be expected to possess responsive information.

3. State Defendants reserve the right to revise, amend, correct, supplement, modify or clarify their objections and responses in accordance with the Federal Rules of Civil Procedure.

4. State Defendants' responses to these Interrogatories are not an admission by State Defendants either that any Interrogatory or any response thereto is relevant to, or admissible as evidence in, any trial or other proceeding. All objections as to privilege, immunity, relevance, authenticity or admissibility of any information or documents referred to in this document or produced in response to any Interrogatory are expressly reserved.

RESPONSES TO INTERROGATORIES

1. Describe all the ways (if any) in which the date of birth that a registered individual is required to append to an absentee ballot application and absentee ballot envelope is used to determine whether the individual is qualified to vote under Georgia law.

RESPONSE: State Defendants object to this Interrogatory as its requests to identify “all the ways” dates of birth may be used is overbroad and unduly burdensome. State Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case.

Subject to and without waiving the foregoing objections, State Defendants respond that the requirement that the voter print his or her date of birth in the space provided on the outer oath envelope of the absentee ballot packet is not used to determine whether the individual is “qualified” to vote under Georgia law. Rather, the voter’s date of birth is used by county election officials to assist them in verifying the identity of the voter.

2. Describe in detail all election administration related actions that You would need to take in order to implement a court order enjoining the Challenged Provisions of SB 202, including specifically the provisions that:

- (i) impose new identification requirements for absentee voters, Section 25, SB 202, amending O.C.G.A. § 21-2-381(a)(1)(C)(i); Section 27, SB 202, amending O.C.G.A. § 21-2-384(b); Section 28, SB 202, amending O.C.G.A. § 21-2-385(a); Section 29, SB 202, amending O.C.G.A. § 21-2-386(a)(1)(B);

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of
Georgia, in his official capacity, *et al.*,

Civil Action No.
1:21-cv-01284-JPB

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

**DEFENDANTS CLARKE COUNTY BOARD OF ELECTION AND VOTER
REGISTRATIONS, WILLA JEAN FAMBROUGH, HUNAID QADIR, ANN
TILL, ROCKY RAFFLE, ADAM SHIRLEY, AND CHARLOTTE
SOSEBEE’S, RESPONSES TO PLAINTIFF SIXTH DISTRICT OF THE
AFRICAN METHODIST EPISCOPAL CHURCH’S INTERROGATORIES**

COMES NOW, Defendants Clarke County Board of Election and Voter Registrations, Willa Jean Fambrough, Hunaid Qadir, Ann Till, Rocky Raffle, Adam Shirley, and Charlotte Sosebee (collectively, the “ACC Defendants” or

INTERROGATORY NO. 2

Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballot applications rejected as received too early;
- b. the number of absentee ballot applications rejected because they were received after the deadline;
- c. the number of absentee ballot applications rejected for missing a birthdate;
- d. the number of absentee ballot applications rejected due to a signature mismatch;
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,
- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

For absentee ballot applications rejected for more than one of these reasons, please list them in each category but provide the total number of applications rejected for

these reasons by election at the end. If you have information for the number of applications initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE: The Defendants object to Interrogatory No. 2 on the grounds that it is overbroad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, the Defendants respond as follows:

Pursuant to Fed. R. Civ. Pro. 33(d), please see the attached electronic document identified as Exhibit A to these responses.

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's

- license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE: The Defendants object to Interrogatory No. 3 on the grounds that it is overbroad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, the Defendants respond as follows:

Pursuant to Fed. R. Civ. Pro. 33(d), please see the attached document identified as Exhibit A to these responses.

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

Application Status	Status Reason	Number of Apps	Accepted	Rejected	Cancelled	Total Applications Received
Rejected	Received Too Early	1	23054	121	0	23176
Rejected	Received Too Late	39				
Rejected	Invalid Address	103				
Rejected	Missing Signature	N/A				
Rejected	Signature Mismatch	N/A				
Rejected	Missing DOB	N/A				
Rejected	Missing ID	N/A				
Accepted	Requirements Met	23054				
Accepted	Cured	5				
Total by Type						

App Cures Issued	UnCured Apps Rejected
50	N/A

Ballot Status	Status Reason	Number of Ballots	Accepted	Rejected	*Cancelled	**Total Ballots Received				
Rejected	Received Too Late	70	18778	95	2921	21415				
Rejected	Missing Signature	17								
Rejected	Signature Mismatch	7								
Rejected	Missing DOB	N/A								
Rejected	Missing ID	1								
Accepted	Requirements Met	18778								
Accepted	Cured	73								
Total by Type										

Ballot Cures Issued	UnCured Ballots Rejected
98	25

** - Based on Ballots with a listed return date in ElectionNet.

* - An absentee ballot can be cancelled for a number of reasons. Some reasons Clarke County voters had absentee ballots cancelled include: Voter turned in ballot at the polls, Voter's ballot was undelivered so they voted in person, ballot returned by USPS and reissued, ballot reissued by voter request, address error on ballot envelope, voter requested ballot be mailed to different address, and others.

November 3rd 2020 General Election

Application Status	Status Reason	Number of Apps		Accepted	Rejected	Cancelled	Total Applications Received
Rejected	Received Too Early	N/A	Total by Type	19092	35	0	19127
Rejected	Received Too Late	61					
Rejected	Invalid Address	33					
Rejected	Missing Signature	N/A					
Rejected	Signature Mismatch	N/A					
Rejected	Missing DOB	N/A					
Rejected	Missing ID	N/A					
Accepted	Requirements Met	19092					
Accepted	Cured	7					

App Cures Issued	UnCured Apps Rejected
16	N/A

Ballot Status	Status Reason	Number of Ballots		Accepted	Rejected	*Cancelled	**Total Ballots Received
Rejected	Received Too Late	147	Total by Type	15616	182	1897	16737
Rejected	Missing Signature	6					
Rejected	Signature Mismatch	29					
Rejected	Missing DOB	N/A					
Rejected	Missing ID	1					
Accepted	Requirements Met	15616					
Accepted	Cured	52					

Ballot Cures Issued	UnCured Ballots Rejected
99	47

** - Based on Ballots with a listed return date in ElectioNet.

* - An absentee ballot can be cancelled for a number of reasons. Some reasons Clarke County voters had absentee ballots cancelled include: Voter turned in ballot at the polls, Voter's ballot was undelivered so they voted in person, ballot returned by USPS and reissued, ballot reissued by voter request, address error on ballot envelope, voter requested ballot be mailed to different address, and others.

January 5th 2021 Federal Election Runoff

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of
Georgia, in his official capacity, *et al.*,

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.
1:21-cv-01284-JPB

**CHATHAM COUNTY BOARD OF REGISTRARS DEFENDANTS’
RESPONSES AND OBJECTIONS TO AME PLAINTIFFS’ FIRST
INTERROGATORIES**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Chatham County Board of Registrars; Members of Chatham County Board of Registrars, in their official capacities; and Colin McRae, Chairman of Chatham County Board of Registrars, in his official capacity (collectively, the “Chatham

Date	November 2020	January 2021	November 2022	December 2022
Mailed	56,002	46,263	8,811	8,589
Returned and Accepted	41,641	36,461	8,674	6,910

INTERROGATORY NO. 2

Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballot applications rejected as received too early;
- b. the number of absentee ballot applications rejected because they were received after the deadline;
- c. the number of absentee ballot applications rejected for missing a birthdate;
- d. the number of absentee ballot applications rejected due to a signature mismatch;
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,

f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

For absentee ballot applications rejected for more than one of these reasons, please list them in each category but provide the total number of applications rejected for these reasons by election at the end. If you have information for the number of applications initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Defendants further object to this interrogatory on the grounds that it seeks information that is not relevant to any party's claims or defenses and is not proportional to the needs of the case. Subject to and without waiving the foregoing objections, Defendants state the following:

	November 2020	January 2021	November 2022	December 2022
a. Received Too Early	0	0	5	0
b. Received After the Deadline	38	59	1	0
c. Missing DOB	0	0	50	25
d. Signature Mismatch	0	0	0	0

e. ID Requirement	22	0	62	4
f. (1) Total Received	502	63	161	55
f. (2) Total Accepted	0	0	141	25
f. (3) Total Rejected	67	56	14	26
f. (4) Total Cancelled	435	7	6	4

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's

license or state ID number or Social Security number or missing a copy of required identification; and,

- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE: Defendants object to this interrogatory on the grounds that it is overly broad and unduly burdensome. Defendants further object to this interrogatory on the grounds that it seeks information that is not relevant to any party's claims or defenses and is not proportional to the needs of the case. Subject to and without waiving the foregoing objections, Defendants state the following:

	November 2020	January 2021	November 2022	December 2022
a. Received After the Deadline	96	180	103	140
b. Missing DOB	0	0	25	49
c. Signature Mismatch	0	0	1	0

Exhibit 6

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202 : CIVIL ACTION FILE NO.
: 1:21-mi-55555-JPB
:

SIXTH DISTRICT OF THE :
AFRICAN METHODIST :
EPISCOPAL CHURCH, a Georgia : CIVIL ACTION FILE NO.:
nonprofit organization, et al. :
: 1:21-cv-01284-JPB
: Plaintiffs, :
: vs. :
: :

BRIAN KEMP, Governor of the State :
of Georgia in his official capacity, et :
al., :
Defendants. :
:

**COBB COUNTY DEFENDANTS' RESPONSE TO AME
PLAINTIFFS' FIRST INTERROGATORIES**

COME NOW, Defendants COBB COUNTY BOARD OF ELECTIONS;
TORI SILAS, STEVEN F. BRUNING, JENNIFER MOSBACHER, PAT
GARTLAND, and JESSICA M. BROOKS, in their official capacities as Members
of Cobb County Board of Elections and Voter Registration; and JANINE EVELER,
in her official capacity as Director of Cobb County Elections Department
(collectively, "Cobb Defendants"), by and through counsel, and pursuant to Rule 26
and 34 of the Federal Rules of Civil Procedure and Local Rule 26.1, hereby serve

but does not define those terms. Subject to and without waiving this objection, the Cobb Defendants respond as follows:

The Absentee Voter File is compiled and published by the Georgia Secretary of State's office based on the updates that Cobb County and other counties enter into the Georgia Voter Registration System (eNet/GaVIS). This publication fulfills the public listing requirements found in O.C.G.A. § 21-2-384(d) and § 21-2-386(a)(1)(B) and is accurate and complete to the best of Cobb Election staff's knowledge.

INTERROGATORY 2: Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballot applications rejected as received too early;
- b. the number of absentee ballot applications rejected because they were received after the deadline;
- c. the number of absentee ballot applications rejected for missing a

- birthdate;
- d. the number of absentee ballot applications rejected due to a signature mismatch;
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,
- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

For absentee ballot applications rejected for more than one of these reasons, please list them in each category but provide the total number of applications rejected for these reasons by election at the end. If you have information for the number of applications initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

RESPONSE NO. 2: Cobb Defendants object to Interrogatory No. 2 on the grounds that it seeks to impose discovery obligations on Cobb Defendants outside of the scope of discovery permitted by the Federal Rules of Civil Procedure and is unduly

burdensome to the extent it purports to require information which Cobb Defendants do not track, and further purports to require the information to produced in a specific format. Subject to and without waiving this objection, Cobb Defendants respond as follows:

		2020 General Election	2021 General Election Runoff	2022 General Election	2022 General Election Runoff
a	Rejected apps - Received too early	10	0	117	0
b	Rejected apps - Received too late	725	297	195	1
c	Rejected apps - missing date of birth	0	0	363	142
d	Rejected apps – signature mismatch	0	4	1	0
e	Rejected apps - missing ID info	0	0	83	9
f	Apps received	184552	147968	32040	24432
f	Apps accepted	183634	146911	30860	24170
f	Apps rejected	918	1057	1180	262
f	Apps cancelled	0	0	0	0

INTERROGATORY 3: Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General

Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

RESPONSE NO. 3: Cobb Defendants object to Interrogatory No. 3 on the grounds that it seeks to impose discovery obligations on Cobb Defendants outside of the scope of discovery permitted by the Federal Rules of Civil Procedure and is unduly burdensome to the extent it purports to require information which Cobb Defendants do not track, and further purports to require the information to produced in a specific

format. Subject to and without waiving this objection, Cobb Defendants respond as follows:

		2020 General Election	2021 General Election Runoff	2022 General Election	2022 General Election Runoff
a	Rejected ballots – Received too late	333	364	399	363
b	Rejected ballots - Missing date of birth	0	0	0	180
c	Rejected ballots - signature mismatch	108	183	20	24
d	Rejected ballots - missing ID info	0	3	183	180
e	Ballots received	174484	137872	27029	19325
f	Ballots accepted	149988	127799	25348	17495
f	Ballots rejected	441	679	748	723
f	Ballots cancelled	24055	9394	933	1107

INTERROGATORY 4: Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility

Exhibit 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.

1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of
Georgia, in his official capacity, *et al.*,

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.

1:21-cv-01284-JPB

**FULTON COUNTY DEFENDANTS' RESPONSES TO AME PLAINTIFFS'
FIRST INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant Fulton County Board of Registration and Elections; Defendant Cathy Woolard, in her official capacity as Chairperson of the Fulton County Board of Fulton Co. Defendants' Responses to AME Plaintiffs' 1st Interrogatories – Page 1

Runoff Election.

To the best of the Fulton County Defendants' knowledge, the data that appears in the Absentee Voter File for the 2022 General Election and 2022 General Runoff elections for the categories requested in Interrogatories 3a.-e. is accurate. The data that appears in the Absentee Voter File for the 2022 General Election and 2022 General Runoff elections for the categories requested in Interrogatories 2a.-f. is inaccurate and/or incomplete. The data is inaccurate and/or incomplete because the State Voter Registration System ElectioNet ("ENET") is unable to reflect all applications received after the deadline. Shortly after the election concludes, the election date no longer appears, and information pertaining to the election can no longer be entered.

INTERROGATORY NO. 2

Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballot applications rejected as received too early;
- b. the number of absentee ballot applications rejected because they were received after the deadline;

- c. the number of absentee ballot applications rejected for missing a birthdate;
- d. the number of absentee ballot applications rejected due to a signature mismatch;
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,
- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

For absentee ballot applications rejected for more than one of these reasons, please list them in each category but provide the total number of applications rejected for these reasons by election at the end. If you have information for the number of applications initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

Response:

- a. the number of absentee ballot applications rejected as received too early:

12/6/22 General Runoff – 0
11/8/22 General Election – 236
1/5/21 Runoff- 1
11/3/20 General Election – 0

- b. the number of absentee ballot applications rejected because they were received after the deadline:

12/6/22 General Runoff – 94
11/8/22 General Election – 347
1/5/21 Runoff – 0
11/3/20 General Election – 1

- c. the number of absentee ballot applications rejected for missing a birthdate:

12/6/22 General Runoff – 0
11/8/22 General Election – 0
1/5/21 Runoff – 0
11/3/20 General Election – 1

- d. the number of absentee ballot applications rejected due to a signature mismatch:

12/6/22 General Runoff – 0
11/8/22 General Election – 0
1/5/21 Runoff – 2
11/3/20 General Election – 8

- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification:

12/6/22 General Runoff – 0
11/8/22 General Election – 19
1/5/21 Runoff – 1
11/3/20 General Election – 0

- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County:

12/6/22 General Runoff

Received 22090
Accepted 21743
Rejected 441 (94 received after deadline ENET does not reflect + 347 ENET reflects)
Cancelled 0

11/8/22 General Election

Received 29455
Accepted 28922
Rejected 879 (347 received after deadline ENET does not reflect+ 532 ENET reflects)
Cancelled 0

1/5/21 Runoff

Received 154790
Accepted 154706
Rejected 84
Cancelled 0

11/3/20 General Election

Received 212246

Accepted 212029

Rejected 217

Cancelled 0

ENET only allows one specific rejection reason to be chosen on its drop-down menu. There is no accurate way to calculate how many applications were rejected for multiple reasons. ENET does not reflect applications that were cured. The rejection numbers listed above reflect the overall applications rejected for each election.

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;
- b. the number of absentee ballots rejected for missing a birthdate;
- c. the number of absentee ballots rejected due to a signature mismatch;
- d. the number of absentee ballots rejected for failing to meet the ID

requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,

- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

Response:

- a. the number of absentee ballots rejected because they were received after the deadline:

12/6/22 General Runoff- 601
11/8/22 General Election- 495
1/5/21 Runoff- 180
11/3/20 General Election- 268

- b. the number of absentee ballots rejected for missing a birthdate:

12/6/22 General Runoff- Between 1-279
11/8/22 General Election- Between 16-283
1/5/21 Runoff- 0
11/3/20 General Election- 0

- c. the number of absentee ballots rejected due to a signature mismatch:

12/6/22 General Runoff- 0
11/8/22 General Election- 0
1/5/21 Runoff- 39
11/3/20 General Election- 50

- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification:

12/6/22 General Runoff- Between 1-279
11/8/22 General Election- Between 16-283
1/5/21 Runoff- 0
11/3/20 General Election- 1

- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County:

12/6/22 General Runoff
Received 17736
Accepted 15467
Rejected 889
Cancelled 1358

11/8/22 General Election
Received 25786
Accepted 23261
Rejected 805
Cancelled 1679

1/5/21 Runoff

Received 136691
Accepted 111680
Rejected 436
Cancelled 24503

11/3/20 General Election

Received 191398
Accepted 144029
Rejected 752
Cancelled 46331

ENET only allows one specific rejection reason to be chosen on its drop-down menu. There is no accurate way to calculate how many applications were rejected for multiple reasons. ENET does not reflect applications that were cured. The rejection numbers listed above reflect the overall applications rejected for each election.

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

Response:

No potential or actual non-compliance with the Americans with Disability

Exhibit 8

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202

MASTER CIVIL ACTION
FILE NO.: 1:21-MI-55555-JPB

SIXTH DISTRICT OF THE
AFRICAN METHODIST
EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

ORIGINAL CIVIL ACTION
FILE NO.: 1:21-CV-1284-JPB

v.

BRIAN KEMP, Governor of the State
of Georgia, in his official capacity, *et*
al.,

Defendants.

HALL COUNTY DEFENDANTS' RESPONSES TO
PLAINTIFF AFRICAN METHODIST EPISCOPAL CHURCH'S
FIRST INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, the Hall County Board of Elections and Registration, Tom Smiley, David Kennedy, Ken Cochran, Craig Lutz, and Gala Sheats, as well as Elections Director Lori Wurtz, each in their official capacity (hereinafter referred to collectively as “Hall County Defendants” or “Defendants”), hereby serve their responses and objections to Plaintiff’s First Interrogatories, served on December 13, 2022, in the above-styled matter as follows:

GENERAL DEFINITION AND INSTRUCTION OBJECTIONS

Hall County Defendants’ responses to Plaintiff’s Interrogatories are set forth to the best of Defendants’ knowledge, information, and belief. Defendants generally

they are returned undeliverable or marked as rejected for being returned after the deadline

INTERROGATORY NO. 2

Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

GENERAL RESPONSE: Defendants object to this Interrogatory to the extent it seeks information that is not within Defendants' possession or knowledge. Specifically, Defendants' data is not tracked in accordance with applicants' race, gender, or age.

Subject to these objections and without wavier of the same, Defendants respond as follows, grouped by specific elections:

1. 2020 General Election – November 3, 2020

- a. the number of absentee ballot applications rejected as received too early:
 - **None**
- b. the number of absentee ballot applications rejected because they were received after the deadline:
 - **None**
- c. the number of absentee ballot applications rejected for missing a birthdate:
 - **None**
- d. the number of absentee ballot applications rejected due to a signature mismatch:
 - **None. There were 12 applications that had a signature**

mismatch or were missing a signature. These applications were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.

e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification:

- **None. There were 14 First Time Registrant (IDR) applications that were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**

f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County:

- **Defendants do not track how many applications are received, as many are duplicates.**
- **There were 28,390 ballot applications accepted.**
- **There were no ballot applications rejected or cancelled. There is no ABM ballot application cancelation procedure.**

2. **January 2021 General Runoff Election – January 5, 2021**

a. the number of absentee ballot applications rejected as received too early:

- **None**

b. the number of absentee ballot applications rejected because they were received after the deadline:

- **None**

c. the number of absentee ballot applications rejected for missing a birthdate:

- **None**

- d. the number of absentee ballot applications rejected due to a signature mismatch:
 - **None. There were 23 applications that had a signature mismatch or were missing a signature. These applications were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification
 - **None. There were 3 applications that were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**
- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.
 - **Defendants do not track how many applications are received, as many are duplicates.**
 - **There were 21,216 ballot applications accepted.**
 - **There were no ballot applications rejected or cancelled. There is no ABM ballot application cancelation procedure.**

3. **2022 General Election – November 8, 2022**

- a. the number of absentee ballot applications rejected as received too early:
 - **3**
- b. the number of absentee ballot applications rejected because they were received after the deadline:

- **60**

c. the number of absentee ballot applications rejected for missing a birthdate:

- **None. Any applications with a missing or wrong birthday were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**

d. the number of absentee ballot applications rejected due to a signature mismatch:

- **None. There were 15 applications that had a signature mismatch or were missing a signature. These applications were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**

e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification

- **None. There were 3 applications that did not have the required information. The applicants were sent a provisional ballot with a cure affidavit.**

f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

- **Defendants do not track how many applications are received, as many are duplicates.**
- **There were 5,430 ballot applications accepted.**
- **There were 67 ballot applications rejected, 1 application was blank with the applicant's name only listed at the top of the second page. There were 3**

applications that used an old form.

- **There were no ballot applications cancelled. There is no ABM ballot application cancelation procedure.**

4. **2022 General Runoff Elections – December 6, 2022**

a. the number of absentee ballot applications rejected as received too early:

- **None**

b. the number of absentee ballot applications rejected because they were received after the deadline:

- **21**

c. the number of absentee ballot applications rejected for missing a birthdate

- **None.**

d. the number of absentee ballot applications rejected due to a signature mismatch:

- **None. There were 3 applications that had a signature mismatch, invalid signature, or were missing a signature. These applications were not rejected; rather, the applicants were sent a provisional ballot with a cure affidavit.**

e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification

- **None.**

f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.

- **Defendants do not track how many applications are received, as many are duplicates.**
- **There were 4,995 ballot applications accepted.**
- **There were 21 ballot applications rejected.**
- **There were no ballot applications cancelled. There is no ABM ballot application cancelation procedure.**

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

GENERAL RESPONSE: Defendants object to this Interrogatory to the extent it seeks information that is not within Defendants' possession or knowledge. Specifically, Defendants' data is not tracked in accordance with applicants' race, gender, or age.

Subject to these objections and without wavier of the same, Defendants respond as follows, grouped by specific elections:

1. 2020 General Election – November 3, 2020

a. the number of absentee ballots rejected because they were received after the deadline:

- **61**
- **The State's data does not include these ballots in its reports.**

b. the number of absentee ballots rejected for missing a birthdate:

- **None**

- c. the number of absentee ballots rejected due to a signature mismatch:
 - **There were 11 ballots that had a signature mismatch, invalid signature, or were missing a signature. These ballots required cure affidavits, which were not returned by 5:00 p.m. on the Friday after the election deadline. The State's data includes these ballots in its reports.**
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;
 - **None**
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.
 - **There were 21,750 ballots accepted.**
 - **There were 72 ballots rejected.**
 - **There were 4,996 ballots cancelled.**

2. January 2021 General Runoff Election – January 5, 2021

- a. the number of absentee ballots rejected because they were received after the deadline:
 - **54**
- b. the number of absentee ballots rejected for missing a birthdate:
 - **None**
- c. the number of absentee ballots rejected due to a signature mismatch:
 - **There were 31 ballots that had a signature mismatch, invalid signature, or were missing a signature.**
- d. the number of absentee ballots rejected for failing to meet the ID

requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;

- **None**

e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

- **There were 17,576 ballots accepted.**
- **There were 87 ballots rejected. There were 54 ballots received after the deadline and 31 with signature issues. There were 2 ballots rejected due to "ineligible elector" for individuals who had moved out of state and a Hall County voter challenged these ballots.**
- **There were 1,789 ballots cancelled.**

3. 2022 General Election – November 8, 2022

a. the number of absentee ballots rejected because they were received after the deadline:

- **40**

b. the number of absentee ballots rejected for missing a birthdate:

- **None. There were 3 ballots rejected for listing the wrong date of birth.**

c. the number of absentee ballots rejected due to a signature mismatch:

- **None.**

d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;

- 11

e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

- **There were 4,985 ballots accepted.**
- **There were 64 ballots rejected. There were 10 ballots rejected due to improper delivery.**
- **There were 192 ballots cancelled.**

4. 2022 General Runoff Elections – December 6, 2022

a. the number of absentee ballots rejected because they were received after the deadline:

- 51

b. the number of absentee ballots rejected for missing a birthdate:

- **None. There was 1 ballot rejected for an incorrect date of birth.**

c. the number of absentee ballots rejected due to a signature mismatch:

- **None. There was 1 ballot that was missing a signature.**

d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;

- **There were 9 ballots rejected for missing a driver's license, state ID number, or Social Security number or was missing a copy of required identification or had incorrect information included.**

e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.

- **There were 4,362 ballots accepted.**

- **There were 62 ballots rejected as of December 15, 2022.**
- **There were 182 ballots cancelled as of December 15, 2022.**

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

RESPONSE: Hall County Defendants object to this Interrogatory as unduly burdensome, confusing, overly broad, and vague because the information sought is not clear and there is no temporal or geographical limitation. Defendants further object to the extent this Interrogatory seeks disclosure of confidential information protected by the attorney-client privilege or attorney work product doctrine.

Subject to and without waving the foregoing objections, Hall County Defendants have previously provided responsive documents to a Request for Production on regarding its ADA compliance and remediation efforts. See Hall County Defendants bates numbers 002272-002371. These documents include the information requested within this Interrogatory. There have been no new issues reported to Defendants during the most recent election cycles that would change the information previously provided.

Exhibit 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN
METHODIST EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of
Georgia, in his official capacity, *et al.*,

Civil Action No.
1:21-cv-01284-JPB

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

**RICHMOND DEFENDANTS' RESPONSES TO AME PLAINTIFFS' FIRST
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (“Rules”), Defendants RICHMOND COUNTY BOARD OF ELECTIONS; TIM MCFALLS, SHERRY T. BARNES, TERENCE DICKS, MARCIA BROWN, and ISAAC MCADAMS, in their official capacities as Members of the Richmond

**SPECIFIC OBJECTIONS AND RESPONSES TO PLAINTIFFS’
FIRST SET OF INTERROGATORIES**

INTERROGATORY NO. 1

State whether the data that appears in the Absentee Voter File for statewide elections in the application status, ballot status, status reason, and provisional/challenged columns accurately reflect the data for Your County for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff elections for the categories requested in Interrogatories 2a.-f. and 3a.-e. below, and, if not, please indicate which categories are inaccurate and/or incomplete, and how they are inaccurate and/or incomplete.

Response No. 1: The Richmond Defendants object to Interrogatory No. 1 on the grounds that it is overly broad, unduly burdensome, and vague because it purports to require the Richmond Defendants to opine as to whether external data is “inaccurate and/or incomplete,” but does not define those terms. Subject to and without waiving this objection, the Richmond Defendants respond as follows:
Yes, to the best of Defendants’ knowledge, the numbers in the state system accurately reflect the data for Richmond County, Georgia.

INTERROGATORY NO. 2

Provide the following data listed in subparts a. to f. below regarding absentee ballot applications for the 2020 General Election, January 2021 General Runoff

Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballot applications rejected as received too early;*
- b. the number of absentee ballot applications rejected because they were received after the deadline;*
- c. the number of absentee ballot applications rejected for missing a birthdate;*
- d. the number of absentee ballot applications rejected due to a signature mismatch;*
- e. the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification; and,*
- f. the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.*

For absentee ballot applications rejected for more than one of these reasons, please list them in each category but provide the total number of applications rejected for these reasons by election at the end. If you have information for the number of applications initially rejected, but cured, and the number ultimately

rejected, please provide both, and if not, please confirm which category the numbers reflect.

Response No. 2:

2020 General Election:

a. *the number of absentee ballot applications rejected as received too early;*

0 applications

b. *the number of absentee ballot applications rejected because they were received after the deadline;*

84 applications

c. *the number of absentee ballot applications rejected for missing a birthdate;*

11 applications

d. *the number of absentee ballot applications rejected due to a signature mismatch;*

163 applications

e. *the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification;*

0 applications

f. *the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.*

38,127 applications

January 2021 Runoff

a. *the number of absentee ballot applications rejected as received too early;*

0 applications

b. *the number of absentee ballot applications rejected because they were received after the deadline;*

42 applications

c. *the number of absentee ballot applications rejected for missing a birthdate;*

0 applications

d. *the number of absentee ballot applications rejected due to a signature mismatch;*

93 applications

e. *the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification;*

0 applications

f. *the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.*

28,285 applications

2022 General Election:

a. *the number of absentee ballot applications rejected as received too early;*

18 applications

b. *the number of absentee ballot applications rejected because they were received after the deadline;*

74 applications

c. *the number of absentee ballot applications rejected for missing a birthdate;*

10 applications

d. *the number of absentee ballot applications rejected due to a signature mismatch;*

27 applications

e. *the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification;*

18 applications

f. *the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County.*

5440 applications

2022 General Runoff:

a. *the number of absentee ballot applications rejected as received too early;*

0 applications

b. *the number of absentee ballot applications rejected because they were received after the deadline;*

39 applications

c. *the number of absentee ballot applications rejected for missing a birthdate;*

0 applications

d. *the number of absentee ballot applications rejected due to a signature mismatch;*

8 applications

e. *the number of absentee ballot applications rejected for failing to meet the ID requirement for an absentee ballot application, including a missing driver's license or state ID number or missing a copy of required identification;*

3 applications

f. *the total number of absentee ballot applications received, accepted, rejected, and cancelled by Your County*

3975 applications

INTERROGATORY NO. 3

Provide the following data listed in subparts a. to e. below regarding absentee ballots for the 2020 General Election, January 2021 General Runoff Election, 2022 General Election, and 2022 General Runoff Election separately, broken down by race if available:

- a. the number of absentee ballots rejected because they were received after the deadline;*
- b. the number of absentee ballots rejected for missing a birthdate;*
- c. the number of absentee ballots rejected due to a signature mismatch;*
- d. the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,*
- e. the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

For absentee ballots rejected for multiple of these reasons, please list them in each category, but provide the total number of ballots rejected for these reasons by

election at the end. If you have information for the number of ballots initially rejected, but cured, and the number ultimately rejected, please provide both, and if not, please confirm which category the numbers reflect.

Response:

2020 General Election:

a. *the number of absentee ballots rejected because they were received after the deadline;*

128 ballots

b. *the number of absentee ballots rejected for missing a birthdate;*

0 ballots

c. *the number of absentee ballots rejected due to a signature mismatch;*

73 ballots

d. *the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification; and,*

21 ballots

e. *the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

f. *the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

28,321 ballots

January 2021 Runoff:

a. *the number of absentee ballots rejected because they were received after the deadline;*

107 ballots

b. *the number of absentee ballots rejected for missing a birthdate;*

0 ballots

c. *the number of absentee ballots rejected due to a signature mismatch;*

46 ballots

d. *the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;*

10 ballots

e. *the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

22,805 ballots

2022 General Election:

- a. *the number of absentee ballots rejected because they were received after the deadline;*

29 ballots

- b. *the number of absentee ballots rejected for missing a birthdate;*

21 ballots

- c. *the number of absentee ballots rejected due to a signature mismatch;*

2 ballots

- d. *the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;*

27 ballots

- e. *the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

4,977 ballots

2022 General Runoff:

- a. *the number of absentee ballots rejected because they were received after the deadline;*

50 ballots

b. *the number of absentee ballots rejected for missing a birthdate;*

13 ballots

c. *the number of absentee ballots rejected due to a signature mismatch;*

1 ballot

d. *the number of absentee ballots rejected for failing to meet the ID requirement for an absentee ballot, including due to a missing driver's license or state ID number or Social Security number or missing a copy of required identification;*

2 ballots

e. *the total number of absentee ballots received, accepted, rejected, and cancelled, by Your County.*

3,496 ballots

INTERROGATORY NO. 4

Describe in detail YOUR response, including all specific remedial steps taken, to potential or actual non-compliance with Americans With Disabilities Act physical accessibility requirements found in accessibility evaluations, surveys, or reports about Election Day polling places and early voting locations.

Response: The Richmond Defendants further object to Interrogatory No. 4 on the grounds that it is overly broad, unduly burdensome, and vague because it seeks

Exhibit 10

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONFERENCE
OF THE NAACP, ET AL.

Civil Action No.
1:21-cv-1259-JPB

v.

BRAD RAFFENSPERGER, ET AL.

DECLARATION OF GERALD GRIGGS

Pursuant to 28 U.S.C. § 1746, I, Gerald Griggs, declare as follows:

1. I am the President of the Georgia State Conference of the National Association for the Advancement of Colored People (“Georgia NAACP”). I have served in that role since May 2022 and can attest to the effect that SB 202 has had on the organization’s work and mission. Prior to my role as State Conference President, I served as 3rd Vice President from 2018-2020. I am over 18 years of age and am competent to make this declaration. I have personal knowledge of the facts stated in this declaration and would testify to those facts if called as a witness before this Court.

2. Founded in 1941, Plaintiff Georgia NAACP is the State’s oldest and

largest civil and human rights organization. The Georgia NAACP is a nonpartisan, interracial, nonprofit membership organization with the mission of eliminating racial discrimination through democratic processes such as public policy advocacy, direct action, and litigation, and thus ensuring the equal political, educational, social, and economic rights of all persons, in particular African Americans. It is headquartered in Atlanta, Georgia and currently has approximately 10,000 members across the State of Georgia and in virtually every county.

3. The Georgia NAACP works to protect voting rights through litigation, advocacy, legislation, communication, and outreach, including work to promote voter registration, voter education, election protection, census participation, and get out the vote (“GOTV”) efforts such as Sunday early voting events known as “Souls to the Polls”.

4. The Georgia NAACP is a state subsidiary of the National Association for the Advancement of Colored People (“NAACP National”) and is responsible for overseeing 180 units across the State of Georgia. Some units are organized at the county level; others, at the city level; and a few are youth units, including college chapters. As part of its supervisory duties, the Georgia NAACP provides resources, including education, training, monetary grants, and other support, to the county and local units it oversees.

5. The Georgia NAACP has limited resources. It is now, and has been

historically, a volunteer organization. For instance, seven or eight individuals currently work at the state-level office: one paid full-time administrative assistant, and everybody else serving as part-time volunteers.

6. The Georgia NAACP operates several committees, each of which is devoted to a particular issue of importance to the NAACP's mission, such as housing, education, veterans affairs, etc. Each such committee is chaired by a volunteer member of the Georgia NAACP.

7. With SB 202, the Georgia State Legislature instituted sweeping changes to the elections process, including new restrictions on requesting, assisting with, and casting absentee ballots such as a requirement that voters print their full date of birth on the return envelope for an absentee ballot (the "Birthdate Requirement"), limitations on the availability of dropboxes, etc. As I detail below, the Georgia NAACP had to make significant changes to its programs and divert resources to address SB 202's restrictions, including its absentee voting provisions.

8. For instance, as a part of its election protection efforts, the Georgia NAACP in coalition with its partners operates a hotline (1-866-OUR-VOTE) to field questions from around the State of Georgia concerning election and voting issues.¹ The hotline is manned by lawyers that work in partnership with the Georgia NAACP

¹ Information about the Election Protection hotline is available at the following URL: <https://866ourvote.org>

and NAACP National. After the passage of SB 202, the 1-866-OUR-VOTE hotline experienced increased call volumes, which required the Georgia NAACP to bring in additional volunteers to meet the greater demand. Indeed, we needed to hire least two attorneys, which NAACP National paid for, specifically to address phone calls for the State of Georgia. Similarly, in response to the passage of SB 202, the Georgia NAACP also had to hire and pay a State Director to spearhead its election protection, voter mobilization and voter education efforts for the 2022 election cycle.

9. Because of the scope of SB 202's changes to the voting process, the Georgia NAACP had to refocus its activities and devote a majority of its time on voter education issues. As part of this effort, for the first time in its history, the Georgia NAACP organized a statewide, 22-city voter education campaign, including town halls, civic engagement events, and church events throughout Georgia, to make sure that people were aware of SB 202's voting processes and its new restrictions, and that they had available options to participate in the franchise.

10. After SB 202, the Georgia NAACP had to spend a substantially greater amount of time on voter education around the limitations that were now placed on African-American voters and Georgia voters more broadly. This required the Georgia NAACP and its volunteer committee chairs and members to divert attention from their existing areas of focus to dealing with voting issues. For instance, the veteran affairs committee had to address the effects of SB 202 on veterans who may

be overseas, and who accordingly may not fly back here to vote in-person and had to cast absentee ballots. Similarly, the education committee had to address issues for students who would not be able to vote because they were off at college. In some cases, the shift in focus would frustrate the ability to address a committee's objective altogether; as an example, instead of addressing housing discrimination issues, because of SB 202, the chair of the housing committee had to shift her focus to voter education and election protection matters unrelated to housing.

11. In order to blunt the overall negative impact of SB 202 on African-American voter communities, the Georgia NAACP also had to grow its GOTV and voter registration efforts substantially. Before 2021, the Georgia NAACP had a GOTV strategy that covered the twelve or thirteen counties amounting to roughly 75 percent of the African-American vote. After SB 202, however, the Georgia NAACP had to invest resources to expand its coverage strategy to encompass 59 counties, covering approximately 90 percent of the African-American vote.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16 day of May at 2023.



Gerald Griggs

Exhibit 11

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONFERENCE
OF THE NAACP, ET AL.

Civil Action No.
1:21-cv-1259-JPB

v.

BRAD RAFFENSPERGER, ET AL.

DECLARATION OF SUSANNAH SCOTT

Pursuant to 28 U.S.C. § 1746, I, Susannah Scott, declare as follows:

1. I am the current President of the League of Women Voters of Georgia (“LWVGA”). I have served in that role since May 2019. Based on my position and job responsibilities, I am familiar with and can attest to the effect that SB 202 has had on the organization’s work and mission. I am over 18 years of age and am competent to make this declaration. I have personal knowledge of the facts stated here and would testify to those facts if called as a witness before this Court.

2. The League of Women Voters is a nonpartisan membership organization that encourages informed and active participation in government by voters and influences public policy through education and advocacy. It was founded

in 1920 by leaders of the women's suffrage movement and has units in all 50 states and more than 800 local communities. The League of Women Voters has two distinct roles. First, it educates voters and citizens about elections, the voting process, and public policy issues. Second, it studies issues under consideration by lawmakers and then advances particular policies in the public interest through grassroots advocacy.

3. LWVGA is a state subsidiary of the League of Women Voters, focused on issues in the State of Georgia. The LWVGA acts as a state-level umbrella organization and is responsible for overseeing 13 local Leagues across Georgia. As of this date, LWVGA has 624 members in the State of Georgia, including 102 in the local League for Atlanta-Fulton County and 46 in Marietta-Cobb County.

4. LWVGA has no paid full-time employees. It engages a limited number of contractors in administrative roles, including at present an office manager and a grants manager (both part-time), and a small handful of interns. Most of the work that LWVGA does is performed on a voluntary basis, either by people on its Board (which at present has 12 members, plus a Board advisor) or by a core of roughly 20 active volunteers.

5. Consistent with its mission, the LWVGA champions bills that make it easier for people to exercise the constitutional right to vote, and thus supports state voting laws that provide for broad access to no-excuse absentee ballots. With SB 202, the Georgia State Legislature instituted sweeping changes to the elections

process, including new restrictions on requesting, assisting with, and casting absentee ballots such as a requirement that voters print their full date of birth on the return envelope for an absentee ballot (the “Birthdate Requirement”), limitations on the availability of dropboxes, etc. As I detail below, the LWVGA had to make significant changes to its programs and divert resources to address SB 202’s restrictions, including its absentee voting provisions.

6. As part of its voter education activities, the League of Women Voters operates an online voter guide (Vote411.org) with information about elections in each state. The LWVGA is responsible for maintaining and posting Georgia-related voting resources on the Vote411.org website, available at the following URL: <https://www.vote411.org/georgia>. Due to the extensive changes in Georgia’s elections laws under SB 202, the LWVGA had to overhaul the Georgia-specific voting materials on Vote411.org completely. In particular, given SB 202’s severe restrictions on absentee ballots, the LWVGA prepared detailed guides covering SB 202’s changes to the absentee voting process specifically, including information about the Birthdate Requirement.

7. In the wake of SB 202, the LWVGA also had to organize a number of town halls, information sessions, trainings and other civic engagement events with local Leagues and Georgia voters to educate them about SB 202’s new restrictions on the absentee ballot process and its changes to elections laws more broadly.

8. Given the increased need for voter education, the LWVGA has had to divert resources from other initiatives, such as state voter registration drives and Get Out The Vote (“GOTV”) efforts. As an example, historically, the LWVGA would organize roughly three to four statewide voter registration drives annually, outside of voter registration activities it conducted in connection with naturalization ceremonies. But, because of the importance of educating the voting public about SB 202’s changes in Georgia voting laws, the LWVGA had to discontinue all its voter registration initiatives except for those it conducted at naturalization ceremonies.

9. Similarly, the LWVGA has had to shift the focus of the materials it prepared for voters. Typically, the LWVGA would send questionnaires to all candidates in specific races and, based on the responses, it would prepare candidate guides detailing where they stood on the issues. However, given the scope of SB 202’s changes to Georgia voting laws, the LWVGA had to prepare more detailed materials about the voting process itself and had to reduce the number of races it included in the candidate survey; as a result, the candidate guide that LWVGA prepared for the election following the enactment of SB 202 was less robust and comprehensive than it would usually have been.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of May, 2023 at 2557 Hawthorne Drive NE, Atlanta, Georgia 30345.



Susannah E. Scott

Exhibit 12

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONFERENCE
OF THE NAACP, ET AL.

Civil Action No.
1:21-cv-1259-JPB

v.

BRAD RAFFENSPERGER, ET AL.

DECLARATION OF GERARDO GONZALEZ

Pursuant to 28 U.S.C. § 1746, I, Gerardo Gonzalez, declare as follows:

1. I am the Founder and current Chief Executive Officer of Plaintiff GALEO Latino Community Development Fund (“GALEO”). I have served in that role since 2020 and, before that, was Executive Director. Given my job responsibilities and position, I am familiar with and can attest to the effect that SB 202 has had on the organization’s work and mission. I am over 18 years of age and am competent to make this declaration. I have personal knowledge of the facts stated here and would testify to those facts if called as a witness before this Court.

2. GALEO was founded in 2004 and is a statewide nonprofit, nonpartisan organization with the mission is to increase civic engagement and leadership

development of the Latino/Hispanic community across Georgia.¹ GALEO focuses on increasing civic participation of the Latino/Hispanic community and developing prominent Latino leaders throughout Georgia.

3. GALEO advocates on many issues of particular interest to the Latino/Hispanic community, including immigrant rights, voting rights, and participation in the census. GALEO also creates opportunities for members and individuals in the Latino/Hispanic community to build and develop leadership skills, and it encourages individuals to run for office or engage with their local PTAs, churches, etc.

4. GALEO has a staff of roughly 18 full-time employees. It also has an active membership of approximately 225 individuals. GALEO members have the opportunity to join the GALEO Leadership Council, a volunteer-led group that conducts a variety of community engagement activities.

5. With SB 202, the Georgia State Legislature instituted sweeping changes to the elections process, including new restrictions on requesting, assisting with, and casting absentee ballots such as a requirement that voters print their full date of birth on the return envelope for an absentee ballot (the “Birthdate Requirement”), limitations on the availability of dropboxes, etc. As I detail below,

¹ GALEO was an affiliate on the Georgia Association of Latino Elected Officials, a sister organization started in 2003, which has since been dissolved.

GALEO had to make significant changes to its programs and divert resources to address SB 202's restrictions, including its absentee voting provisions.

6. These restrictions on absentee voting sharply contrasted with the wide availability of absentee voting in the election cycle immediately preceding the passage of SB 202. After the many obstacles that SB 202 placed on the absentee ballot process, including but not limited to the Birthdate Requirement, the absentee ballot process was a far less viable process because of all the steps required to ensure that ballots were properly counted. The complexity of SB 202's absentee ballot requirements and limitations on assistance made it much more difficult for Latino/Hispanic folks to be able to exercise the right to vote by mail-in ballot. Indeed, because of the onerous nature of the absentee ballot processes under SB 202, I decided against voting absentee myself to avoid dealing with the hassle. The problem was exacerbated for Limited English Proficient voters in Latino/Hispanic communities, as the absentee ballot instructions (including the Birthdate Requirement) were available only in English in 158 of the 159 Georgia counties—in all but Gwinnett County.

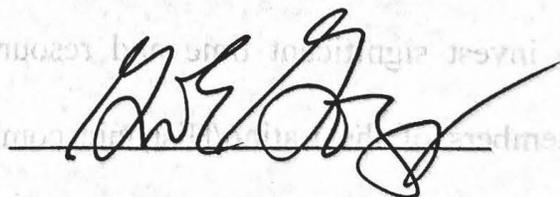
7. Given SB 202's changes to the absentee voting process, GALEO had to invest significant time and resources in engaging in voter outreach among members of the Latino/Hispanic community. To alert as broad an audience as possible of the changes, GALEO had to find many different pathways to engage with

the community, including by social media and on Spanish-language media channels. In addition, GALEO had to undertake the time and expense of preparing and sending flyers and mailers to members in the Latino/Hispanic community to inform them about SB 202's changes, including its restrictions on absentee voting, and to encourage them to participate in in-person early voting, rather than to try to go through the gauntlet of requirements required for absentee ballot process. **Exhibit A** to this declaration is a printout of a flyer prepared by GALEO providing a high-level overview, both in Spanish and in English, about SB 202's changes to Georgia voting laws, including on the absentee ballot process.

8. This constituted a significant shift in GALEO's resources and its strategy as compared to what it would typically be doing during a normal education cycle. This focus on the nuts and bolts of the voting process also distracted GALEO and its members from its core mission of advancing leadership engagement and development.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of May 2023 at ATLANTA, GA.



Gerardo Gonzalez

¡PROTEJA SU VOTO!

EL SB202 EN GEORGIA SIGNIFICA:

- ❁ Debe votar en su distrito electoral asignado.
- ❁ Debe mostrar una identificación de votante tanto para la solicitud de solicitud de boleta de voto ausente como para la boleta de voto ausente real.
- ❁ No puede repartir refrigerios a otros votantes.
- ❁ Es posible que deba defender su elegibilidad para votar si un compañero votante lo desafía.
- ❁ Tendrá menos acceso a los buzones de votación.
- ❁ Será más complicado solicitar una boleta de voto ausente en línea.

LUCHAR. 

VOTAR. 

PODER. 

LLÁMANOS A 888-544-2536 O VISITE GALEO.ORG PARA MÁS INFORMACIÓN

 GALEO  GALEOorg  iamGALEO  iamGALEO



REGISTRESE A VOTAR:



DEFENDANT'S EXHIBIT
4
GALEO

PENGAD 800-631-6989

PROTECT YOUR VOTE!

THE SB202 IN GEORGIA MEANS:

- * You must vote at your assigned precinct.
- * You must provide voter ID for both absentee ballot request application and actual absentee ballot.
- * You cannot pass out refreshments to fellow voters.
- * You may have to defend your eligibility to vote if challenged by a fellow voter.
- * You will have less access to voting dropboxes.
- * It will be more complicated to request an absentee ballot online.

ENGAGE.
VOTE.
EMPOWER.

REGISTER TO VOTE:



CALL US AT 888-544-2536 OR VISIT GALEO.ORG FOR MORE INFORMATION



GALEO GALEOorg iamGALEO iamGALEO

Exhibit 13

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONFERENCE
OF THE NAACP, ET AL.

Civil Action No.
1:21-cv-1259-JPB

v.

BRAD RAFFENSPERGER, ET AL.

DECLARATION OF TREAUNNA (“AUNNA”) DENNIS

Pursuant to 28 U.S.C. § 1746, I, Treaunna (“Aunna”) Dennis, declare as follows:

1. I am the Executive Director of Common Cause Georgia (“Common Cause GA”). I have served in that role since June 2020. Given my position and job responsibilities, I am familiar with, and can attest to, the effect that SB 202 has had on the organization’s work and mission. I am over 18 years of age and am competent to make this declaration. I have personal knowledge of the facts stated here and would testify to those facts if called as a witness before this Court.

2. Plaintiff Common Cause is a national, nonpartisan, nonprofit organization with the mission of making government more open, honest, and accountable. Common Cause was founded in 1970 and focuses on efforts that bring

equity, equality and fairness across different sectors concerning public participation. Its work includes campaigns directed at voter protection and education; gerrymandering and representation; ethics and accountability; and the democratic process. Common Cause has over 28 state-level offices, each of which conduct state-specific program work related to its mission.

3. Common Cause has a state-level office in Atlanta, Georgia, known as Common Cause GA. Common Cause GA was founded in 1974. Common Cause GA conducts Georgia-related programs, including Common Cause's work relating to voting rights and elections, among other issues. As of today, Common Cause GA has over 24,000 members throughout the State of Georgia in virtually every county.

4. Common Cause GA is dedicated to encouraging voter participation in Georgia, including among Black voters and other voters of color, as well as among other traditionally underrepresented communities. Common Cause GA's support of voting rights is central to its mission to provide equitable access to the democratic process and encourage voter participation.

5. In addition to its voting-related initiatives, Common Cause GA has focused on issues concerning fairness in the redistricting process and transparency in state and local government. Its work has also included special programs like broadband accessibility and sheriff accountability, among others. As Executive Director, I have the ability and obligation to direct the types of issue areas that

Common Cause GA focuses on within the mission of the national office.

6. Several different voter participation activities compete for the limited resources that Common Cause GA has available. These include mobilizing volunteers to engage with election boards and offices to better understand the elections processes, to pinpoint gaps in capacity and infrastructures in election offices, and to build a relationship with county election offices. Common Cause also helps recruit community members to support all phases of the elections process, including to be poll workers, to serve onsite at voting precincts during election cycle to address voter questions, and to volunteer in election-related processes such as risk-limiting audits and recounts. It also creates and publishes resources for voters and community members to utilize regarding elections and engages in efforts to educate them about changes in the voting and election process. In addition, as part of its civic engagement education outreach, Common Cause GA works with members of local communities to understand the obstacles that they encounter in trying to engage in the voting process and to find ways to address them; for instance, Common Cause GA's transportation and mobile voter accessibility initiatives in 2021 were the result of such civic engagement efforts, which surfaced the difficulties that many voting members of Georgia communities had in traveling to poll locations.

7. With SB 202, the Georgia State Legislature introduced a number of restrictions on requesting, assisting with, and casting absentee ballots, including a

requirement that voters print their full date of birth on the return envelope for an absentee ballot (the “Birthdate Requirement”). As a result of these changes introduced by SB 202, Common Cause GA had to divert resources to helping voters educate themselves on SB 202’s additional obstacles to absentee ballot voting, including the Birthdate Requirement, and to making accessible technology services for voters who may need to request an absentee ballot, to upload or retrieve ID information for absentee ballot applications, to retrieve absentee ballots, etc. Given the new restrictions on absentee voting under SB 202, Common Cause GA had to invest significant time and resources in mass education campaigns at a scale unlike those the organization had previously conducted to teach voters about SB 202’s absentee balloting provisions, including its Birthdate Requirement. These included not only member meetings to educate on changes in election processes, but also in-person community engagement panels, town halls, and other outward-facing events for voters and local communities. Such voter education efforts were particularly necessary given the wide availability and utilization of absentee voting in the 2020 election cycle.

8. Because of the increased need for voter education on absentee ballot processes and restrictions, as well as SB 202’s other provisions, Common Cause GA had to divert resources from other pressing matters and initiatives. Common Cause and its state-level office in Georgia has traditionally been a governmental watchdog

organization serving as a bulwark against unaccountable government practices. Nevertheless, because of SB 202's stark changes in absentee voting procedures and the elections process more broadly, Common Cause GA had to discontinue its sheriff accountability work because the organization did not have enough staffing or headcount to perform it, given the increase demand for voter education. Similarly, Common Cause GA had to delay important institutional priorities. As an example, prior to SB 202, Common Cause GA had intended to research procurement processes for real estate and other resources within half a dozen local jurisdictions in Georgia to support Common Cause GA's operations and its mission; but, because of SB 202, Common Cause GA had to scale back its research efforts drastically; accordingly, Common Cause GA has had capacity only to conduct research with respect to procurement within a single local jurisdiction. In fact, given the disruption caused by SB 202, I personally was not able to perform one of my key duties as Executive Director, which is to build and grow Common Cause GA's advisory board. Had SB 202 and its many restrictions on absentee voting and the voting process more broadly not been enacted, Common Cause GA would have had capacity to address these other important matters.

9. The Birthdate Requirement and the other restrictions on absentee voting under SB 202 make it harder to vote, especially for older voters and other voters with limited transportation options. For instance, if my grandfather were alive

today, he would be in his 90s. But, if he hypothetically were to cast an absentee ballot, he would be unable to supply a full birthdate; that is because he was born via a midwife (which was common at the time), and his birthdate was recorded only in a family Bible (which no longer exists). Similarly, my grandmother, who is elderly and a voter, struggles with recalling her birthdate and occasionally requires help in doing so based on the ages and birthdays of other family members. I know from personal experience that such circumstances are not unique, and that there are voters in Georgia, particularly among the elderly, who may not be able to immediately or accurately recall their full date of birth, as well as those who speak and understand limited or no English.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16 day of May 2023 at Atlanta, Georgia.

A handwritten signature in cursive script that reads "Treanna C. Dennis". The signature is written in black ink and is positioned above a horizontal line.

Treanna (“Aunna”) Dennis

Exhibit 14

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.:
1:21-MI-55555-JPB

GEORGIA STATE CONFERENCE
OF THE NAACP, ET AL.

Civil Action No.
1:21-cv-1259-JPB

v.

BRAD RAFFENSPERGER, ET AL.

DECLARATION OF HELEN BUTLER

Pursuant to 28 U.S.C. § 1746, I, Helen Butler, declare as follows:

1. I am the Executive Director of the Georgia Coalition for the People's Agenda (the "People's Agenda"). I have served in that role since roughly 2006 and, before that, I was State Coordinator from the time I started working for the People's Agenda in 2003. Based on my position and job responsibilities, I am familiar with, and can attest to, the effect that SB 202 has had on the organization's work and mission. I am over 18 years of age and am competent to make this declaration. I have personal knowledge of the facts stated in this declaration and would testify to those facts if called as a witness before this Court.

2. Founded in 1998, the People's Agenda is an umbrella organization for

many different human rights, civil rights, labor, women's, youth, and peace and justice groups that perform advocacy work in the State of Georgia. The People's Agenda and its coalition partners focus on a broad range of issues, including voting rights protection, elimination of barriers to the ballot box, criminal justice reform, quality education, affordable housing, economic development, and equal participation in the political process for Georgians of color and underrepresented communities. Its overall mission is to improve the quality of governance in Georgia, help create a more informed and active electorate, and have responsive and accountable elected officials. Towards that end, it performs a variety of civic engagement work and conducts issue campaigns.

3. The People's Agenda constituents include over 30 different advocacy groups, which collectively have more than 5,000 individual members. In addition, individuals can sign up directly for an annual membership to the People's Agenda by paying a membership fee and submitting an application.

4. The People's Agenda operates seven offices across the State of Georgia: its main office in Atlanta, and additional offices in Athens, Augusta, Albany, Savannah, Macon, and LaGrange. Each office serves roughly 10 to 12 surrounding counties on a regular basis. The People's Agenda has limited resources to cover all this work, with seven paid full-time staff members working in the main Atlanta office, and six coordinators, each assigned to a particular area of Georgia.

The coordinators are responsible for organizing the People's Agenda activities in the communities they serve, including civic engagement activities, voter registration drives, voter mobilization efforts, and the organization's educations and coalition work. The People's Agenda also has a couple hundred volunteers that work with its offices across the State of Georgia, including in Atlanta.

5. With SB 202, the Georgia State Legislature instituted sweeping changes to the elections process, including new restrictions on requesting, assisting with, and casting absentee ballots such as a requirement that voters print their full date of birth on the return envelope for an absentee ballot (the "Birthdate Requirement"), limitations on the availability of dropboxes, etc. The People's Agenda had to make significant changes to its programs and divert resources to address SB 202's restrictions, including its absentee voting provisions.

6. Given the scope and volume of SB 202's changes to the voting process, there was a much greater need for the People's Agenda to engage in voter education activities than it had over my time. In my experience, there had not been any changes in Georgia's voting laws as extensive and disruptive as those under SB 202. Moreover, SB 202 contained severe punishments for those that misunderstood its requirements; these included, in the case of the Birthdate Requirement, completely rejecting ballots of otherwise eligible voters or, in some cases, imposing criminal penalties for those that engaged in conduct that had previously been permitted, such

as assisting with absentee ballot applications or providing line relief.

7. As a result, the People's Agenda's staff has had to invest much more of their time and effort in educating voters about SB 202's changes and how SB 202 would impact them as they went to vote. For example, around the summer of 2021, following the passage of SB 202, we organized and led a virtual voter education tour in five counties in Georgia to educate members and the public about changes they needed to be aware of as a result of SB 202. Then, beginning around the summer of 2022, we organized and led the Your Vote Your Voice tour, during which we made seven in-person stops to different counties in the state to again educate members and the public about the changes wrought by SB 202. In both of these tours, we educated attendees about the changes to the Absentee Ballot process and the new requirements for requesting absentee ballot applications and returning the absentee ballots.

8. In addition, the People's Agenda could not continue other programmatic activities that it would typically conduct, and many of the People's Agenda's usual areas of focus were left unattended. For instance, in normal times, the People's Agenda typically performs a lot of work on matters outside of the voting process—namely, criminal justice reform, equity in education, economic empowerment for Black-owned businesses, environmental justice, and elder issues. The People's Agenda seeks to balance its limited time and resources between these areas. But, due to the extensive changes to absentee voting and election laws more

broadly under SB 202, the People's Agenda had to divert attention of its staff and membership away from these areas and focus instead on voter education.

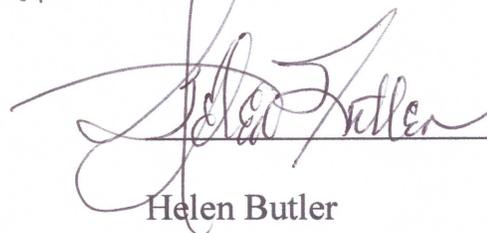
9. Indeed, the People's Agenda had specifically hired Cynthia Battles, its Director of Policy and Engagement, fulltime in February 2021 to address and deepen its work in these non-voting subject matter areas, including initiatives to create citizen oversight boards in the criminal justice system, to collaborate with community school boards to improve education quality in underperforming schools, to obtain better access to state and local contracts for Black-owned businesses, and to negotiate utility bills for seniors. Because of the disruption caused by SB 202, however, Ms. Battles could not engage in this policy work and instead dedicated the vast majority of her time to voter education issues; in some cases, as with the project to get fairer utility bills for seniors, the People's Agenda's work stopped altogether.

10. SB 202's restrictions on the absentee ballot process, including the Birthdate Requirement, raised obstacles and uncertainties about whether voting by mail would be effective. And its limitations on out of precinct voting further exacerbated the issue, making it more difficult for eligible voters to cast a ballot. The compound effect of these restrictions forced the People's Agenda to change its Get Out the Vote ("GOTV") efforts, so they could better serve for seniors and other vulnerable communities who had difficulty getting to the ballot box. In particular, the People's Agenda had to invest in and expand its "Rides to the Polls" initiative.

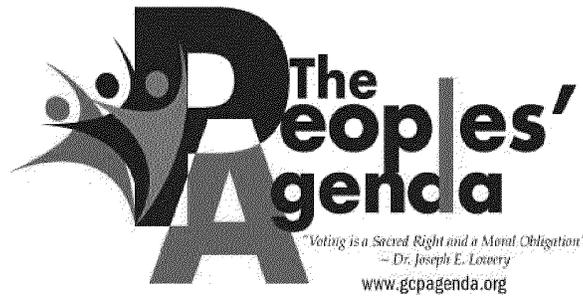
11. I personally had to dedicate substantial time to voter outreach and education activities, helping Georgia voters and our coalition partners understand SB 202's myriad restrictions. This work included preparing and giving many presentations about SB 202 and its requirements, including the Birthdate Requirement and its absentee voting process. In addition to voter education activities, I also had to engage extensively with government officials and legislatures to clarify SB 202's requirement and address the problems that it created. These efforts including preparing and giving testimony about SB 202's absentee voting restrictions to the United States House Judiciary Committee on January 20, 2022. **Exhibit A** to this declaration is a printout of my written testimony to the United States House of Representatives. These activities diverted my efforts from advancing the People's Agenda's non-voting-related initiatives and distracted from my broader responsibilities and duties as Executive Director.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of May at Atlanta, Georgia.



Helen Butler



TESTIMONY OF HELEN BUTLER
EXECUTIVE DIRECTOR, GEORGIA COALITION FOR THE PEOPLE'S AGENDA

UNITED STATES HOUSE OF REPRESENTATIVES, JUDICIARY COMMITTEE
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

HEARING ON

“VOTER SUPPRESSION AND CONTINUING THREATS TO DEMOCRACY”

VIA ZOOM VIDEO WEBINAR

JANUARY 20, 2022 - 10:00 A.M.

I. Introduction

Chair Cohen, Vice Chair Ross, Ranking Member Johnson, and Members of the Committee, my name is Helen Butler and I am the Executive Director of the Georgia Coalition for the People's Agenda ("PEOPLE'S AGENDA").

The PEOPLE'S AGENDA is a non-partisan, non-profit organization founded by the late Reverend Dr. Joseph E. Lowery. It is comprised of a coalition of representatives from civil rights, human rights, peace and justice organizations, and concerned citizens of the State of Georgia. The PEOPLE'S AGENDA is based in the greater Atlanta metro area, but we have members located throughout the entire State of Georgia who help to advance our mission and achieve our organizational goals.

Our mission is to improve the quality of governance in Georgia, create a more informed and active electorate, and ensure responsive and accountable elected officials. A significant focus of our work is on voter empowerment and ensuring equal access to the ballot for eligible Black Georgians, other Georgians of color, and under-represented communities.

The PEOPLE'S AGENDA'S voter empowerment work includes providing voter registration assistance with a focus on education and mobilization, at Historically Black Colleges and Universities (HBCUs), high schools, naturalization ceremonies, and community events. The PEOPLE'S AGENDA also conducts town hall meetings and candidate forums to provide opportunities for Georgia voters to learn about candidate positions and to engage in dialogues. We also operate a "Get Out the Vote" campaign in central locations throughout the state to encourage voter turnout; conduct our Election Protection Project which informs voters of their rights and provides immediate relief for problems encountered on or before Election Day; and manage our "Vote Connection Center" which provides training and technical assistance to nonprofit organizations and individuals through effective issue campaign organizing and civic engagement.

The PEOPLE'S AGENDA has always been dedicated to fighting for the voting rights of Georgia's citizens through public education, training, advocacy, and litigation. However, we have been forced to spend even more time and limited resources fighting discriminatory voting laws, policies, and practices at the state and local levels in Georgia in the wake of the Supreme Court's 2013 decision in *Shelby County v. Holder* due to the lack of the preclearance process and consequent loss of advance notice of voting changes that discriminate against Black voters and other voters of color.

II. Georgia's Increasing Racial and Ethnic Diversity Fueled Efforts by Georgia's Majority Party to Enact Voter Suppression Laws

According to the 2020 Census, Georgia was among the top five States gaining population in the past decade, with the addition of 1,024,255 residents since 2010—a 10.6% increase.¹

¹ See U.S. Census Bureau, Georgia: 2020 Census, August 24, 2021, available at: <https://www.census.gov/library/stories/state-by-state/georgia-population-change-between-census-decade.html>.

People of color account for nearly all of Georgia's population growth since 2010, with Georgia's Black population increasing by 12.5%, Latinx population by 31.6% and AAPI population by 52.3%. By contrast, Georgia's White population decreased by 4%.²

In the last two decades, the Georgia electorate has undergone significant demographic changes, with increases in the percentage of Black Georgians and other Georgians of color registering to vote, participating in elections, and utilizing mail voting and early voting for casting their ballots.

These demographic changes and voting patterns have resulted in corresponding political changes in the state, including during the 2020 election cycle when Georgia elected its first Democratic presidential candidate since 1996, Joseph R. Biden, and its first Black United States Senator, Reverend Raphael Warnock.

Instead of embracing the increasing racial and ethnic diversity of Georgia's electorate and attempting to appeal to Black voters and other voters of color through public policies and legislation which support these voters' interests, the response by the majority party and Governor Kemp to these political changes was to enact new voter suppression laws during the 2021 regular legislative session to make it more difficult for Georgia's Black voters and other voters of color to vote.

These new laws also came on the heels of unprecedented efforts by the former President and his allies to overturn the presidential election results in Georgia and in other battleground states based upon patently false assertions of widespread voter fraud - which were particularly aimed at jurisdictions having large populations of Black and Brown voters, such as Georgia in general and Fulton County in particular - and false claims that the state's Dominion voting machines flipped votes for President Trump to Joe Biden.

Notwithstanding the fact that Georgia Secretary of State, Brad Raffensperger, repeatedly rejected the notion that there had been widespread voter fraud in the 2020 election cycle or that Georgia's voting machines switched votes following audits and hand counts of the ballots,³ the former President and his allies nevertheless have continued to make false claims of voter fraud and voting machine interference, inspiring legislators in Georgia to enact laws that suppress the votes of Black and Brown Georgians and will undermine free and fair elections in our state.

² *Id.*

³ David Wickert and Greg Bluestein, *Georgia election chief to Trump: Drop the fraud allegations*, Atlanta Journal-Constitution, December 2, 2020 (available online at: <https://www.ajc.com/politics/election/georgia-election-chief-to-trump-drop-the-fraud-allegations/PDNVA3RTQJC5XG5O5QYQ6ZG5MY/>); Alison Durkee, *Georgia Election Official: No Voter Fraud In Runoffs Except In Trump's 'Fertile Mind,'* Forbes, January 26, 2021 (available online at: <https://www.forbes.com/sites/alisondurkee/2021/01/06/georgia-election-official-no-voter-fraud-in-runoffs-except-in-trump-fertile-mind/?sh=521736b2424a>); *Georgia Election Audit Completed: Biden Victory, Finds No Widespread Fraud*, CBS Atlanta, November 20, 2020; (available online at: <https://atlanta.cbslocal.com/2020/11/20/georgia-election-audit-completed-biden-victory-finds-no-widespread-fraud>).

As a result of these false claims, election officials in Georgia and other battleground states have faced terrorizing death threats to themselves and their families⁴ and a number of Georgia's election officials have resigned from their jobs since the 2020 election cycle, including the directors of election in Macon-Bibb,⁵ Fulton,⁶ Gwinnett,⁷ and Augusta-Richmond⁸ counties, as well as in other states.⁹

Shortly after Governor Brian Kemp signed SB 202, Georgia's omnibus voter suppression bill into law, Georgia's Republican Lieutenant Governor, Geoff Duncan, told CNN that the law was the fallout from a 10 week misinformation campaign by the former president and his allies, including by his personal attorney, Rudy Giuliani, who "showed up in a couple of committee rooms and spent hours spreading misinformation and sowing doubt across, you know, hours of testimony."¹⁰

a. Georgia Senate Bill 202 (Enacted on March 25, 2021)

SB 202 was enacted by Governor Kemp after it was passed along party lines during the 2021 regular legislative session. The bills were rushed through committees in the Georgia House and Senate, often with little or no time for the minority party's members on the committees - much less the general public - to have an opportunity to review the final versions of the bills before they were voted upon. This process, with virtually no real transparency nor bipartisan support, culminated in the passage of an omnibus voter suppression bill, Senate Bill 202, the "Election Integrity Act of 2021" ("SB 202"), on March 25, 2021.¹¹

⁴ Linda So, *Trump-inspired death threats are terrorizing election workers*, Reuters, June 11, 2021 (available online at: <https://www.reuters.com/investigates/special-report/usa-trump-georgia-threats/>).

⁵ Liz Fabian, *Macon-Bibb elections supervisor resigns, cites stress, workload, new election laws*, GPB, January 11, 2022, available at: <https://www.gpb.org/news/2022/01/10/macon-bibb-elections-supervisor-resigns-cites-stress-workload-new-election-laws>.

⁶ Fredreka Shouten, *Embattled election chief in Fulton County resigns*, CNN, November 3, 2021, available at: <https://www.cnn.com/2021/11/03/politics/fulton-county-election-chief-resigns/index.html>

⁷ Arielle Kass, *Gwinnett elections director is stepping down*, AJC, March 5, 2021, available at <https://www.ajc.com/news/atlanta-news/gwinnett-elections-director-is-stepping-down/VNT6DZIA3NDBDDIXGUALZNN44I/>.

⁸ Susan McCord, *Lynn Bailey, Richmond County elections chief, announces retirement after 28 years*, Augusta Chronicle, June 15, 2021, available at: <https://www.augustachronicle.com/story/news/local/2021/06/15/lynn-bailey-director-elections-richmond-county-augusta-ga-to-ire/7698364002/>.

⁹ Michael Wines, *After a Nightmare Year, Election Officials Are Quitting*, NYT, July 2, 2021, available at: <https://www.nytimes.com/2021/07/02/us/politics/2020-election-voting-officials.html>.

¹⁰ Sara Murry, *Georgia's GOP lieutenant governor says Giuliani's false fraud claims helped lead to restrictive voting law*, CNN, April 8, 2021 (online at <https://www.cnn.com/2021/04/07/politics/geoff-duncan-voter-fraud-cnntv/index.html>).

¹¹ Georgia SB 202 as passed on March 25, 2021: <https://www.legis.ga.gov/api/legislation/document/20212022/201498>.

The very same day the General Assembly passed SB 202, Governor Brian Kemp swiftly signed the bill into law in the presence of a group of six White men¹² and in front of a painting of the Callaway Plantation - the site of a former cotton plantation where over one hundred enslaved Black people served its owners.¹³

The preamble of SB 202 clearly indicates it was crafted with the former President's misrepresentations and disinformation about the 2020 election being "stolen" from him in mind. Among other things, the preamble indicates that the overhaul of Georgia's election procedures was necessary due to a significant "lack of confidence" in Georgia election systems, with many electors purportedly concerned about allegations of "rampant voter suppression" and about allegations of "rampant voter fraud."¹⁴ The preamble also asserts the law was designed to "address the lack of elector confidence in the election system," reduce the burden on election officials, and streamline the process of conducting elections by promoting uniformity in voting.¹⁵ The law does nothing of the kind.

Instead, SB 202 substantially increased burdens on voters, targeting methods of voting increasingly being used by Black Georgia voters and voters of color with arbitrary and unnecessarily burdensome requirements that will disenfranchise voters and potentially expose non-profit civic engagement organizations, such as the PEOPLE'S AGENDA, to large fines and criminal penalties for providing assistance to voters who will now need to navigate the law's complicated procedures. SB 202's discriminatory changes include:

(1) Onerous and arbitrary absentee ballot application and ballot ID requirements that weigh more heavily on Black voters, other votes of color and lower income voters who do not have a Georgia driver's license or state ID number. If a voter does not have a Georgia driver's license or state ID number to put onto their absentee ballot applications, they must include a copy of another form of acceptable ID with the absentee ballot application and, if they do not have a Social Security number, they must include a copy of the ID when returning the voted ballot.¹⁶ And this must be done for *each election* in an election cycle, including each primary, general, special, and runoff election.

Since voters cannot use an identification number from the so-called "free" voter ID card that Georgia voters may apply for if they do not have a Georgia driver's license or state

¹² Stephen Fowler, *Kemp Signs 98-Page Omnibus Elections Bill*, Georgia Public Broadcasting, March 25, 2021, available at: <https://www.gpb.org/news/2021/03/25/kemp-signs-98-page-omnibus-elections-bill>.

¹³ Will Bunch, *Georgia governor signed a voter suppression law under a painting of a slave plantation*, Philadelphia Inquirer, March 26, 2021, available at: <https://www.inquirer.com/opinion/georgia-governor-brian-kemp-painting-slave-plantation-20210326.html>.

¹⁴ SB 202, Section 2.

¹⁵ *Id.*

¹⁶ *See* SB 202, Sections 25, 27 and 28.

ID card when applying for an absentee ballot or returning the ballot under the new law, voters would even have to submit copies of the “free” voter ID under the law when applying for an absentee ballot or when returning their voted ballot.

Black voters and other voters of color are proportionately less likely to have computers in their homes and suffer from significantly higher rates of poverty than White voters. Without the technology to scan, print, fax or email these multiple copies of ID documents in the home, these voters will face undue and disparate burdens on their ability to vote by mail. This burden is amplified because the law also criminalizes the “handling” of absentee ballot applications by third parties with few exceptions for people who assist voters in navigating these new requirements, including if they help the voter scan or copy the completed application and ID documents or try to help them fax or email the application and ID documents to election officials.¹⁷

If voters without a Georgia driver’s license or state ID card do not include copies of alternative ID documents with their absentee ballot applications, the applications will be rejected. If the voters fail to provide the copies of the ID documents when they return the voted ballot, they will be required to produce a form of acceptable ID to the county registrar within three days of the election for their absentee ballot to count.¹⁸

(2) Prohibiting public agencies and public employees from sending unsolicited absentee ballot applications to voters - something that the Georgia Secretary of State did when he sent unsolicited absentee ballot applications to all of Georgia’s active voters ahead of the June 2020 primary elections - and which a number of County Registrars offices did in previous election cycles to encourage absentee voting and voter turnout.¹⁹

(3) Criminalizing the “handling” of any completed absentee ballot application by anyone other than the voter (with a few exceptions), which would even prevent a voter who does not have access to a fax machine or scanner from receiving help from the PEOPLE’S AGENDA or other non-profit civic engagement groups in faxing or scanning the completed application, so that it can be submitted electronically to election officials unless we are providing assistance to a disabled voter.²⁰

(4) Subjecting private individuals and non-public entities, including the PEOPLE’S AGENDA and other non-profit civic engagement organizations attempting to assist voters with absentee voting, to potentially large fines for sending absentee ballot applications to voters unless we check the Secretary of State’s data files in advance to determine whether a voter has already requested an absentee ballot application, returned

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *See* SB 202, Section 25.

²⁰ *Id.*

the application or voted an absentee ballot.²¹

Even if the voter requested an absentee ballot application from their county registrar and it was never received or the voter submitted an application and never received their ballot, PEOPLE'S AGENDA and other non-profit civic engagement organizations would run the risk of being fined if we sent another application to that voter. The law also requires the PEOPLE'S AGENDA and other groups and individuals to use the official absentee ballot application from the Secretary of State's office when sending ballot applications to voters, but we must provide a confusing disclaimer that the application was not being sent by a public entity or public official.²²

(5) Prohibiting persons other than the voter from touching or handling a completed absentee ballot applications unless the voter is disabled, which would even preclude a voter asking the PEOPLE'S AGENDA, a friend, neighbor or other non-profit civic engagement organizations to fax their application to the registrar's office because they do not have access to a fax machine and limits the return of ballot applications, as well as absentee ballots, to close relatives, housemates or, in the case of disabled voters, a potential caretaker.²³

(6) Delaying and compressing the time during which a voter can request or submit an absentee ballot and shortening the time when a runoff election takes place to 28 days after the original election, which will substantially shorten the voter registration period and early voting period for runoff elections.²⁴

(7) Giving county registrars unfettered discretion to limit early voting hours from 9 a.m. to 5 p.m. and to entirely eliminate Sunday early voting,²⁵ thereby making it difficult for voters who work, go to school or have other obligations during the workday to be able to access early voting, and leading to the elimination of Sunday early voting in some counties despite its popularity with Black voters and other voters of color who conduct "Souls to the Polls" get out the vote campaigns involving Black Churches and other faith organizations following Sunday services.²⁶

(8) Severely restricting the number of, and access to, absentee ballot drop boxes, which

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See SB 202, Section 42.

²⁵ See SB 202, Section 28.

²⁶ In 2018, conservatives in the legislature attempted to eliminate Sunday early voting in House Bill 363. However HB 363 died in the wake of negative media attention and advocacy by the PEOPLE'S AGENDA and other civic engagement and civil rights organizations. See Kira Lerner, UPDATED: Georgia bill that would eliminate Sunday voting and suppress black turnout fails, Think Progress, March 16, 2018, available at: <https://thinkprogress.org/georgia-sunday-voting-cut-9c1c2ffafd18/>.

were heavily used by Georgians in the 2020 election cycle and were a more secure and reliable method of returning absentee by mail ballots than through the U.S.P.S. mail boxes. Under the new law, drop boxes must be inside early voting locations and will be available only during the days and hours when early voting is taking place, thereby making them unavailable to voters who cannot vote during early voting hours due to work, school, or other obligations during the day. Additionally, counties are limited to having one drop box per 100,000 registered voters, which substantially limits the total number of drop boxes for each county.²⁷

(9) Disenfranchising out-of-precinct voters by arbitrarily prohibiting any out-of-precinct voting before 5:00 p.m. on Election Day and allowing only limited out-of-precinct voting after 5:00 p.m. for voters who go to the incorrect polling place in the county where they are registered to vote and swear out an affidavit that they cannot get to their correct polling location before the close of the polls at 7:00 p.m.²⁸ This change penalizes voters who do not receive timely or adequate notification of their polling locations and ignores the fact that Black voters and other voters of color have been disproportionately impacted by polling place closures and change in the wake of the *Shelby County* decision that often result in voters going to the wrong polling place on Election Day.²⁹

(10) Targeting jurisdictions with large populations of Black voters and other voters of color by stripping the Secretary of State of his vote on the State Election Board, replacing the Secretary of State with a voting member appointed by the General Assembly, and granting the State Election Board the power to effectively take over county Boards of Election.³⁰

(11) Encouraging “unlimited” voter challenges on the eve of elections by other electors in the same county as the challenged voters.³¹ True the Vote, along with Republican party operatives, led a campaign in numerous Georgia counties to challenge more than 364,000 registered Georgia voters for alleged address changes ahead of the January 2021 U.S. Senate runoff elections with little to no evidence showing the voters were not eligible to vote, substantially burdening election officials who were in the midst of preparing for and administering the elections.³² SB 202 now codifies these types of

²⁷ See SB 202, Section 26.

²⁸ See SB 202, Section 34.

²⁹ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, October 17, 2020, <https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>.

³⁰ See SB 202, Sections 3, 5-7, 12.

³¹ See SB 202, Section 15.

³² Mark Niese, *Eligibility of 364,000 Georgia voters challenged before Senate runoff*, Atlanta Journal-Constitution, December 22, 2020, <https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ3IBHYWZBWYI/>

mass voter challenges into Georgia law, regardless if there is any evidence supporting them, and forces elections officials to conduct hearings within ten days of every challenge, with only three days' notice by mail of the hearings to challenged voters.

(12) Criminalizing the act of providing water and food to persons within 150 feet of a polling place or within 25 feet of any voters waiting in line waiting in line to vote,³³ despite Georgia's history of forcing voters to wait in hours' long lines at polling locations - particularly in areas serving Black voters and voters of color, which have been disproportionately impacted by polling place closures.³⁴

(13) Prohibiting the use of mobile voting units,³⁵ such as the two mobile units purchased by Fulton County for \$750,000 and deployed to alleviate overcrowded polling places and long lines, unless the Governor declares an emergency and they are used to supplement the capacity of the polling place where the emergency circumstance occurred.³⁶

Due to the gutting of Section 5 of the Voting Rights Act as a result of the Supreme Court's decision in *Shelby County v. Holder*, there is no longer the notice and preclearance process available to ensure that laws like SB 202 do not retrogress the voting strength of Georgia's Black and Brown voters.

As a result, the PEOPLE'S AGENDA was one of numerous nonprofit civil rights and civic engagement organizations which were forced to commence litigation challenging the law under the 14th and 15th Amendments and under Section 2 of the Voting Rights Act of 1965. But even though the PEOPLE'S AGENDA and other nonprofit civic engagement and civil rights organizations are challenging SB 202 in federal court, the controlling party in the General Assembly has made it crystal clear that it will continue to find new ways to suppress the votes of Black and Brown people by introducing even more voter suppression bills during the 2022 legislative session.

For example, President pro tempore of the Senate, Senator Butch Miller, has already introduced SB 325 to abolish absentee ballot drop boxes - notwithstanding the popularity of the drop boxes among voters and election officials alike - and the fact that they are more secure and dependable than United States Post Office delivery of the ballots, as well as a bill, SB 71, to end no-excuse absentee voting in the state.

b. Legislative Reconstitution of County Boards of Election and the

³³ See SB 202, Section 33.

³⁴ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

³⁵ See SB 202, Section 20.

³⁶ Ben Brasch, *Want to vote in Fulton's fancy new mobile voting bus? See the schedule*, <https://www.ajc.com/news/atlanta-news/want-to-vote-in-fultons-fancy-new-mobile-voting-bus-see-the-schedule/OXPVK4Y3ENAIKROMYA43673ZLM/>, Atlanta Journal-Constitution, October 19, 2020.

Removal of Black Board Members

During the 2021 legislative session, conservative members of the General Assembly also waged war against selected counties' Boards of Elections in an effort to purge Black board members and other board members they knew would not support their unprecedented usurpation of free and fair elections in our state.

Morgan County, where I had served as a member of the Board of Elections since 2010 and was a staunch advocate for voting rights and fair elections, is one of the Boards of Election that the majority party reconstituted by giving control over all appointments to the Republican controlled Board of County Commissioners. This resulted in my removal as a Board Member, along with a second Black Board Member, Avery Jackson.³⁷ See HB 162.³⁸

The General Assembly also targeted the Troup County Board of Elections, which was reconstituted with the enactment of HB 684.³⁹ As a result of this bill, long-time Black Board Member, Ms. Lonnie Hollis was ousted. Ms. Hollis advocated for Sunday voting as well as a new precinct location at a Black church in a nearby town before her removal from the Board of Elections.⁴⁰

The Lincoln County Board of Elections was also reconstituted with the enactment of SB 282 and 283.⁴¹ The new law ends the bipartisan appointment process for the nomination of the board members and gives the majority Republican Lincoln County Commission the power to appoint a majority of the board members (3 of 5) with the City of Lincolnton and Lincoln County School Board having the authority to appoint one board member each.

Shortly after the reconstitution of the Lincoln County Board of Elections, the Board Chair, Jim Allen, began to implement a plan to close all of the county's existing polling places and to create a single polling place for the county's more than 6,000 active registered⁴² voters at a gymnasium located outside of the central business district in a county with no generally

³⁷ Nick Corasaniti and Reid J. Epstein, *How Republican States Are Expanding Their Power Over Elections*, New York Times, June 19, 2021, <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>

³⁸ Georgia House Bill 165, <https://www.legis.ga.gov/api/legislation/document/20212022/197812>.

³⁹ Georgia House Bill 684 (2021): <https://www.legis.ga.gov/api/legislation/document/20212022/200601>

⁴⁰ *How Republican States Are Expanding Their Power Over Elections*, *supra*.

⁴¹ Georgia Senate Bill 282, <https://www.legis.ga.gov/legislation/60327> and Senate Bill 283: <https://www.legis.ga.gov/legislation/60329>.

⁴² Georgia Secretary of State, Active Voters by Race and Gender (By County with Statewide Totals), available at: https://sos.ga.gov/index.php/Elections/voter_registration_statistics.

available public transit system in a county spanning some 257 square miles.⁴³ If this plan is implemented it will undoubtedly reduce turnout in upcoming elections, particularly for those who lack access to a vehicle and are unable to walk 10 or more miles to get to the only polling place in the entire county.

With the start of the 2022 legislative session on January 10, 2022, the majority party has already introduced a bill, SB 284, targeting the Randolph County Board of Elections for a takeover of the Board of Elections to ensure that the administration of the elections will be controlled by the majority party. The Randolph County Board of Elections had previously been involved in a controversial, and ultimately unsuccessful, attempt to close polling places in majority Black areas of the County.⁴⁴

The closure and consolidation of more polling places in Georgia will have an even greater negative impact on Black and Brown voters, particularly in rural areas, where they have less or no access to public transportation to get to and from more distant polling locations and many lack access to broadband internet, and to computers and printers in their homes which are needed to download the Secretary of State's absentee ballot application form and to copy the newly required ID documents to submit with the forms. Moreover, if the majority party is successful in enacting SB 71 in the current legislative session, it will end no-excuse absentee voting in the state and force even more voters to cast ballots in person.⁴⁵

In the absence of preclearance under Section 5 of the Voting Rights Act and the stalled federal legislation to ensure free and fair elections, I am extremely alarmed at the majority party's agenda for the 2022 Georgia legislative session and the majority party's shameless efforts to undermine our democracy by continuing to press forward with legislation premised upon the false election fraud narratives by the former President and his supporters.

The time is now to enact voting rights laws to ensure equal access to the ballot box and to prevent the former President and his wing of the Republican party from undermining our democracy and freedom to elect our candidates of choice in Georgia's elections.

c. The Enactment of Georgia's Discriminatory Redistricting Maps

The 2021 redistricting cycle in Georgia was the first redistricting cycle in decades where Georgians did not have the benefit of the Section 5 preclearance process in place for the review of Georgia's redistricting maps by the Department of Justice (DOJ) before their enactment. As a

⁴³ Sharon McCord, *A 'test case' for disenfranchisement? Lincoln County takes on effort to shutter polling places*, Augusta Chronicle, January 17, 2022, available at: <https://www.augustachronicle.com/story/news/2022/01/17/georgia-voting-elections-polling-places-closed-lincoln-county/6524324001/>.

⁴⁴ See Georgia Senate Bill 284: <https://www.legis.ga.gov/legislation/60350>; Johnny Kauffman, *Georgia County Votes To Keep Polling Places Open After Intense Scrutiny*, NPR, August 24, 2018, available at: <https://www.npr.org/2018/08/24/641556969/georgia-county-votes-to-keep-polling-places-open-after-intense-scrutiny>.

⁴⁵ See, Senate Bill 71: <https://www.legis.ga.gov/legislation/59224>.

result, the majority party drew plans which dilute the voting strength of Black voters and other voters of color, and which discriminate against them on the basis of race. Governor Kemp signed these discriminatory redistricting maps into law on December 30, 2021.

The majority party's map drawers (1) strategically removed Black, Latinx, and AAPI voters from existing and performing majority-minority districts and dispersed them into White majority districts in rural and/or suburban areas where they will no longer have the ability to elect the candidates of their choice, and (2) packed Black voters and other voters of color into districts with high minority populations. The Controlling Party's legislators could have had only one motive for passing such illegal plans: the desire to limit the voting strength of voters of color statewide.

In the absence of preclearance and the gutting of Section 5 of the Voting Rights Act, the PEOPLE'S AGENDA and other nonprofit civic engagement and civil rights organizations have been forced to commence litigation to enjoin the use of these new redistricting plans.

d. Polling Place Closures and Changes

In the aftermath of the *Shelby County* decision in 2013, many of Georgia's county boards of election proposed or took action to close, consolidate or move polling locations—oftentimes in areas primarily serving voters of color and in underrepresented communities.

In fact, while Georgia added almost 2 million voters to its voter registration rolls since 2013, the total amount of polling places statewide decreased by 10 percent according to a joint report by Georgia Public Broadcasting, National Public Radio and ProPublica.⁴⁶ By June 2020, the report found “Georgia voters had 331 fewer polling places than in November 2012, a 13% reduction.”⁴⁷ This report also found stark racial disparities in the decrease in polling locations in Black neighborhoods which have translated into long lines and delays at the polls. The report found that approximately two-thirds of the polling locations that had to stay open past the 7:00 p.m. poll closing time in the June 9, 2020 primary were in majority Black neighborhoods.⁴⁸

The PEOPLE'S AGENDA anticipates that the efforts to close and change polling locations is likely to continue, especially in light of the campaign by the legislature in 2021 and in the 2022 session to reconstitute and take over county Boards of Election to remove Black Board members and others who have opposed such efforts in the past.

Since the *Shelby County* decision, the PEOPLE'S AGENDA and other civic engagement organizations have been forced to devote a significant amount of time and resources to monitoring proposals to close, consolidate or move polling locations across the state's 159 counties. Our work dealing with these polling place changes has included issuing public records

⁴⁶ *Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

⁴⁷ *Id.*

⁴⁸ *Id.*

requests for county boards of election minutes and agendas, sending staff and coalition members to observe and make comments at board of election meetings, submitting written objections to proposals to close or change polling locations, and organizing rapid response actions with community members who are impacted by these changes.

In the aftermath of the *Shelby County* decision and in the absence of preclearance, we often have little or no reasonable advance notice of these polling place changes, and there has been a lack of transparency in the stated rationales for these changes in communities of color. We are often forced to turn our attention toward organizing a rapid response in an attempt to stop or ameliorate these changes while juggling our other important organizational initiatives and priorities.

Prior to the *Shelby County* decision, county boards of election were required to submit polling place and voting precinct changes to DOJ for preclearance to ensure that the changes did not retrogress the ability of people of color to elect candidates of their choice, or discriminate against Black voters and other voters of color. The preclearance process prevented many of these changes from taking effect and acted as a deterrent to the adoption of such changes.

While the PEOPLE'S AGENDA and our state partners have achieved some success in stopping or ameliorating the scope of some polling place changes post-*Shelby*, we have been unable to prevent them all from taking effect. Some of the additional post-*Shelby* efforts to close, consolidate or move poll locations by county boards of elections in Georgia have included, but are not limited to:

- A proposal to close all seven existing polling places in rural Lincoln County and create a single polling place for more than 6,000 registered voters outside of the downtown district and residential centers in the county with virtually no available public transit.
- A proposal to close all but two polling places in Randolph County, which would have disproportionately impacted voters of color and suppressed the vote of people of color in this economically challenged, rural county, was tabled after the PEOPLE'S AGENDA and other advocacy groups organized community opposition to the plan;
- A proposal to eliminate all but one of the City of Fairburn polling places, even though the number of polling places had been increased in recent years because of long lines on Election Day, was rescinded following advocacy efforts by the PEOPLE'S AGENDA and other groups;
- A proposal to eliminate all but one of Elbert County precincts and polling locations to the detriment of voters of color in a rural county with no robust public transit service was rescinded after opposition by advocacy groups and voters;

- The PEOPLE'S AGENDA and other groups have led advocacy efforts to oppose polling place and precinct changes in Fulton County in the wake of *Shelby* with some success;
- A proposal to close 2 of 7 precincts and polling places in Morgan County after the county previously reduced the number of polling locations from 11 to 7 in 2012, was rejected after the board considered opposition to the plan by the PEOPLE'S AGENDA.
- A proposal to reduce the number of precincts and polling locations from 36 to 19 in Fayette County was tabled in the face of opposition by the PEOPLE'S AGENDA, other civic engagement groups and voters;
- A proposal to consolidate all polling locations to a single location in Hancock County, a majority-Black, economically challenged, rural county with no regularly scheduled public transit, was tabled after the PEOPLE'S AGENDA, other civic engagement groups and voters organized against the proposal;
- A proposal to eliminate 20 of 40 precincts and polling locations in majority-Black and economically challenged neighborhoods in Macon-Bibb County was scaled back as a result of advocacy efforts by the PEOPLE'S AGENDA and other civic engagement groups; and,
- A proposal by the Macon-Bibb County Board of Elections to move a polling location in a majority-Black precinct from a public gymnasium to a Sheriff's Office was defeated only after 20% of the registered voters in the precinct signed a petition opposing the move.

Consequently, we often have to devote even more time and resources to assist voters impacted by these changes. Since polling place closures and relocations are not always widely publicized by county boards of election, voters often show up to vote on Election Day at their former polling place and are surprised to learn that the poll has moved. In light of the changes made to out-of-precinct voting by SB 202, voters who show up to the incorrect polling location on Election Day before 5 p.m. will be disenfranchised if they cannot vote at their correct polling location before it closes. Voters who arrive after 5 p.m. will have to sign a sworn statement that they cannot get to their correct polling location by close of the poll or will be required to go to their correct polling location to cast their ballot.

Voters who are used to walking to their polling place and learn on Election Day that the poll has been moved several or even more miles away may be unable to travel to the new polling location that day, especially if there is no accessible public transit. Some voters may have other commitments with their jobs, childcare, or other responsibilities which prevent them from spending more time traveling to the new polling location and, as a result, it is foreseeable that eligible voters will be disenfranchised by such poll closures.

Therefore, it is critically important that Congress restore the preclearance provisions of the Voting Rights Act to ensure that the increasingly partisan Boards of Election are not allowed to close and change polling locations to disenfranchise voters in order to achieve a partisan result.

e. Georgia’s Flawed Voter Registration Citizenship Match

The PEOPLE’S AGENDA, voters, and advocates were forced to litigate multiple lawsuits for more than a decade challenging various iterations of the state’s “exact match” voter registration process that was demonstrated to prevent Georgia’s eligible people of color from completing the voter registration process.⁴⁹ In fact, just prior to the 2018 mid-term election, the Associated Press reported that there were more than 53,000 voter registration applications on hold because of Georgia’s “exact match” process—the vast majority of which had been submitted by Georgians of color.⁵⁰

While the legislature and Governor Kemp finally abandoned the exact identity match requirement, which prevented applicants from completing the registration process unless there was an exact match of their name, date of birth, and Georgia driver’s license or Social Security number listed on their voter registration form with the state’s Department of Driver’s Services or Social Security records, they have done nothing to remedy the routine flagging of Georgia’s United States citizens as potential non-citizens because of the state’s continued use of outdated citizenship records in the voter registration process. The PEOPLE’S AGENDA and other civic engagement organizations believe that the state’s refusal to reform the deficient citizenship match process has more to do with the current anti-immigrant mood within certain segments of Georgia’s state government and legislature than with any legitimate rationale that this process is warranted to prevent non-citizens from registering to vote—particularly when the process relies on outdated citizenship data that does not reflect current information about the citizenship of the applicants.

As a result, the deficient and discriminatory citizenship match process has been allowed to continue, delaying or preventing Georgians who are United States citizens from completing the voter registration process. The PEOPLE’S AGENDA will be forced to continue to divert time and scarce resources to the litigation challenging this process for the foreseeable future in the absence of preclearance.

III. Conclusion

Despite these wide-ranging efforts to suppress the votes of Black and Brown Georgians through the enactment of SB 202; the adoption of discriminatory Congressional, State House and State Senate redistricting maps; and the new undemocratic challenges posed by legislation

⁴⁹ See *Morales v. Handel*, Civil Action No. 1:08–CV–3172, 2008 WL 9401054 (N.D.Ga. 2008); *Georgia State Conference of the NAACP v. Kemp*, Civil Action No. 2:16-cv-00219-WCO (N.D.Ga. 2016); *Georgia Coalition for the People’s Agenda v. Kemp*, 1:18-CV-04727-ELR (N.D. Ga. 2018).

⁵⁰ Ben Nadler, Voting rights become a flashpoint in Georgia governor’s race, AP, October 9, 2018. (online at <https://www.apnews.com/fb011f39af3b40518b572c8cce6e906c>.)

allowing for the take-over and reconstitution of County Boards of Election by the majority party, the PEOPLE'S AGENDA and our sister organizations will continue our important work to protect the vote, eliminate barriers to the ballot box, and to ensure equal participation in the political process for Georgians of color and underrepresented communities.

However, we are extremely concerned about these alarming developments which have the potential of undermining the very foundations of our democratic principles of governing, free and fair elections, and equal access to the ballot box for Black voters and other voters of color in Georgia and in other states across the country. We implore Congress to act now to pass meaningful voting rights legislation.

Exhibit 15

ACTIVE VOTERS BY RACE

This Report shows Active Voters in Georgia by Race

County
COBB

Judicial
All

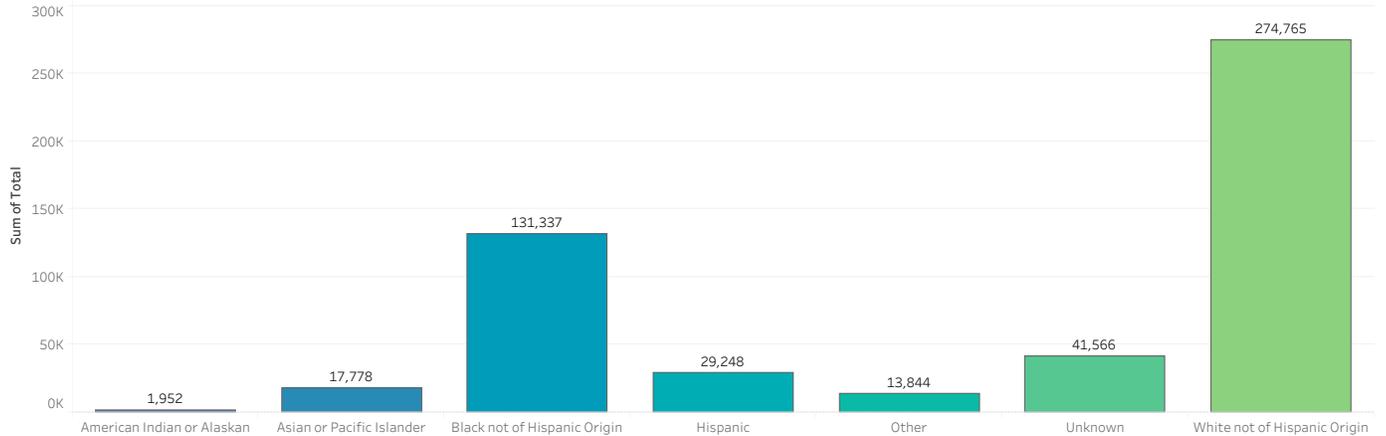
Congressional
All

How to use this report:
 County - Select "All" or uncheck and select specific county(ies) to view data
 Judicial District - Select "All" or uncheck and select specific districts to view data
 Congressional District - Select "All" or uncheck and select specific districts to view data
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ACTIVE VOTERS REPORTS

- Active Voters by Gender
- Active Voters by Age
- Active Voters by Race**
- Active Voters by County

510,490 Active Voters in Georgia as of December 2021



[Download PDF](#)

Exhibit 16

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE GEORGIA SENATE BILL 202) Master Case No.
) 1:21-MI-55555-JPB
-----)

VIDEOTAPED DEPOSITION OF JUSTIN GRIMMER, Ph.D
Mountain View, California
Monday, May 1, 2023
Volume I

Reported by:
CATHERINE A. RYAN, RMR, CRR, B.S.
CSR No. 8239
Job No. 5893014

PAGES 1 - 360

1 that would inhibit or limit your ability to testify 09:09:15

2 honestly and accurately today?

3 A No limitations.

4 Q Did you bring any documents today to the

5 deposition? 09:09:24

6 A No.

7 Q What did you do to prepare for today's

8 deposition?

9 A To prepare for today's deposition, I

10 reread my report, re- -- reassessed the code that I 09:09:34

11 used in producing that report. I also analyzed the

12 expert reports that I responded to and my own

13 report, along with the surrebuttal reports.

14 In addition to that, sort of ensure that I

15 was following information about the 2022 election, 09:09:59

16 as best as I could, as more data came out.

17 Q And when you say you reassessed the code,

18 what do you mean by that?

19 A There were a number of analyses that go

20 into my report, and I just wanted to be sure that I 09:10:12

21 had those analyses top of mind. So I looked at my

22 replication file, reran the code, understood the

23 steps that were taken in order to reach the opinions

24 that I had reached in my expert report.

25 Q And as a result of your having reassessed 09:10:24

1 did -- if it was asked by counsel, I did not do the 09:26:29
2 analysis until I was responding to the expert
3 reports.

4 Q Now, one of the experts whose reports you
5 reviewed was that of Dr. Bernard Fraga -- 09:26:49

6 A I did.

7 Q -- is that correct?

8 A Yes.

9 Q Were you familiar with Dr. Fraga prior to
10 your work in this case? 09:26:55

11 A I am, yeah.

12 Q Do you consider him to be an expert in his
13 field?

14 A He's an expert in the field, yes.

15 Q And have you formed opinions about his 09:27:02
16 scholarship?

17 A His scholarship overall?

18 Q Yes.

19 A Yes.

20 Q And what is that opinion? 09:27:08

21 A He's an excellent scholar.

22 Q Have you ever published peer-reviewed
23 articles on voter turnout?

24 A Yes, I have.

25 Q And which articles are those? 09:27:24

1 A Two articles. 09:27:27

2 So one -- I believe it's called "Obstacles
3 in Estimating the Effect of Voter Identification
4 Laws" [sic].

5 Q And that was concerning the North Carolina 09:27:34
6 law?

7 A No, the obstacles paper was about the use
8 of survey data to effect -- to analyze the effect of
9 voter identification laws.

10 And then the paper you were just referring 09:27:46
11 to is called "The Durable Differential Effect of
12 Voter Identification Laws" [sic] -- there's a
13 subclause that I'm not recalling -- and that's the
14 paper about North Carolina.

15 Q And how about the peer-reviewed articles 09:27:58
16 on drop boxes?

17 A I have not published a -- peer-reviewed
18 articles on drop boxes.

19 Q How about peer-reviewed articles on
20 absentee ballots? 09:28:07

21 A I have not published a peer-reviewed
22 article on absentee ballots.

23 Q And same question as to absentee ballot
24 applications.

25 A Not on absentee applications. 09:28:16

1 Q How about on line relief? 09:28:18

2 A I have not published on line relief.

3 Q How about on the ban on out-of-precinct

4 vote -- on -- on out-of-precinct voting?

5 A The out-of-precinct voting before 5:00 09:28:32

6 p.m. you mean?

7 Q Yeah.

8 A Yeah. I have not published on that, no.

9 Q Now, you have published articles on voting

10 fraud? 09:28:40

11 A I have, yes.

12 Q And specifically analyzing the allegations

13 of fraud in Georgia in 2020, correct?

14 A That's right.

15 Q And you've concluded that there was no 09:28:50

16 evidence of any meaningful fraud in elections in

17 Georgia in 2020; is that a fair statement of your

18 studies?

19 A There -- there is no evidence of

20 meaningful fraud in Georgia in 2020. 09:29:01

21 Q And that includes specifically Fulton

22 County?

23 A That includes Fulton County, yes.

24 MR. ROSENBERG: Let me -- let's have

25 marked, as Exhibit 473, your article "No evidence 09:29:15

1 paragraph 172, where I sort of lined these up very 13:45:06
2 clearly, make a comparison.

3 Q When you say you lined them up, you're
4 talking about Tables 27 and 28?

5 A Well, I thought in -- so maybe I'm not 13:45:29
6 talking about the overall rates here. So it is
7 about the disparity. I do not discuss the --

8 Q The gap -- you only talk about the gap?

9 A That's right. My apologies.

10 Q Is there a reason that you did that? 13:45:41

11 A I thought the issue was the gap, but that
12 would be the primary reason.

13 Q You did not do the gap, as we talked about
14 earlier, on turnoff, though -- on turnout?

15 A In -- so what -- I do discuss the changes 13:46:02
16 in turnout by group extensively and, again,
17 established I was providing the turnout analysis to
18 provide context for the election.

19 And so here, I'm providing it as a way to
20 evaluate differences across these elections and this 13:46:20
21 particular policy.

22 Q By the way, do you think that the ID
23 requirements in SB202 are sufficient for election
24 administration purposes?

25 A Just say a little more what you mean by 13:46:40

1 "sufficient for election administration purposes." 13:46:41

2 Q In terms of ensuring that the voters are
3 who the voters are.

4 A I think the ID requirements will ensure
5 that voters are who they say they are. 13:46:55

6 Q Do you think it's necessary to include
7 birth date on a -- on the absentee ballot
8 application?

9 A So in my report, I don't opine on what
10 would be sufficient or insufficient in order to 13:47:11
11 validate the identity of a voter.

12 Q But if IDs are provided by the voter, is
13 it necessary for the voter to -- to also include a
14 birth date on the application?

15 A I don't offer an opinion on that. 13:47:25

16 Q Do you have an opinion?

17 A I have not studied the subject.

18 Q In terms of the antiduplication provisions
19 of absentee ballots, were you aware that the
20 Secretary of State of Georgia mailed out absentee -- 13:47:51
21 mailed an absentee -- absentee ballot request form
22 to every active registered voter in the state?

23 A For the primary election, correct.

24 Q I assumed it was for all, but you think
25 it's only for the primary? Were you aware of it for 13:48:11

Exhibit 17

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

SIXTH DISTRICT OF THE AFRICAN METHODIST
EPISCOPAL CHURCH, *et al.*,

Plaintiffs,

v.

BRIAN KEMP, Governor of the State of Georgia, in
his official capacity, *et al.*,

Defendants,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.
1:21-CV-1284-JPB

DECLARATION OF SHAFINA KHABANI

DECLARATION OF SHAFINA KHABANI
(pursuant to 28 U.S.C. § 1746)

My name is Shafina Khabani. I am over the age of 21 and fully competent to make this declaration. Under penalty of perjury, I declare the following based upon my personal knowledge:

1. I currently live in Atlanta in DeKalb County, Georgia. I have been registered to vote in DeKalb County for 11 years.
2. I am 39 years old and identify as South Asian.
3. I am the Executive Director for the Georgia Muslim Voter Project (“GAMVP”). I started with GAMVP in 2020.
4. GAMVP creates programs that outreach to Muslim communities across Georgia by holding voter registration drives, voter education sessions, and community conversations to increase civic engagement in these communities.
5. GAMVP has six full-time staff and 11 part-time staff and operates on a limited budget. This means that when GAMVP chooses to expend resources on one activity, it is unable to conduct other activities to advance its mission.
6. After the passage of SB 202, GAMVP has educated and continues to educate voters about the new requirements for completing an absentee ballot. Immediately after the passage of SB 202, one of GAMVP’s Senior Community Organizers updated and created new materials on the requirements for filling out and completing an absentee ballot under SB 202, including the requirement to provide a voter’s date of birth on the absentee ballot envelope.
7. Because of SB 202’s new requirements, including the absentee ballot date of birth requirement, we have had to expend additional resources on education and outreach to make sure

voters understand the information and process required for completing an absentee ballot. We continue to expend resources to educate voters through text banking, door-knocking, social media, and in-person and virtual education events about the new requirements for completing an absentee ballot because voters are still confused about the information they must provide on their absentee ballot and because we still encounter voters who have had trouble completing an absentee ballot with all of the information an absentee ballot now requires.

8. GAMVP has therefore diverted human resources—staff time—to updating and creating new educational materials and to educating voters and troubleshooting with voters about the requirements for completing an absentee ballot. To devote staff time towards these activities, we diverted resources away from our leadership development programs, such as our youth ambassador program and membership program, and data analytics work to help us better tailor our work to the communities we serve. These activities are critical to furthering our organizational mission.

I declare under penalty of perjury that the foregoing is true and correct.

5/16/2023

Executed on _____

DocuSigned by:

Shafina Khabani

075693239F144D1

SHAFINA KHABANI

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21- MI-55555-JPB
<p>GEORGIA STATE CONFERENCE OF THE NAACP, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRAD RAFFENSPERGER, in his official capacity as the Secretary of State for the State of Georgia, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01259-JPB
<p>SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRIAN KEMP, Governor of the State of Georgia, in his official capacity, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21- cv-01284-JPB

**[PROPOSED] ORDER ON GEORGIA NAACP PLAINTIFFS' MOTION
FOR A PRELIMINARY INJUNCTION BASED ON IMMATERIAL
VOTING REQUIREMENTS**

THIS MATTER comes before this Court on the Motion for a Preliminary Injunction Plaintiff filed by Plaintiff Georgia State Conference of the NAACP, along with all additional signatory Plaintiffs in the above-captioned cases. Upon considering the motion and supporting authorities, the responses from Defendants, and the evidence and pleadings of record, this Court finds that Plaintiffs are likely to succeed on the merits of their claims, that they will be irreparably harmed if this motion is not granted, that the balance of equities tip in Plaintiffs' favor, and that the requested equitable relief is in the public interest. It is hereby:

ORDERED that Plaintiffs' Motion for a Preliminary Injunction is **GRANTED**, and the Defendants, their agents, officers, employees, successors and all persons acting in concert with them are hereby **ENJOINED** until trial of this matter or further order of the Court from rejecting absentee ballots based on any error or omission relating to Senate Bill 202's requirement of birthdates on ballot return envelopes, that the Secretary of State is **ORDERED** to issue guidance to all counties to comply, and that the Secretary of State is hereby **ORDERED** to count such ballots and refuse certification of election results until all such ballots have been counted.

Dated: _____

U.S. DISTRICT COURT JUDGE