

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

DEFENDANT-APPELLANT'S APPENDIX
VOLUME I OF VII

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No. 23-13916
(consolidated with Nos. 23-13914 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

DEFENDANT-APPELLANT'S APPENDIX
VOLUME I OF VII

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No. 23-13921
(consolidated with Nos. 23-13914 & 23-13916)

In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

DEFENDANT-APPELLANT'S APPENDIX
VOLUME I OF VII

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**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:21-cv-05337-SCJ**

Alpha Phi Alpha Fraternity, Inc. et al v. Raffensperger
Assigned to: Judge Steve C. Jones
Case in other court: USCA - 11th Circuit, 23-13914-AA
USCA- 11th Circuit, 24-10230-A
Cause: 52:10301 Denial or abridgement of right to vote on account
of race or color

Date Filed: 12/30/2021
Date Terminated: 10/26/2023
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Date Filed	#	Docket Text
12/30/2021	1	COMPLAINT for Declaratory Judgment and Injunctive Relief filed by Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart. (Filing fee \$402, receipt number AGANDC-11487582). (Attachments: # 1 Civil Cover Sheet)(lwb) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 01/03/2022)
12/30/2021	2	Electronic Summons Issued as to Brad Raffensperger. (lwb) (Entered: 01/03/2022)
01/04/2022	3	NOTICE of Appearance by Bryan P. Tyson on behalf of Brad Raffensperger (Tyson, Bryan) (Entered: 01/04/2022)
01/04/2022	4	Unopposed MOTION for Leave to File Excess Pages in <i>Plaintiffs' Memorandum of Law in Support of Motion for a Preliminary Injunction</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/04/2022)
01/05/2022	5	ORDER granting 4 Motion for Leave to File Excess Pages. If Plaintiffs file a motion for preliminary injunction, its brief shall be no longer than thirty-five (35) pages. Because Defendant has not moved for such a page extension for any response it may file, this Order shall not be construed as granting Defendant a reciprocal ten-page extension. The Court will consider a page-extension request from Defendant if one is filed. Signed by Judge Steve C. Jones on 01/05/2022. (rsg) (Entered: 01/05/2022)
01/06/2022	6	Certificate of Interested Persons by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/06/2022)
01/06/2022	7	Return of Service Executed by Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart. Brad Raffensperger served on 1/4/2022, answer due 1/25/2022. (Garabadu, Rahul) (Entered: 01/06/2022)
01/06/2022	8	ORDER setting Rule 16 Conference set for 1/12/2022 at 01:30 PM via Zoom (connection instructions to follow by separate notice.) The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their

		positions with respect to the issues (set forth herein.) Signed by Judge Steve C. Jones on 01/06/2022. (pdw) Modified on 1/6/2022 (pdw). (Entered: 01/06/2022)
01/06/2022		NOTICE OF VIDEO PROCEEDING: RULE 16 CONFERENCE set for 1/12/2022 at 01:30 PM via Zoom before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg. Connection Instructions: Topic: Rule 16 Conference: 1:21-cv-05337-SCJ; 1:21-cv-05338-SCJ-SDG-ELB; and 1:21-cv-05339-SCJ Please click the link below to join the webinar: https://ganduscourts.zoomgov.com/j/1605120572 Passcode: 851671 Or One tap mobile : US: +16692545252,,1605120572#,,,,*851671# or +16468287666,,1605120572#,,,,*851671# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666 or +1 551 285 1373 or +1 669 216 1590 Webinar ID: 160 512 0572 Passcode: 851671 International numbers available: https://ganduscourts.zoomgov.com/u/abdGvu42dG Or an H.323/SIP room system: H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East) Meeting ID: 160 512 0572 Passcode: 851671 SIP: 1605120572@sip.zoomgov.com Passcode: 851671 You must follow the instructions of the Court for remote proceedings available here . The procedure for filing documentary exhibits admitted during the proceeding is available here . <i>Photographing, recording, or broadcasting of any judicial proceedings, including proceedings held by video teleconferencing or telephone conferencing, is strictly and absolutely prohibited.</i> (pdw) Modified on 1/6/2022 (pdw). (Entered: 01/06/2022)
01/07/2022	9	APPLICATION for Admission of Sophia Lin Lakin Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503263).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	10	APPLICATION for Admission of Ari J. Savitzky Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503305).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	11	APPLICATION for Admission of Jenessa Calvo-Friedman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503383).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	12	APPLICATION for Admission of Alex W Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503536).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	13	APPLICATION for Admission of Anuradha Sivaram Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503604).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	14	APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503630).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church,

		Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>15</u>	APPLICATION for Admission of Debo Patrick Adegbile Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503641).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>16</u>	APPLICATION for Admission of De'Ericka Aiken Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503661).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>17</u>	APPLICATION for Admission of Denise Tsai Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503679).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>18</u>	APPLICATION for Admission of Edward Williams Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503698).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>19</u>	APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503714).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>20</u>	APPLICATION for Admission of George P. Varghese Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503736).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>21</u>	APPLICATION for Admission of Maura Douglas Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503753).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>22</u>	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503765).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>23</u>	NOTICE of Appearance by Bryan Francis Jacoutot on behalf of Brad Raffensperger (Jacoutot, Bryan) (Entered: 01/07/2022)
01/07/2022	<u>24</u>	NOTICE of Appearance by Loree Anne Paradise on behalf of Brad Raffensperger (Paradise, Loree Anne) (Entered: 01/07/2022)

01/07/2022	25	NOTICE of Appearance by Frank B. Strickland on behalf of Brad Raffensperger (Strickland, Frank) (Entered: 01/07/2022)
01/07/2022	26	MOTION for Preliminary Injunction with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Memorandum of Law in Support, # 2 Declaration of Edward William in Support, # 3 Exhibit A Part 1 - Report of William S. Cooper, # 4 Exhibit A Part 2 - Report of William S. Cooper, # 5 Exhibit A Part 3 - Report of William S. Cooper, # 6 Exhibit A Part 4 - Report of William S. Cooper, # 7 Exhibit B - Report of Dr. Lisa Handley, # 8 Exhibit C - Report of Dr. Adrienne Jones, # 9 Exhibit D - Report of Dr. Traci Burch, # 10 Exhibit E - Report of Dr. Jason Morgan Ward, # 11 Exhibit F - Declaration of Katie Bailey Glenn, # 12 Exhibit G - Declaration of Phil S. Brown, # 13 Exhibit H - Declaration of Janice Stewart, # 14 Exhibit I - Declaration of Eric Woods, # 15 Exhibit J - Declaration of Sherman Lofton, Jr., # 16 Exhibit K - Declaration of Bishop Reginald T. Jackson, # 17 Exhibit L - 2021 Guidelines for the House Legislative and Congressional Reapportionment Committee, # 18 Exhibit M - 2021 Guidelines for the Senate Redistricting Committee, # 19 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/07/2022)
01/10/2022		DOCKET ORDER AMENDING 8 Order setting Rule 16 Conference for 1/12/2022 at 01:30 PM via Zoom (connection instructions to remain as previously issued). The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their positions with respect to the issues set forth in the Courts prior order at Doc. No. 8 after conferring with the parties in 1:21-cv-05338-ELB-SCJ-SDG; 1:21-cv-05339-SCJ; and 1:22-cv-00090-ELB-SCJ-SDG. Signed by Judge Steve C. Jones on 1/10/2022. (pdw) (Entered: 01/10/2022)
01/10/2022	27	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 26 MOTION for Preliminary Injunction (<i>Notice of Errata</i>) (Attachments: # 1 Declaration of William S. Cooper, # 2 Exhibit O to Declaration, # 3 Exhibit S-1 to Declaration, # 4 Exhibit T-1 to Declaration)(Garabadu, Rahul) (Entered: 01/10/2022)
01/11/2022	28	STATUS REPORT by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/11/2022)
01/11/2022	29	STATUS REPORT <i>Defendants' Status Report</i> by Brad Raffensperger. (Attachments: # 1 Exhibit A - 2022 Election Calendar, # 2 Exhibit B - Letter from B. Evans regarding redistricting)(Tyson, Bryan) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 12 APPLICATION for Admission of Alex W Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503536).. Attorney Alex W. Miller added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 9 APPLICATION for Admission of Sophia Lin Lakin Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503263).. Attorney Sophia Lin Lakin added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/11/2022)
01/11/2022	30	ORDER granting 9 Application for Admission Pro Hac Vice of Sophia Lin Lakin. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If

		they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022	31	ORDER granting 12 Application for Admission Pro Hac Vice of Alex W Miller. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 13 APPLICATION for Admission of Anuradha Sivaram Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503604).. Attorney Anuradha Sivaram added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/11/2022)
01/11/2022	32	ORDER granting 13 Application for Admission Pro Hac Vice of Anuradha Sivaram. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022		RETURN of 14 APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503630). to attorney for correction re: specify admitted courts. (gas) (Entered: 01/11/2022)
01/12/2022		APPROVAL by Clerks Office re: 11 APPLICATION for Admission of Jennesa Calvo-Friedman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503383).. Attorney Jennesa Calvo-Friedman added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 15 APPLICATION for Admission of Debo Patrick Adegbile Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503641).. Attorney Debo P. Adegbile added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022	33	ORDER granting 11 Application for Admission Pro Hac Vice of Jennesa Calvo-Friedman. Signed by Judge Steve C. Jones on 1/12/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/12/2022)
01/12/2022	34	ORDER granting 15 Application for Admission Pro Hac Vice Debo Patrick Adegbile. Signed by Judge Steve C. Jones on 1/12/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/12/2022)
01/12/2022	35	APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 10 APPLICATION for Admission of Ari J. Savitzky Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503305).. Attorney Ari J. Savitzky added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown,

		Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 16 APPLICATION for Admission of De'Ericka Aiken Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503661).. Attorney De'Ericka Aiken added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 17 APPLICATION for Admission of Denise Tsai Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503679).. Attorney Denise Tsai added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 21 APPLICATION for Admission of Maura Douglas Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503753).. Attorney Maura Douglas added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 18 APPLICATION for Admission of Edward Williams Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503698).. Attorney Edward Williams added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		RETURN of 22 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503765). to attorney for correction re: courts. (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 20 APPLICATION for Admission of George P. Varghese Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503736).. Attorney George P. Varghese added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022	36	ORDER setting motion(s) and briefing schedule: Plaintiffs shall file their amended motion for a preliminary injunction/ if any/ by no later than 2:00 PM EST on January 13,2022. Defendant shall file their response/ if any/ by no later than 5:00 PM EST on January 18, 2022. Plaintiffs shall file their reply/ if any/ by no later than 5:00 PM EST on January 20, 2022. Signed Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)
01/12/2022	37	ORDER setting motion(s) and briefing schedule: Defendants shall file their motion to dismiss, if any, by no later than 5:00 PM EST on January 14,2022.Plaintiffs shall file their response, if any, by no later than 5:00 PM on January 18, 2022. Defendants shall file their reply, if any, by no later than 5:00 PM on January 20, 2022. Signed by Judge Steve C. Jones on 1/12/2022.(pdw) (Entered: 01/12/2022)
01/12/2022	96	Minute Entry for proceedings held before Judge Steve C. Jones: Rule 16 conference held via Zoom in Alpha Phi Alpha v. Raffensperger, 1:21-cv-5337-SCJ; Georgia State Conference of the NAACP et al v. State of Georgia, 1:21-cv-05338-SCJ-SDG-ELB; Pendergrass v. Raffensperger, 1:21-CV-5339-SCJ; Common Cause et al v. Raffensperger, 1:22-cv-00090-SCJ-SDG-ELB; Grant v. Raffensperger, 1:22-CV-0122-SCJ. (Court Reporter Viola Zbrowski)(pdw) (Entered: 02/07/2022)

01/13/2022		APPROVAL by Clerks Office re: 19 APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503714).. Attorney Eliot Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/13/2022)
01/13/2022	38	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/13/2022)
01/13/2022	39	MOTION for Preliminary Injunction (<i>Renewed</i>) with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Brief in Support Thereto, # 2 Declaration of Edward Williams In Support Thereto, # 3 Exhibit A - Cooper Declaration (Part 1), # 4 Exhibit A - Cooper Declaration (Part 2), # 5 Exhibit A - Cooper Declaration (Part 3), # 6 Exhibit A - Cooper Declaration (Part 4), # 7 Exhibit B - Dr. Handley Report, # 8 Exhibit C - Dr. Jones Report, # 9 Exhibit D - Dr. Burch Report, # 10 Exhibit E - Dr. Ward Report, # 11 Exhibit F - Glenn Declaration, # 12 Exhibit G - Brown Declaration, # 13 Exhibit H - Stewart Declaration, # 14 Exhibit I - Woods Declaration, # 15 Exhibit J - Lofton, Jr. Declaration, # 16 Exhibit K - Bishop Jackson Declaration, # 17 Exhibit L - House Guidelines, # 18 Exhibit M - Senate Guidelines, # 19 Text of Proposed Order)(Garabadu, Rahul) (Entered: 01/13/2022)
01/13/2022	40	NOTICE of Appearance by Charlene S McGowan on behalf of Brad Raffensperger (McGowan, Charlene) (Entered: 01/13/2022)
01/14/2022	41	APPLICATION for Admission of Ayana Williams Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11518889).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/14/2022)
01/14/2022	42	APPLICATION for Admission of Robert Boone Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11519211).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/14/2022)
01/14/2022	43	MOTION to Dismiss <i>Plaintiffs' Complaint</i> with Brief In Support by Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendant's Motion to Dismiss)(Tyson, Bryan) (Entered: 01/14/2022)
01/18/2022	44	APPLICATION for Admission of Abigail Shaw Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11523339).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/18/2022)
01/18/2022	45	RESPONSE in Opposition re 39 MOTION for Preliminary Injunction (<i>Renewed</i>), 26 MOTION for Preliminary Injunction filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of John Morgan, # 2 Exhibit B - Dec. of Michael Barnes)(Tyson, Bryan) (Entered: 01/18/2022)
01/18/2022	46	RESPONSE in Opposition re 43 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the

		African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/18/2022)
01/18/2022	47	RESPONSE in Opposition re 43 MOTION to Dismiss <i>Plaintiffs' Complaint (Corrected)</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/18/2022)
01/18/2022	48	ORDER granting 10 Application for Admission Pro Hac Vice of Ari J. Savitzky. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	49	ORDER granting 16 Application for Admission Pro Hac Vice of De'Ericka Aiken. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	50	ORDER granting 17 Application for Admission Pro Hac Vice of Denise Tsai. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	51	ORDER granting 18 Application for Admission Pro Hac Vice of Edward Williams. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	52	ORDER granting 19 Application for Admission Pro Hac Vice of Eliot Kim. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	53	ORDER granting 20 Application for Admission Pro Hac Vice of George P. Varghese. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	54	ORDER granting 21 Application for Admission Pro Hac Vice of of Maura Douglas. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/19/2022		APPROVAL by Clerks Office re: 35 APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice.. Attorney Charlotte Geaghan-Breiner added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/19/2022)
01/19/2022	55	COORDINATED ORDER advising that for any and every case in which the Court does not grant the motion to dismiss and does not thereafter grant a request for interlocutory

		appeal or a request to stay, the Court will hold a coordinated, in-person preliminary injunction hearing regarding the pending motions for preliminary injunction in those cases. If any preliminary injunction hearing occurs, the parties collectively will have up to six (6) days to present evidence and arguments. The presenting parties may choose not to use all six days. If any preliminary injunction hearing occurs, it will take place in the Richard B. Russell Federal Building and United States Courthouse (courtroom to be determined) and begin at 9:00 A.M. (EST) on MONDAY, FEBRUARY 7, 2022. If the parties opt to use all six days, the hearing will take place each following business day from 9:00 A.M. to 5:00 P.M. until the overall conclusion of the hearing at 5:00 P.M. on MONDAY, FEBRUARY 14, 2022. The parties shall file with the Court a consolidated presentation schedule by no later than 5:00 P.M. (EST) on WEDNESDAY, JANUARY 26, 2022. If any preliminary injunction hearing occurs, the parties in cases with still-pending motions for preliminary injunction shall file proposed findings of fact and conclusions of law by no later than 5:00 P.M. (EST) on MONDAY, FEBRUARY 21, 2022. The proposed findings of fact and conclusions of law shall be specific to each case and motion. Signed by Judge Steve C. Jones on 1/19/2022. (ddm) (Entered: 01/19/2022)
01/20/2022		APPROVAL by Clerks Office re: 41 APPLICATION for Admission of Ayana Williams Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11518889).. Attorney Ayana Williams added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/20/2022)
01/20/2022		APPROVAL by Clerks Office re: 42 APPLICATION for Admission of Robert Boone Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11519211).. Attorney Robert Boone added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/20/2022)
01/20/2022		ORDER granting 35 Application for Admission Pro Hac Vice of Charlotte Geaghan-Breiner. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	56	ORDER granting 41 Application for Admission Pro Hac Vice of Ayana Williams. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	57	ORDER granting 42 Application for Admission Pro Hac Vice of Robert Boone. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	58	REPLY to Response to Motion re 43 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 01/20/2022)
01/20/2022	59	REPLY to Response to Motion re 39 MOTION for Preliminary Injunction (<i>Renewed</i>) filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Supplemental Declaration of Edward Williams, Esq., # 2 Exhibit A - Rebuttal Cooper Declaration (Part 1), # 3 Exhibit A - Rebuttal Cooper Declaration (Part 2), # 4 Exhibit A - Rebuttal Cooper Declaration (Part 3), # 5 Exhibit A - Rebuttal Cooper Declaration (Part

		4), # 1 Exhibit A- Rebuttal: Cooper Declaration (Part 3), # 2 Exhibit B- Rebuttal: Handley Declaration)(Garabadu, Rahul) (Entered: 01/20/2022)
01/20/2022		RETURN of 38 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice. to attorney for correction re: Unable to Confirm Bar Membership. (nmb) (Entered: 01/20/2022)
01/21/2022		APPROVAL by Clerks Office re: 44 APPLICATION for Admission of Abigail Shaw Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11523339).. Attorney Abigail Shaw added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/21/2022)
01/24/2022	60	APPLICATION for Admission of Cassandra Mitchell Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11538422).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/24/2022)
01/25/2022	61	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>of Supplemental Authority in support of Plaintiffs' Motion for Preliminary Injunction and Opposition to Motion to Dismiss</i> (Attachments: # 1 Exhibit A- Rose v. Raffensperger, # 2 Exhibit B- Singleton v. Merrill)(Garabadu, Rahul) (Entered: 01/25/2022)
01/26/2022	62	<i>Parties' Consolidated Presentation Schedule</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 1/27/2022 to edit docket text (ddm). (Entered: 01/26/2022)
01/27/2022		APPROVAL by Clerks Office re: 60 APPLICATION for Admission of Cassandra Mitchell Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11538422).. Attorney Cassandra Mitchell added appearing on behalf of Alpha Phi Alpha Fraternity, Inc. (gas) (Entered: 01/27/2022)
01/27/2022	63	ORDER granting 44 Application for Admission Pro Hac Vice of Abigail Shaw. Signed by Judge Steve C. Jones on 1/27/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/27/2022	64	ORDER granting 60 Application for Admission Pro Hac Vice of Cassandra Mitchell. Signed by Judge Steve C. Jones on 1/27/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/27/2022	66	COORDINATED ORDER issued for purposes of perfecting the record as to the February 7-14, 2022 coordinated in-person hearing on the Motion for Preliminary Injunction. See Order for specifics on pre-hearing deadlines, stipulations, hearing schedule and covid-19 mitigation protocols. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) Modified on 1/28/2022 to edit signature date (ddm). (Entered: 01/28/2022)
01/28/2022	65	ORDER denying 43 Defendant's Motion to Dismiss Plaintiffs' Complaint. Defendant's request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is denied. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)

01/31/2022	67	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/31/2022)
01/31/2022	68	Witness List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/31/2022)
01/31/2022	69	NOTICE Of Filing Defendants' Lists of Witnesses and Exhibits by Brad Raffensperger re 66 Order, (Attachments: # 1 Exhibit 7, # 2 Exhibit 9, # 3 Exhibit 10, # 4 Exhibit 11, # 5 Exhibit 12, # 6 Exhibit 13, # 7 Exhibit 14 Part 1, # 8 Exhibit 14 Part 2, # 9 Exhibit 15, # 10 Exhibit 16, # 11 Exhibit 17, # 12 Exhibit 18, # 13 Exhibit 19, # 14 Exhibit 20, # 15 Exhibit 21, # 16 Exhibit 22, # 17 Exhibit 23, # 18 Exhibit 24, # 19 Exhibit 25, # 20 Exhibit 26, # 21 Exhibit 27, # 22 Exhibit 28, # 23 Exhibit 29, # 24 Exhibit 30, # 25 Exhibit 31, # 26 Exhibit 32, # 27 Exhibit 33, # 28 Exhibit 34, # 29 Exhibit 35, # 30 Exhibit 36, # 31 Exhibit 37)(Tyson, Bryan) (Entered: 01/31/2022)
01/31/2022	70	Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.. (Attachments: # 1 Declaration of Bishop Reginald T. Jackson, # 2 Declaration of of Sherman Lofton Jr.)(Garabadu, Rahul) (Entered: 01/31/2022)
01/31/2022	71	APPLICATION for Admission of Samuel E. Weitzman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11557092).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/31/2022)
02/01/2022	72	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Hearing on Motion for Preliminary Injunction</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/01/2022)
02/01/2022		APPROVAL by Clerks Office re: 67 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice.. Attorney Taeyoung Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 02/01/2022)
02/01/2022	73	RESPONSE to 61 <i>Plaintiffs' Notice of Supplemental Authority</i> filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Barber Report in Rose v. Raffensperger, # 2 Exhibit B - Amicus Brief Joined by Georgia in Merrill v. Milligan)(Tyson, Bryan) Modified on 2/1/2022 to edit docket text (ddm). (Entered: 02/01/2022)
02/01/2022	74	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/01/2022)
02/02/2022	75	Emergency MOTION to Exclude Expert Testimony with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Memorandum in Support Thereto, # 2 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/02/2022)
02/02/2022	76	<i>Plaintiffs' Notice Regarding Objections to Defendants Witnesses</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist

		Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 2/3/2022 to edit docket text (ddm). (Entered: 02/02/2022)
02/02/2022	77	<i>Plaintiffs' Notice Regarding Objections to Defendants Exhibits</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 2/3/2022 to edit docket tetx (ddm). (Entered: 02/02/2022)
02/02/2022	78	NOTICE Of Filing Defendants' Objections to Plaintiffs' Witnesses and Exhibits by Brad Raffensperger re 66 Order, (Tyson, Bryan) (Entered: 02/02/2022)
02/03/2022	79	RESPONSE in Opposition re 75 Emergency MOTION to Exclude Expert Testimony filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 02/03/2022)
02/03/2022	80	ORDER granting 72 Plaintiffs' Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on 2/04/2022 - 2/14/2022 at 9:00 AM: laptops and cellular telephones that may contain cameras, including iPhones, Androids, or other smart phones/personal digital assistants (PDAs), external hard drives, mice, presentation remotes, adapters, tech table, hdmi signal switch, and related peripherals: Randall Carter; Anthony Barko. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022		APPROVAL by Clerks Office re: 71 APPLICATION for Admission of Samuel E. Weitzman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11557092).. Attorney Samuel Weitzman added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 02/03/2022)
02/03/2022	81	ORDER granting 74 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on 2/7/2022 -2/14/2022 at 9:00 AM: laptops and/or cellular telephones that may contain cameras, including iPhones, Androids, or other smart phones/personal digital assistants (PDAs): Rahul Garabadu; Sophia Lakin; Ari Savitzky; Jenessa Calvo-Friedman; Sean Young; Kelsey Miller; Brett Schratz; Iyanna Barker; Debo Adegbile; George Varghese; Robert Boone; Edward Williams; Anuradha Sivaram; DeEricka Aiken; Ayana Williams; Abigail Shaw; Alex Miller; Cassandra Mitchell; Tae Kim; Denise Tsai; Maura Douglas; Charlotte Geaghan-Breiner; Samuel Weitzman; Matthew Howard; Leighton Crawford; and Lenise Jennings. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022	82	ORDER granting 67 Application for Admission Pro Hac Vice of Taeyoung Kim. Signed by Judge Steve C. Jones on 2/3/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/03/2022)
02/03/2022	83	ORDER granting 71 Application for Admission Pro Hac Vice of Samuel E. Weitzman. Signed by Judge Steve C. Jones on 2/3/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/03/2022)
02/03/2022		Submission of 26 MOTION for Preliminary Injunction , 39 MOTION for Preliminary Injunction (<i>Renewed</i>), to District Judge Steve C. Jones. (pdw) (Entered: 02/03/2022)
02/03/2022	84	REPLY to Response to Motion re 75 Emergency MOTION to Exclude Expert Testimony filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/03/2022)

02/03/2022		Submission of 75 Emergency MOTION to Exclude Expert Testimony, to District Judge Steve C. Jones. (rsg) (Entered: 02/03/2022)
02/03/2022	85	ORDER directing Defendant to file on the docket expert reports by Lynn Bailey, Gina Wright, and Dr. John Alford by no later than 12:00 p.m. (EST) on Friday, February 4, 2022. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/03/2022	86	COORDINATED ORDER regarding Defendants' Objections to Plaintiffs' witnesses and exhibits 78 . The Court declines to rule on these objections prior to the preliminary injunction hearing. The Court instructs Defendants to raise their objections to a specific exhibit when Plaintiffs move to introduce the exhibit into evidence. At that time, the Court will rule on the Defendants' objection to that particular exhibit. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/04/2022	87	Expert Report of John R. Alford, Ph.D. by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	88	Expert Report of Lynn Bailey by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	89	Expert Report of Gina Wright by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022		COURT'S NOTICE REGARDING THE PRELIMINARY INJUNCTION HEARING SCHEDULED TO COMMENCE ON FEBRUARY 7, 2022 AT 9:00 AM IN COURTROOM 1907: As part of the Court's COVID-19 safety protocols, a maximum of 24 non-party observers will be permitted to attend. A maximum of 7 members of press will be permitted to sit in the jury box; however, entrance to and egress from the jury box will be limited to prior to start of court and during breaks only. COURTROOM 2105 WILL BE USED FOR OVERFLOW SEATING, WITH A LIVE AUDIO STREAM PROVIDED. (pdw) Modified on 2/4/2022 (pdw). (Entered: 02/04/2022)
02/04/2022	90	MOTION for Leave to File Proposed Brief of Amici Curiae with Brief In Support by Fair Districts GA, Election Law Clinic at Harvard Law School. (Attachments: # 1 Brief [Proposed] Brief of Amici Curiae in Support of Plaintiffs)(Pearson, Albert) (Entered: 02/04/2022)
02/04/2022	91	APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569828).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	92	APPLICATION for Admission of Theresa J. Lee Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569886).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	93	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569912).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	94	STIPULATION (<i>Joint Stipulated Facts for Preliminary Injunction Proceedings</i>) by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Election Law Clinic at Harvard Law School, Fair Districts GA, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/04/2022)

02/06/2022	95	Unopposed MOTION for Judicial Notice with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/06/2022)
02/07/2022	97	ORDER - In light of the Supreme Court's decision this Court hereby ORDERS the parties to arrive to court tomorrow morning prepared to discuss whether this Court should continue to hold the current hearing regarding Plaintiffs' motions for preliminary injunctions. Signed by Judge Steve C. Jones on 2/7/2022. (pdw) (Entered: 02/07/2022)
02/07/2022	126	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing held on 2/7/2022 re 26 and 39 MOTIONS for Preliminary Injunction. <i>Preliminary Injunction hearing began. Opening statements heard. Pendergrass/Grant plaintiffs' exhibits 1-26, 38-40, 53, 55-58, 60, 62, 66 admitted. Alpha plaintiffs' exhibits A1-A18, A22, A37, A46-A49 admitted. Pendergrass/Grant witness Dr. William Cooper sworn and testified. Dr. William Cooper recalled by Alpha plaintiffs. Alpha plaintiffs' exhibit 47 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)</i>
02/08/2022	127	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/8/2022 re 26 and 39 MOTIONS for Preliminary Injunction. The Court heard argument regarding SCOTUS ruling issued 2/7/2022 in Alabama cases. Court adjourned for three hours to allow counsel time to prepare for presentation of evidence. Defendants' witness Mark Barnes sworn and testified. Pendergrass/Grant witness Blakeman Esselstyn sworn and testified. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/09/2022	98	NOTICE Of Filing of Plaintiffs' Supplemental Memorandum by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (Garabadu, Rahul) (Entered: 02/09/2022)
02/09/2022	128	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/9/2022 re 26 and 39 MOTIONS for preliminary Injunction. Defendants' witness Lynn Bailey sworn and testified. Defendants' exhibits 38 and 7 admitted. Pendergrass/Grant witnesses Richard Barron and Nancy Boren sworn and testified. Pendergrass/Grant exhibit 68 admitted. Alpha Plaintiffs' witness Bishop Jackson sworn and testified. Blakeman Esselstyn recalled by Pendergrass/Grant Plaintiffs. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/10/2022		RETURN of 91 APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569828). to attorney for correction re: Incorrect Local Counsel Address. (nmb) (Entered: 02/10/2022)
02/10/2022		RETURN of 93 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569912). to attorney for correction re: Incorrect Local Counsel Address and Courts. (nmb) (Entered: 02/10/2022)
02/10/2022		RETURN of 92 APPLICATION for Admission of Theresa J. Lee Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569886). to attorney for correction re: Incorrect Local Counsel Address. (nmb) (Entered: 02/10/2022)
02/10/2022	99	Consent MOTION for Extension of Time to File Answer re 1 Complaint,, by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/10/2022)
02/10/2022	129	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/10/2022 re 26 and 39 MOTIONS for Preliminary Injunction. Pendergrass/Grant witness sworn and testified via Zoom. Pendergrass/Grant witness Dr.

		Maxwell Palmer sworn and testified. Alpha witness Lisa Handley sworn and testified. Alpha exhibit A52 admitted. Pendergrass/Grant witness Jason Carter sworn and testified. Alpha witness Adrienne Jones sworn and testified. Alpha exhibit A5 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/11/2022		DOCKET ORDER granting 95 Unopposed MOTION for Judicial Notice. Entered by Judge Steve C. Jones on 2/11/2022. (pdw) (Entered: 02/11/2022)
02/11/2022	100	ORDER granting the 99 Defendant's Motion to Extend the Time to Answer Plaintiffs' Complaint. Defendant's answer to Plaintiffs' Complaint is due on or before February 25, 2022. Signed by Judge Steve C. Jones on 02/11/2022. (ddm) (Entered: 02/11/2022)
02/11/2022	130	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/11/2022 re 26 and 39 MOTIONS for Preliminary Injunction. Defendants' witness Gina Wright sworn and testified. Defendants' exhibits 1-37, 38, 41 admitted. Pendergrass/Grant exhibits 69 and 70 admitted. Defendants' exhibit 41 admitted. Defendants' witness John Morgan sworn and testified. Defendants' witness John Alford sworn and testified via Zoom. Defendants' exhibit 42 admitted Alpha exhibit 207.6 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/14/2022	101	Unopposed MOTION for Judicial Notice with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/14/2022)
02/14/2022	102	COORDINATED ORDER directing the parties to file proposed findings of fact and conclusions of law no later than 5:00 P.M. (EST) on FRIDAY, FEBRUARY 18, 2022. Parties are further ORDERED to file their proposed findings of fact and conclusions of law to CM/ECF and e-mail a word copy the Court's Courtroom Deputy (see order for contact information). Signed by Judge Steve C. Jones on 02/14/2022. (ddm) Modified on 2/15/2022 to edit docket text (ddm). (Entered: 02/15/2022)
02/14/2022	131	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing concluded on 2/14/2022 re 39 MOTION for Preliminary Injunction. Alpha exhibit A53 admitted. John Morgan recalled, testified via Zoom. Defendants' exhibits 43-47 admitted. Pendergrass/Grant exhibits 27-37, 41-54, 59, 61, 63-67 admitted. Alpha exhibits 50 and 51 admitted. Closing arguments heard. The matter was taken under advisement by the Court with ruling to follow. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/15/2022	103	APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/15/2022	104	APPLICATION for Admission of Theresa J. Lee Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/15/2022	105	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/16/2022	106	TRANSCRIPT of Proceedings held on February 7, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due

		3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	107	TRANSCRIPT of Proceedings held on February 8, 2020, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	108	TRANSCRIPT of Proceedings held on February 9, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	109	TRANSCRIPT of Proceedings held on February 10, 2020, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	110	TRANSCRIPT of Proceedings held on February 11, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	111	TRANSCRIPT of Proceedings held on February 14, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	112	TRANSCRIPT of Preliminary Injunction Proceedings held on 2/7/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full

		<p>directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Affidavit Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	113	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/8/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	114	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/9/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	115	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/10/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	116	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/11/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	117	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/14/2022 - Afternoon Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at</p>

		www.gand.uscourts.gov/directory-court-reporters. Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/17/2022	118	AFFIDAVIT of <i>Rahul Garabadu</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A52 - Corrected Appendix A to Report of Dr. Handley, # 2 Exhibit A53 - Affidavit of Lisa Handley)(Garabadu, Rahul) (Entered: 02/17/2022)
02/18/2022	119	NOTICE by Brad Raffensperger of <i>Supplemental Authority</i> (Attachments: # 1 Exhibit A - Order in Arkansas State Conf. of the NAACP v. Arkansas Board of Apportionment) (Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	120	Proposed Findings of Fact by Brad Raffensperger. (Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	121	Proposed Findings of Fact by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/18/2022)
02/22/2022		APPROVAL by Clerks Office re: 103 APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice.. Attorney Ruth M. Greenwood added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 02/22/2022)
02/22/2022		APPROVAL by Clerks Office re: 104 APPLICATION for Admission of Theresa J. Lee Pro Hac Vice.. Attorney Theresa J. Lee added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 02/22/2022)
02/22/2022		RETURN of 105 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice. to attorney for correction re: specify admitted courts. (gas) (Entered: 02/22/2022)
02/22/2022	122	ORDER granting 103 Application for Admission Pro Hac Vice of Ruth M. Greenwood. Signed by Judge Steve C. Jones on 2/22/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/22/2022)
02/22/2022	123	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods of <i>Supplemental Authority in support of Plaintiffs' Motion for Preliminary Injunction</i> (Attachments: # 1 Exhibit A- Order in Baltimore Cty Branch of NAACP et al v Baltimore County et al)(Garabadu, Rahul) (Entered: 02/22/2022)
02/24/2022	124	<i>Defendant's Response to Plaintiffs' Notice of Supplemental Authority</i> 123 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 2/25/2022 to edit docket text (ddm). (Entered: 02/24/2022)
02/25/2022	125	ANSWER to 1 COMPLAINT by Brad Raffensperger. Discovery ends on 7/25/2022. (Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 02/25/2022)
02/28/2022	132	ORDER granting 101 Plaintiffs' Second Unopposed Motion for Judicial Notice. The Motion for Leave to File Brief as Amici Curiae in Support of Plaintiffs 90 filed by Fair District GA and the Election Law Clinic at Harvard Law School is granted and the Clerk

		is to update the case style/docket to show Fair Districts GA and the Election Law Clinic at Harvard Law School as non-party, Amici Curiae filers. In the exercise of the Court's discretion, all objections made during the February 2022 preliminary injunction hearing are overruled as to the exhibit rulings that were taken under advisement in the course of the preliminary injunction hearing. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) Modified on 3/1/2022 to edit docket text (ddm). (Entered: 03/01/2022)
02/28/2022	133	SCHEDULING ORDER. See Order for all specific deadlines. The parties are encouraged to abide by their previously expressed commitments to coordinate with the parties in all of the redistricting cases (currently pending in the Northern District of Georgia) in terms of discovery, so as to limit redundancies and diminish discovery burdens. Except as modified herein, the Federal Rules of Civil Procedure and the Local Rules of this Court, shall govern any remaining deadlines. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
02/28/2022	134	ORDER denying the [26,39] Motions for Preliminary Injunction. Having determined that a preliminary injunction should not issue, the Court cautions that this is an interim, non-final ruling that should not be viewed as an indication of how the Court will ultimately rule on the merits at trial. Under the specific circumstances of this case, the Court finds that proceeding with the Enacted Maps for the 2022 election cycle is the right decision. But it is a difficult decision. And it is a decision the Court did not make lightly. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
03/01/2022	135	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 03/01/2022)
03/04/2022		APPROVAL by Clerks Office re: 135 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice.. Attorney Daniel J. Hessel added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 03/04/2022)
03/14/2022	136	ORDER granting 104 Application for Admission Pro Hac Vice of Theresa J. Lee. Signed by Judge Steve C. Jones on 3/14/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 03/14/2022)
03/14/2022	137	ORDER granting 135 Application for Admission Pro Hac Vice of Daniel J. Hessel. Signed by Judge Steve C. Jones on 3/14/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 03/14/2022)
03/28/2022	138	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 03/28/2022)
03/28/2022	139	CERTIFICATE OF SERVICE of <i>Plaintiffs' Initial Disclosures upon Counsel of Record for Defendant</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Sivaram, Anuradha) (Entered: 03/28/2022)
03/29/2022	140	ORDER denying 75 Plaintiffs' Emergency Motion to Exclude Expert Testimony. Signed by Judge Steve C. Jones on 03/29/2022. (ddm) (Entered: 03/29/2022)
03/30/2022	141	First AMENDED COMPLAINT for <i>Declaratory Judgment and Injunctive Relief</i> against Brad Raffensperger filed by Phil Brown, Sixth District of the African Methodist Episcopal Church, Alpha Phi Alpha Fraternity, Inc., Katie Bailey Glenn, Eric T. Woods,

		Janice Stewart. (Lakin, Sophia) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 03/30/2022)
03/31/2022	142	CERTIFICATE OF SERVICE <i>for Defendant's Initial Disclosures</i> by Brad Raffensperger. (Tyson, Bryan) (Entered: 03/31/2022)
04/04/2022	143	Notice for Leave of Absence for the following date(s): April 7 - April 8, 2022, May 1 - May 6, 2022, July 5 - July 8, 2022, by Sophia Lin Lakin. (Lakin, Sophia) (Entered: 04/04/2022)
04/13/2022	144	<i>Defendant's</i> ANSWER to 141 Amended Complaint by Brad Raffensperger.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 04/13/2022)
04/14/2022	145	MOTION to Withdraw Sean Young as Attorneyby Alpha Phi Alpha Fraternity, Inc.. (Young, Sean) (Entered: 04/14/2022)
05/16/2022	146	ORDER advising the parties that the Court declines the parties' request for another scheduling conference. The Court also DENIES Plaintiffs' requests to alter the previously issued scheduling orders. Said scheduling orders remain the Order of the Court. Signed by Judge Steve C. Jones on 05/16/2022. (ddm) (Entered: 05/16/2022)
05/23/2022	147	Request for Leave of Absence for the following date(s): 6/13/22 - 6/24/22; 6/27/22 - 7/1/22; 7/5/22 - 7/15/22, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 05/23/2022)
05/31/2022		DOCKET ORDER granting 145 Motion to Withdraw as Attorney. Attorney Sean Young terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 5/31/2022. (pdw) (Entered: 05/31/2022)
07/21/2022	148	MOTION to Withdraw Samuel E. Weitzman as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 07/21/2022)
07/27/2022		ORDER (by docket entry only): The parties are hereby ORDERED to file a joint status report no later than 12:00 PM on August 2, 2022 setting forth the following information: 1.) the current posture of the litigation; and 2.) if the parties will be prepared to proceed to trial either in late April or the month of May, 2023. Entered by Judge Steve C. Jones on 7/27/2022. (pdw) (Entered: 07/27/2022)
08/02/2022	149	STATUS REPORT <i>Joint Status Report</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 08/02/2022)
08/04/2022	150	ORDER advising the parties that, after having read and considered the parties' Joint Status Report in response to the Court's order of July 27, 2022, the Court exercises its discretion to leave the scheduling order (dated February 28, 2022) in place. No changes will be made at this time. Signed by Judge Steve C. Jones on 08/04/2022. (ddm) (Entered: 08/04/2022)
08/05/2022	151	CERTIFICATE OF SERVICE <i>for Defendant's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 08/05/2022)
08/24/2022	152	Joint MOTION for Protective Order by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice

		Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Lakin, Sophia) (Entered: 08/24/2022)
08/25/2022	153	STIPULATED PROTECTIVE ORDER. Signed by Judge Steve C. Jones on 08/25/2022. (ddm) (Entered: 08/25/2022)
09/01/2022	154	Joint MOTION for Order <i>Regarding Entry of Stipulated ESI Agreement</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1: Proposed Stipulated ESI Agreement)(Lakin, Sophia) (Entered: 09/01/2022)
09/02/2022	155	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) (Entered: 09/02/2022)
09/02/2022	156	ORDER granting 148 Motion to Withdraw as Attorney filed by Samuel E. Weitzman. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) Modified on 9/2/2022 to edit docket text (ddm). (Entered: 09/02/2022)
09/13/2022	157	MOTION to Withdraw Loree Anne Paradise as Attorneyby Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Paradise, Loree Anne) (Entered: 09/13/2022)
09/15/2022	158	ORDER granting 157 Motion to Withdraw as Attorney filed by Loree Anne Paradise. Signed by Judge Steve C. Jones on 09/15/2022. (ddm) (Entered: 09/15/2022)
09/21/2022	159	NOTICE of Appearance by Cory Isaacson on behalf of Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart (Isaacson, Cory) Modified text on 9/22/2022 (rsg). (Entered: 09/21/2022)
09/23/2022	160	CERTIFICATE OF SERVICE <i>for Plaintiffs' First Set of Interrogatories and Requests for Production of Documents</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 09/23/2022)
10/05/2022	161	NOTICE of Appearance by Caitlin Felt May on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (May, Caitlin) (Entered: 10/05/2022)
10/05/2022	162	CERTIFICATE OF SERVICE <i>of Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 10/05/2022)
10/06/2022	163	STIPULATION <i>AND ORDER REGARDING DISCOVERY</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 10/06/2022)
10/07/2022	164	STIPULATION AND ORDER REGARDING DISCOVERY. (See Order for specific deadlines.) Signed by Judge Steve C. Jones on 10/07/2022. (ddm) (Entered: 10/07/2022)
10/11/2022	165	CERTIFICATE OF SERVICE filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Plaintiffs' Notice of Deposition of Defendant Secretary</i> (Garabadu, Rahul) (Entered: 10/11/2022)
10/24/2022	166	CERTIFICATE OF SERVICE <i>for Plaintiffs' Set of Requests for Admission</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 10/24/2022)

11/02/2022	167	CERTIFICATE OF SERVICE for Defendant's Responses and Objections to Plaintiffs' First Set of Discovery Requests by Brad Raffensperger.(Tyson, Bryan) (Entered: 11/02/2022)
11/23/2022	168	CERTIFICATE OF SERVICE for Defendant's Production (APA00000001 - APA00001539) by Brad Raffensperger.(Tyson, Bryan) (Entered: 11/23/2022)
12/01/2022	169	CERTIFICATE OF SERVICE for Defendant's Objections and Responses to Plaintiffs' Set of Requests for Admission by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/01/2022)
12/06/2022	170	CERTIFICATE OF SERVICE for the Expert Report of John B. Morgan by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/06/2022	171	CERTIFICATE OF SERVICE of Discovery by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 12/06/2022)
12/08/2022	172	APPLICATION for Admission of Kelsey Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12248030).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/08/2022)
12/09/2022	173	CERTIFICATE OF SERVICE for Defendant's Notices to take the Depositions of Katie Bailey Glenn, Phil Brown, Eric T. Woods and Janice Stewart by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/09/2022)
12/09/2022	174	CERTIFICATE OF SERVICE for Defendant's Second Notice to take the Deposition of Janice Stewart by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/09/2022)
12/13/2022	175	NOTICE of Appearance by Daniel H Weigel on behalf of Brad Raffensperger (Weigel, Daniel) (Entered: 12/13/2022)
12/14/2022		RETURN of 172 APPLICATION for Admission of Kelsey Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12248030) to attorney for correction. Re: List all specific courts admitted. (pdt) (Entered: 12/14/2022)
12/15/2022	176	APPLICATION for Admission of Kelsey A. Miller Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/15/2022)
12/15/2022	177	Joint MOTION to Amend Stipulation and Order Regarding Discovery by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/15/2022)
12/16/2022	178	NOTICE of Appearance by Donald P. Boyle, Jr on behalf of Brad Raffensperger (Boyle, Donald) (Entered: 12/16/2022)
12/20/2022		APPROVAL by Clerks Office re: 176 APPLICATION for Admission of Kelsey A. Miller Pro Hac Vice. Attorney Kelsey A. Miller added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 12/20/2022)
01/03/2023	179	ORDER granting the 177 Joint Motion to Amend Stipulation and Order Regarding Discovery. Fact depositions for persons associated with the Office of the Georgia Secretary of State and Plaintiffs Rule 30(b)(6) designees may be held until January 13,

		2023, and fact depositions for third parties may be held until January 26, 2023. Signed by Judge Steve C. Jones on 01/03/2023. (ddm) (Entered: 01/03/2023)
01/09/2023	180	ORDER granting 176 Application for Admission Pro Hac Vice filed by Kelsey A. Miller. Signed by Judge Steve C. Jones on 01/09/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(ddm) (Entered: 01/09/2023)
01/09/2023		Clerk's Certificate of Mailing to Kelsey A. Miller re 180 Order. (ddm) (Entered: 01/09/2023)
01/09/2023	181	Notice for Leave of Absence for the following date(s): 4/3/23 - 4/7/23, 5/22/23 - 5/26/23, 10/5/23 - 10/19/23 and 11/9/23 - 11/10/23, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 01/09/2023)
01/17/2023	182	CERTIFICATE OF SERVICE of <i>Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 01/17/2023)
01/20/2023	183	Joint MOTION to Amend <i>Stipulation and Order Regarding Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(May, Caitlin) (Entered: 01/20/2023)
01/20/2023	184	ORDER granting the 183 Joint Motion to Amend Stipulation and Order Regarding Discovery. Fact depositions for Gina Wright and the Legislative and Congressional Reapportionment Office of the Georgia General Assembly may be held until January 26, 2023. Signed by Judge Steve C. Jones on 01/20/2023. (ddm) (Entered: 01/20/2023)
01/23/2023	185	APPLICATION for Admission of Juan M. Ruiz Toro Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337634).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	186	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337641).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	187	APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	188	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (<i>Of Change of Address and Contact Information</i>) (Sivaram, Anuradha) (Entered: 01/23/2023)
01/26/2023		APPROVAL by Clerk's Office re: 185 APPLICATION for Admission of Juan M. Ruiz Toro Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337634). Attorney Juan M. Ruiz Toro added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 01/26/2023)

01/26/2023		RETURN of 186 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337641) to attorney for correction. Returned for list of courts, please clarify. Please contact 404-215-1600 for more information. (rvb) (Entered: 01/26/2023)
01/26/2023		RETURN of 187 APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651) to attorney for correction. Returned for list of courts, please clarify. Please contact 404-215-1600 for more information. (rvb) (Entered: 01/26/2023)
01/26/2023	189	NOTICE of Appearance by Diane Festin LaRoss on behalf of Brad Raffensperger (LaRoss, Diane) (Entered: 01/26/2023)
01/27/2023		DOCKET ORDER granting 185 Application for Admission Pro Hac Vice of Juan M. Ruiz Toro. Entered by Judge Steve C. Jones on 1/27/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2023)
01/27/2023	190	APPLICATION for Admission of Ming Cheung Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12350880).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/27/2023)
01/31/2023	191	CERTIFICATE OF SERVICE for Defendant's expert disclosure of John Morgan's Report by Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023	192	CERTIFICATE OF SERVICE for Amended 30(b)(6) Notices of Deposition of Alpha Phi Alpha Fraternity Inc. and Sixth District of the African Methodist Episcopal Church by Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023		RETURN of 190 APPLICATION for Admission of Ming Cheung Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12350880). to attorney for correction re: Local counsel's address must match what is in the NDGA database. (cdg) (Entered: 01/31/2023)
02/01/2023	193	CERTIFICATE OF SERVICE for Defendant's Notices to take the Expert Depositions of Jason Morgan Ward, Ph.D. and William S. Cooper by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/01/2023)
02/03/2023	194	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	195	APPLICATION for Admission of Marisa A DiGiuseppe Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	196	APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)

02/03/2023	197	APPLICATION for Admission of Ming Cheung Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	198	CERTIFICATE OF SERVICE <i>for Notice to take the Expert Deposition of John B. Morgan</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 02/03/2023)
02/06/2023	199	CERTIFICATE OF SERVICE <i>for the Expert Report of John R. Alford, Ph.D.</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/06/2023)
02/09/2023		RETURN of 194 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 195 APPLICATION for Admission of Marisa A DiGiuseppe Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 196 APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179). to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 197 APPLICATION for Admission of Ming Cheung Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/10/2023	200	APPLICATION for Admission of Ming Cheung Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/10/2023)
02/13/2023	201	CERTIFICATE OF SERVICE <i>for Defendant's Notices to take the Expert Depositions of Drs. Lisa Handley, Adrienne Jones and Traci Burch</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/13/2023)
02/14/2023		APPROVAL by Clerks Office re: 200 APPLICATION for Admission of Ming Cheung Pro Hac Vice. Attorney Ming Cheung added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 02/14/2023)
02/14/2023		DOCKET ORDER granting 200 Application for Admission Pro Hac Vice of Ming Cheung. Entered by Judge Steve C. Jones on 2/14/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/14/2023)
02/15/2023	202	Certification of Consent to Substitution of Counsel. Elizabeth Marie Wilson Vaughan replacing attorney Charlene S McGowan. (Vaughan, Elizabeth) (Entered: 02/15/2023)
02/16/2023	203	MOTION to Withdraw Eliot Kim as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) Modified on 2/16/2023 to edit docket entry (ddm). (Entered: 02/16/2023)
02/16/2023	204	MOTION to Withdraw Anuradha Sivaram as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)

		(Garabadu, Rahul) Modified on 2/16/2023 to edit docket entry (ddm) (Entered: 02/16/2023)
02/16/2023	205	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/16/2023)
02/16/2023	206	APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. Modified on 2/27/2023 confirmed with counsel via email that he is a member of the California Supreme Court (rvb). (Entered: 02/16/2023)
02/16/2023	207	APPLICATION for Admission of Anuj Dixit Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. Modified on 2/24/2023 confirmed with counsel via email that he is a member of the California Supreme Court (rvb). (Entered: 02/16/2023)
02/16/2023	208	Joint MOTION to Amend <i>Stipulation and Order Regarding Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/16/2023)
02/17/2023	209	ORDER granting the parties' 208 Joint Motion to Amend Stipulation and Order regarding Discovery. Dr. John Alford's deposition may be held until February 27, 2023. Signed by Judge Steve C. Jones on 02/17/2023. (ddm) (Entered: 02/17/2023)
02/24/2023		APPROVAL by Clerks Office re: 205 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice. Attorney Joseph D. Zabel added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 02/24/2023)
02/24/2023		DOCKET ORDER granting 205 Application for Admission Pro Hac Vice of Joseph D. Zabel. Entered by Judge Steve C. Jones on 2/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/24/2023)
02/24/2023		APPROVAL by Clerks Office re: 207 APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179). Attorney Anuj Dixit added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (rvb) (Entered: 02/24/2023)
02/24/2023	210	CERTIFICATE OF SERVICE <i>for Notice to take the Expert Deposition of John R. Alford, Ph.D</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 02/24/2023)
02/27/2023		APPROVAL by Clerks Office re: 206 APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651). Attorney Marisa A. DiGiuseppe added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 02/27/2023)

02/28/2023		DOCKET ORDER granting 206 Application for Admission Pro Hac Vice of Marisa A. DiGiuseppe. Entered by Judge Steve C. Jones on 2/28/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/28/2023)
02/28/2023		DOCKET ORDER granting 207 Application for Admission Pro Hac Vice Anuj Dixit. Entered by Judge Steve C. Jones on 2/28/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/28/2023)
03/07/2023	211	MOTION to Withdraw Abigail Shaw as Attorney filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 3/7/2023 to edit docket text (ddm). (Entered: 03/07/2023)
03/09/2023		Submission of 204 MOTION to Withdraw Rahul Garabadu as Attorney, 203 MOTION to Withdraw Rahul Garabadu as Attorney, to District Judge Steve C. Jones. (pdw) (Entered: 03/09/2023)
03/09/2023	212	ORDER granting 203 Motion to Withdraw as Attorney filed by Eliot Kim. Signed by Judge Steve C. Jones on 03/09/2023. (ddm) (Entered: 03/09/2023)
03/09/2023	213	ORDER granting 204 Motion to Withdraw as Attorney filed by Anuradha Sivaram. Signed by Judge Steve C. Jones on 03/09/2023. (ddm) (Entered: 03/09/2023)
03/15/2023	214	Consent MOTION for Leave to File Excess Pages <i>for Summary Judgment Briefing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 03/15/2023)
03/15/2023	215	ORDER granting the 214 Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 03/15/2023. (ddm) (Entered: 03/16/2023)
03/17/2023	216	DEPOSITION of Reginald Jackson - 30(b)(6) deposition of Sixth District of the African Methodist Episcopal Church taken on 1.09.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Reginald Jackson Deposition, # 2 Supplement Part 3 of Reginald Jackson Deposition)(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	217	DEPOSITION of Eric Woods taken on 12.15.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	218	DEPOSITION of Katie Bailey Glenn taken on 12.14.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	219	DEPOSITION of Phil Brown taken on 12.15.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	220	DEPOSITION of Janice Stewart taken on 12.16.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	221	DEPOSITION of William S. Cooper taken on 2.10.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of William S. Cooper Deposition, # 2 Supplement Part 3 of William S. Cooper Deposition, # 3 Supplement Part 4 of William S. Cooper Deposition, # 4 Supplement Part 5 of William S. Cooper Deposition, # 5 Supplement Part 6 of William S. Cooper Deposition, # 6 Supplement Part 7 of William S. Cooper Deposition, # 7 Supplement Part 8 of William S. Cooper Deposition, # 8 Supplement Part 9 of William S. Cooper Deposition, # 9 Supplement Part 10 of William S. Cooper Deposition, # 10 Supplement Part 11 of William S. Cooper Deposition, # 11 Supplement

		Part 12 of William S. Cooper Deposition, # 12 Supplement Part 13 of William S. Cooper Deposition, # 13 Supplement Part 14 of William S. Cooper Deposition)(Tyson, Bryan) (Entered: 03/17/2023)
03/20/2023	222	DEPOSITION of Lisa Handley taken on 2.16.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	223	DEPOSITION of Sherman Macawayne Lofton, Jr. taken on 1.10.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Sherman Macawayne Lofton, Jr. Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	224	COORDINATED ORDER in anticipation of the Parties' filing their motions for summary judgment. The Court will hold a hearing on the Parties' motions for summary judgment on May 18, 2023 at 10:00 AM. The Court will hold a pretrial conference on August 15, 2023 at 10:00 AM. The Court specially sets the above-listed Actions for a coordinated trial to begin on September 5, 2023. All proceedings will be in person and held in Courtroom No. 1907, in the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. Unless otherwise notified, all proceedings will begin at 9:00 AM. The Court will not permit counsel to argue or witnesses to offer live testimony via Zoom. The Court will permit a witness to testify via video deposition, per a prior agreement between the Parties. Signed by Judge Steve C. Jones on 03/20/2023. (ddm) (Entered: 03/20/2023)
03/20/2023	225	DEPOSITION of Gina Wright taken on 1.26.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	226	DEPOSITION of John F. Kennedy taken on 1.20.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	227	DEPOSITION of Bonnie Rich taken on 1.18.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Bonnie Rich Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	228	DEPOSITION of Derrick Jackson taken on 2.20.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Derrick Jackson Deposition, # 2 Supplement Part 3 of Derrick Jackson Deposition, # 3 Supplement Part 4 of Derrick Jackson Deposition, # 4 Supplement Part 5 of Derrick Jackson Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	229	DEPOSITION of John R. Alford taken on 2.27.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	230	MOTION for Summary Judgment with Brief In Support by Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendant's Motion for Summary Judgment) (Tyson, Bryan) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.-- (Entered: 03/20/2023)
03/20/2023	231	Statement of Material Facts re 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Expert Report of William Cooper (Part 1), # 2 Exhibit A - Expert Report of William Cooper (Part 2), # 3 Exhibit A - Expert Report of William Cooper (Part 3), # 4 Exhibit A - Expert Report of William Cooper (Part 4), # 5 Exhibit A - Expert Report of William Cooper (Part 5), # 6 Exhibit B - Expert Report of John Morgan (Part 1), # 7 Exhibit B - Expert Report of John Morgan (Part 2), # 8 Exhibit B - Expert Report of John Morgan (Part 3), # 9 Exhibit B - Expert Report of John Morgan (Part 4), # 10 Exhibit C - Expert Report of Blakeman Esselstyn in Grant, # 11 Exhibit D - Cooper Deposition Excerpts, # 12 Exhibit E - Wright Deposition Excerpts, # 13 Exhibit F - Kennedy Deposition Excerpts, # 14 Exhibit G - Rich Deposition Excerpts, # 15 Exhibit H - Jackson Deposition Excerpts, # 16 Exhibit I - Woods Deposition Excerpts, # 17 Exhibit J - Glenn Deposition Excerpts, # 18 Exhibit K - Brown Deposition Excerpts, # 19

		Exhibit E - Stewart Deposition Excerpts, # 21 Exhibit M - Handley Deposition Excerpts, # 21 Exhibit N - Alford Deposition Excerpts)(Tyson, Bryan) (Entered: 03/20/2023)
03/24/2023	232	ORDER granting 211 Motion to Withdraw as Attorney filed by Abigail Shaw. Signed by Judge Steve C. Jones on 03/24/2023. (ddm) (Entered: 03/24/2023)
03/29/2023	233	APPLICATION for Admission of Sonika Data Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12494309).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 03/29/2023)
04/04/2023		APPROVAL by Clerks Office re: 233 APPLICATION for Admission of Sonika Data Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12494309).Attorney Sonika Data added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 04/04/2023)
04/05/2023		DOCKET ORDER granting 233 Application for Admission Pro Hac Vice of Sonika Data. Entered by Judge Steve C. Jones on 4/5/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 04/05/2023)
04/11/2023	234	Consent MOTION for Leave to File Excess Pages <i>for Plaintiffs' Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 04/11/2023)
04/12/2023	235	ORDER granting 234 Plaintiffs' Consent Motion for an Extension of the Page Limitations. Signed by Judge Steve C. Jones on 04/12/2023. (ddm) (Entered: 04/12/2023)
04/18/2023	236	DEPOSITION of John Morgan taken on 2.09.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of John Morgan Deposition, # 2 Supplement Part 3 of John Morgan Deposition, # 3 Supplement Part 4 of John Morgan Deposition, # 4 Supplement Part 5 of John Morgan Deposition, # 5 Supplement Part 6 of John Morgan Deposition, # 6 Supplement Part 7 of John Morgan Deposition, # 7 Supplement Part 8 of John Morgan Deposition, # 8 Supplement Part 9 of John Morgan Deposition)(Tyson, Bryan) (Entered: 04/18/2023)
04/18/2023	237	NOTICE Of Filing Amended Exhibits to William Cooper Deposition by Brad Raffensperger re 221 Deposition,,, (Attachments: # 1 Exhibit Amended Exhibit 1 to William Cooper Deposition taken on 2.10.23, # 2 Supplement Part 2 of Amended Exhibit 1, # 3 Supplement Part 3 of Amended Exhibit 1, # 4 Supplement Part 4 of Amended Exhibit 1, # 5 Supplement Part 5 of Amended Exhibit 1, # 6 Exhibit Amended Exhibit 5 to William Cooper Deposition taken on 2.10.23, # 7 Supplement Part 2 of Amended Exhibit 5, # 8 Supplement Part 3 of Amended Exhibit 5, # 9 Supplement Part 4 of Amended Exhibit 5, # 10 Supplement Part 5 of Amended Exhibit 5, # 11 Supplement Part 6 of Amended Exhibit 5, # 12 Exhibit Amended Exhibit 6 to William Cooper Deposition taken on 2.10.23, # 13 Supplement Part 2 of Amended Exhibit 6, # 14 Supplement Part 3 of Amended Exhibit 6, # 15 Supplement Part 4 of Amended Exhibit 6, # 16 Supplement Part 5 of Amended Exhibit 6, # 17 Supplement Part 6 of Amended Exhibit 6)(Tyson, Bryan) (Entered: 04/18/2023)
04/18/2023	238	Notice for Leave of Absence for the following date(s): June 12-15, 2023, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 04/18/2023)

04/19/2023	239	DEPOSITION of Adrienne Jones, Ph. D. taken on February 15, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3 (Part 1), # 4 Exhibit 3 (Part 2), # 5 Exhibit 4 (Part 1), # 6 Exhibit 4 (Part 2), # 7 Exhibit 5 (Part 1), # 8 Exhibit 5 (Part 2), # 9 Exhibit 5 (Part 3), # 10 Exhibit 6, # 11 Exhibit 7, # 12 Exhibit 8)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	240	DEPOSITION of Erick Allen taken on February 21, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6 (Part 1), # 7 Exhibit 6 (Part 2), # 8 Exhibit 6 (Part 3), # 9 Exhibit 6 (Part 4), # 10 Exhibit 6 (Part 5), # 11 Exhibit 6 (Part 6)) (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	241	DEPOSITION of Jan Jones taken on January 17, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Grant - Exhibit 1, # 15 Grant - Exhibit 2, # 16 Grant - Exhibit 3)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	242	DEPOSITION of Jason M. Ward, Ph.D. taken on February 8, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	243	(DOCUMENT RESTRICTED PER 250) RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 5/2/2023 (ddm). (Entered: 04/19/2023)
04/19/2023	244	RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	245	RESPONSE re 231 Statement of Material Facts,,,,, filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	246	Plaintiffs' Statement of Additional Facts in re 244 Response in Opposition to Motion, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Exhibit Q, # 18 Exhibit R, # 19 Exhibit S, # 20 Exhibit T, # 21 Exhibit U)(Garabadu, Rahul) Modified on 5/2/2023 to edit docket entry per 250 (ddm). (Entered: 04/19/2023)
04/20/2023	247	MOTION to Strike 243 Response in Opposition to Motion, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/20/2023)

04/20/2023	248	ORDER advising the parties that the Court requests two courtesy copies of the documents filed relating to the parties' summary judgment motions. Counsel shall have said courtesy copies delivered to the Court's Atlanta Chambers, 1967 United States Courthouse, 75 Ted Turner Drive, S.W. by 10 A.M., THURSDAY, MAY 4, 2023. Signed by Judge Steve C. Jones on 04/20/2023. (ddm) (Entered: 04/21/2023)
04/28/2023	249	ORDER outlining the schedule for the May 18, 2023 hearing on the Parties' Motions for Summary Judgment. The Court notes that it reserves the right to amend the schedule of the argument. (Please read Order for specific timing of these hearings.) Signed by Judge Steve C. Jones on 04/28/2023. (ddm) (Entered: 05/01/2023)
05/02/2023	250	ORDER DENYING Plaintiffs' Motion to Strike (Doc. No. 247). However, the Court, in an effort to perfect the Docket, DIRECTS the Clerk that access to (Doc. No. 243) shall be restricted to Court users. The Clerk shall also modify the CM/ECF docket text to show the document as RESTRICTED. The Court further perfects the record to state that it will give no consideration to Doc. No. 243 as it prepares to issue a ruling on the pending summary judgment motion. Any reference to Plaintiffs' Response to Defendant's Statement of Material Facts shall be to (Doc. No. 245). The Clerk is further DIRECTED to modify the description for Doc. No. 246 to Plaintiffs' Statement of Additional Facts. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/02/2023	251	CLARIFICATION ORDER specifying the preferred format for the courtesy copies to be provided to the Court. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/03/2023	252	REPLY <i>in Support of Motion for Summary Judgment</i> 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	253	<i>Defendant's Responses and Objections to Plaintiffs' Statement of Additional Material Facts</i> re 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Wright Deposition Excerpts, # 2 Exhibit B - Cooper Deposition Excerpts, # 3 Exhibit C - Morgan Deposition Excerpts, # 4 Exhibit D - Ward Deposition Excerpts, # 5 Exhibit E - Expert Report of John Alford)(Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/12/2023	254	APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 05/12/2023)
05/12/2023	255	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Hearing on Motion for Summary Judgement</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 05/12/2023)
05/15/2023	256	ORDER granting 255 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on May 18th, 2023. Signed by Judge Steve C. Jones on 05/15/2023. (rsg) (Entered: 05/15/2023)
05/15/2023		RETURN of 254 APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476) to attorney for correction. Reason for Return: Applicant must list all parties she is representing on the application. Please check the box that you represent more than one party and enter the additional parties in the text box on the application. (rvb) (Entered: 05/15/2023)

05/16/2023		Submission of 230 MOTION for Summary Judgment , to District Judge Steve C. Jones. (pdw) (Entered: 05/16/2023)
05/18/2023	257	Minute Entry for proceedings held before Judge Steve C. Jones: Hearing held on Defendant's Motion for Summary Judgment 230 , together with argument in civil actions 1:21-cv-5339-SCJ and 1:22-cv-122-SCJ. The Court heard oral argument and took the matter under advisement. (Court Reporter Viola Zborowski)(ddm) (Entered: 05/19/2023)
05/19/2023	258	(ORDER VACATED PER 261) AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 05/19/2023. (ddm) Modified on 6/8/2023 (ddm). (Entered: 05/19/2023)
05/25/2023	259	APPLICATION for Admission of Casey Smith Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 05/25/2023)
05/26/2023		APPROVAL by Clerks Office re: 259 APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476) Attorney Casey Katharine Smith added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (djs) (Entered: 05/26/2023)
05/26/2023		DOCKET ORDER granting 259 Application for Admission Pro Hac Vice of Casey Smith. Entered by Judge Steve C. Jones on 5/26/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 05/26/2023)
06/01/2023	260	TRANSCRIPT of Proceedings held on 5/18/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/22/2023. Redacted Transcript Deadline set for 7/3/2023. Release of Transcript Restriction set for 8/30/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 06/01/2023)
06/08/2023	261	SECOND AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 06/08/2023. (ddm) (Entered: 06/08/2023)
06/22/2023	262	SUPPLEMENTAL RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/22/2023	263	<i>Supplemental Brief Regarding Summary Judgment Briefing Based on Allen v. Milligan</i> 230 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/27/2023	264	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods of <i>Supplemental Authority in Opposition to Defendant's Motion for Summary Judgment</i> 230 (Attachments: # 1 Exhibit A - Excerpt of June 26, 2023 Order List)(Garabadu, Rahul) (Entered: 06/27/2023)

06/28/2023	265	MOTION to Withdraw Ayana Williams as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 6/29/2023 to edit docket text (ddm). (Entered: 06/28/2023)
06/28/2023	266	MOTION to Withdraw Jenessa Calvo-Friedman as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 6/29/2023 to edit docket text (ddm). (Entered: 06/28/2023)
06/30/2023	267	RESPONSE 264 to Plaintiffs' Notice of Supplemental Authority in Opposition to Defendant's Motion for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Memorandum to Counsel or Parties)(Tyson, Bryan) Modified on 7/3/2023 to edit docket text (ddm). (Entered: 06/30/2023)
07/17/2023	268	ORDER denying 230 Motion for Summary Judgment. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to Defendant. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial. Accordingly, the case will proceed to a coordinated trial with Coakley Pendergrass, et al. v. Brad Raffensperger, et al., No. 1:21-cv-5339-SCJ, and Annie Lois Grant, et al. v. Brad Raffensperger, et al., No.1:22-cv-122-SCJ. The Second Amended Scheduling Order shall govern the forthcoming proceedings. Doc. No. 261 . Signed by Judge Steve C. Jones on 7/17/2023. (rsg) (Entered: 07/17/2023)
07/18/2023		Submission of 266 MOTION to Withdraw Rahul Garabadu as Attorney, 265 MOTION to Withdraw Rahul Garabadu as Attorney, to District Judge Steve C. Jones. (pdw) (Entered: 07/18/2023)
07/18/2023		DOCKET ORDER granting 265 and 266 Motions to Withdraw as Attorney. Attorneys Jenessa Calvo-Friedman and Ayana Williams terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 7/18/2023. (pdw) (Entered: 07/18/2023)
07/21/2023	269	ORDER: Having read and considered Plaintiffs' proposal regarding amending the existing pretrial deadlines and learned of Defendants' agreement thereto, it is hereby ORDERED that exhibit lists and deposition designations shall be exchanged by all Parties and filed with the Court no later than JULY 31, 2023 and objections to the same shall be exchanged by all Parties and filed with the Court no later than AUGUST 4, 2023.1 Except as amended herein, the remainder of the Court's Second Amended Scheduling Order remains in effect, this includes the July 25, 2023 and August 1, 2023 deadlines for filing and responding to motions in limine and Daubert motions. Signed by Judge Steve C. Jones on 07/21/2023. (rsg) (Entered: 07/21/2023)
07/25/2023	270	Proposed Pretrial Order by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit C-1: Pendergrass Plaintiffs' Outline of the Case, # 2 Exhibit C-2: Grant Plaintiffs' Outline of the Case, # 3 Exhibit C-3: Alpha Phi Alpha Plaintiffs' Outline of the Case, # 4 Exhibit D: Defendants' Outline of the Case, # 5 Exhibit E: Joint Stipulated Facts, # 6 Exhibit F-1: Pendergrass Plaintiffs' Witness List, # 7 Exhibit F-2: Grant Plaintiffs' Witness List, # 8 Exhibit F-3: Alpha Phi Alpha Plaintiffs' Witness List, # 9 Exhibit F-4: Defendants' Witness List)(Garabadu, Rahul) (Entered: 07/25/2023)
07/31/2023	271	NOTICE Of Filing Defendant's Trial Exhibit List and Defendant's Deposition Designations by Brad Raffensperger (Attachments: # 1 Exhibit A - Defendant's Trial

		Exhibit List, # 2 Exhibit B: Defendants' Deposition Designations)(Tyson, Bryan) (Entered: 07/31/2023)
07/31/2023	272	NOTICE Of Filing Plaintiffs' Trial Exhibit List and Learned Treatise List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (Attachments: # 1 Exhibit A: Exhibit List, # 2 Exhibit B: Learned Treatise List)(Garabadu, Rahul) (Entered: 07/31/2023)
07/31/2023	273	Joint Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.. (Garabadu, Rahul) (Entered: 07/31/2023)
08/04/2023	274	NOTICE Of Filing Plaintiffs' Objections to Defendant's Trial Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 271 Notice of Filing, (Attachments: # 1 Exhibit A: Plaintiffs' Objections to Defendant's Trial Exhibit List) (Garabadu, Rahul) (Entered: 08/04/2023)
08/04/2023	275	NOTICE Of Filing Objections to Exhibits and Deposition Designations by Brad Raffensperger re 269 Scheduling Order,, (Attachments: # 1 Exhibit A - APA Plaintiffs' Exhibit List with Defendant's Objections, # 2 Exhibit B - Grant Plaintiffs' Exhibit List with Defendants' Objections, # 3 Exhibit C - Pendergrass Plaintiffs' Exhibit List with Defendants' Objections, # 4 Exhibit D - Defendant's Deposition Designations and Objections to APA Plaintiffs, # 5 Exhibit E - Defendants' Deposition Designations and Objections to Pendergrass and Grant Plaintiffs)(Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	276	MOTION for Order <i>Taking Judicial Notice</i> by Brad Raffensperger. (Attachments: # 1 Exhibit A - Census Table 4b CPS 2018, # 2 Exhibit B - Census Table 4b CPS 2020, # 3 Exhibit C - Census Table 4b CPS 2022, # 4 Exhibit D - Members of the Georgia State Senate, # 5 Exhibit E - Members of the Georgia House of Representatives, # 6 Exhibit F - 2022 US Senate Primary Election Results by County, # 7 Exhibit G - 2022 PSC Primary Election Results, # 8 Exhibit H - 2018 District 6 Election Results, # 9 Exhibit I - Biography of Commissioner John King, # 10 Exhibit J - 2022 Commissioner of Insurance Election Results, # 11 Exhibit K - Justice Carla McMillian Biography)(Tyson, Bryan) (Entered: 08/04/2023)
08/11/2023	277	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Pretrial Conference</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/11/2023)
08/14/2023	278	ORDER granting 277 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on August 15, 2023. Signed by Judge Steve C. Jones on 8/14/23. (rsg) (Entered: 08/14/2023)
08/14/2023	279	RESPONSE re 276 MOTION for Order <i>Taking Judicial Notice</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1: 2022 Election Results, # 2 Exhibit 2: 2014 Election Results)(Garabadu, Rahul) (Entered: 08/14/2023)
08/15/2023	280	PRETRIAL ORDER. Signed by Judge Steve C. Jones on 8/15/23. (rsg) (Entered: 08/15/2023)
08/15/2023	296	Minute Entry for proceedings held before Judge Steve C. Jones: Pretrial Conference held on 8/15/2023. Bench trial to proceed on September 5, 2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)

08/18/2023	281	LOGISTICS ORDER entered in preparation for the trial. The Court ORDERS the Parties to provide the Court with courtesy copies of the deposition transcripts that they intend to introduce into evidence at the Trial. The Court ORDERS these courtesy copies be delivered to the Court no later than THURSDAY, AUGUST 24, 2023. The Court will discuss trial presentation of evidence with the Parties at a conference call to be held on Tuesday, August 22, 2023 at 2:00 P.M. Signed by Judge Steve C. Jones on 08/18/2023. (rsg) (Entered: 08/18/2023)
08/18/2023	282	REPLY BRIEF re 276 MOTION for Order <i>Taking Judicial Notice</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 08/18/2023)
08/22/2023	283	MOTION for Order <i>to Take Judicial Notice</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 08/22/2023)
08/22/2023	297	Minute Entry for proceedings held before Judge Steve C. Jones: Telephone Conference held on 8/22/2023 regarding presentation of witness testimony during bench trial beginning 9/05/2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/23/2023	284	ORDER DENYING Defendants' 276 Motion to Take Judicial Notice with regard to the data contained in Census Bureau Table 4b for the 2018, 2020 and 2022 elections. The Court GRANTS the remainder of the Motion. Signed by Judge Steve C. Jones on 08/23/2023. (rsg) (Entered: 08/23/2023)
08/24/2023	285	TRANSCRIPT of Pretrial Proceedings held on 8/15/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/14/2023. Redacted Transcript Deadline set for 9/25/2023. Release of Transcript Restriction set for 11/22/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/24/2023)
08/24/2023	286	ORDER perfecting the Record on trial logistics and advising the parties how the presentation of evidence will proceed. The Court notes that at the telephone conference, the Plaintiffs indicated that they would like to come to an agreement on the order in which the Plaintiffs will present their cases-in-chief, i.e., Alpha Phi Alpha first, Pendergrass second, and Grant third, or some other order. For purposes of judicial efficiency and to ensure that all Parties are adequately prepared, the Court requires Plaintiffs to submit a notice of the order in which they will present their cases-in-chief on or before 5:00 PM on SEPTEMBER 1, 2023. The Parties are ordered to comply with this Order when presenting the evidence in the coordinated cases at trial. The Court reserves the right to amend or alter this Order in the future. Signed by Judge Steve C. Jones on 08/24/2023. (rsg) (Entered: 08/24/2023)
08/25/2023	287	ORDER directing Defendants to respond to the Alpha Phi Alpha Plaintiffs' 283 Motion to Take Judicial Notice, Alpha Phi Alpha Doc. No. 283 by 5:00 PM on August 28, 2023. If the Pendergrass or Grant Plaintiffs wish to respond they are also ORDERED to do so by 5:00PM on August 28, 2023. Signed by Judge Steve C. Jones on 08/25/2023. (rsg)(rsg) (Entered: 08/25/2023)
08/28/2023	288	RESPONSE in Opposition re 283 MOTION for Order <i>to Take Judicial Notice</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 08/28/2023)
08/29/2023	289	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Trial</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African

		Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/29/2023)
08/30/2023	290	ORDER granting 289 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on September 1, 2023 through September 15, 2023. Signed by Judge Steve C. Jones on 8/30/23. (rsg) (Entered: 08/30/2023)
08/30/2023	291	ORDER denying Alpha Phi Alpha's 283 Motion to Take Judicial Notice. Signed by Judge Steve C. Jones on 08/30/2023. (rsg) (Entered: 08/30/2023)
08/30/2023	292	ORDER resolving the Parties' outstanding objections to the depositions that they wish to introduce into evidence at trial. Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/31/2023)
08/31/2023	293	TRANSCRIPT of Conference Call held on 8/22/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/21/2023. Redacted Transcript Deadline set for 10/2/2023. Release of Transcript Restriction set for 11/29/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/31/2023)
08/31/2023	294	MOTION for Clarification re: 286 Order,,, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A- B. Tyson Email, # 2 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/31/2023)
08/31/2023	295	ORDER issued to Clarify its August 24, 2023 Order (Alpha Phi Alpha Doc. No. 286 ; Pendergrass Doc. No. 236 ; Grant Doc. No. 248). The August 24, 2023 Orders are amended in so far as to comply with this Order. Signed by Judge Steve C. Jones on 08/31/2023.(rsg) (Entered: 09/01/2023)
09/01/2023	298	Unopposed MOTION to Amend <i>Plaintiffs' Exhibit and Witness Lists</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A: Amended Exhibit List, # 2 Exhibit B: Amended Witness List)(Garabadu, Rahul) (Entered: 09/01/2023)
09/05/2023	299	Minute Entry for proceedings held before Judge Steve C. Jones: Bench trial began. Opening statements heard. Plaintiffs' case began. Alpha Plaintiffs' (1:21-cv-5337-SCJ) witness William Cooper sworn and testified as expert. Alpha exhibits 1, 327, 53, 54, 325 admitted. Joint Exhibits 1 and 2 admitted. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/06/2023. (Court Reporter Viola Zborowski)(ddm) (Entered: 09/06/2023)
09/06/2023	300	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/6/2023. Testimony of expert witness William Cooper concluded. Alpha Plaintiffs' exhibits 328-339 admitted. Alpha Phi Alpha witness Bishop Reginald Jackson sworn and testified. Pendergrass and Grant Plaintiffs' expert witness Dr. Maxwell Palmer sworn and testified. Grant exhibits 2 and 3, and Pendergrass exhibits 2 and 3 admitted. Grant expert witness Blakeman Esselstyn sworn and testified. Grant exhibits 1 and 6 admitted. Defendants' exhibits 89 and 92 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/07/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/07/2023)

09/07/2023	301	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/7/2023. Grant witness Dr. Diane Evans sworn and testified. Grant witness Fenika Miller sworn and testified. Grant and Pendergrass expert witness Dr. Loren Collingwood sworn and testified. Grant exhibit 5 and Pendergrass exhibit 5 admitted. William Cooper recalled by Pendergrass plaintiffs as expert witness. Pendergrass exhibit 1 admitted. Defendants' exhibits 21 and 154 admitted. Alpha Phi Alpha ("APA") expert witness Dr. Lisa Handley sworn and testified. APA exhibits 5 and 10 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/08/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/08/2023)
09/08/2023	303	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/8/2023. Testimony of Alpha Phi Alpha expert witness Dr. Lisa Handley concluded. Grant and Pendergrass witness Jason Carter sworn and testified. Grant and Pendergrass witness Erik Allen sworn and testified. APA witness Dr. Traci Burch sworn and testified as expert. APA exhibit 6 admitted. APA witness Dr. Adrienne Jones sworn and testified as expert. APA exhibits 2, 3, 340, 31, 266 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/11/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/11/2023)
09/10/2023	302	APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12873361).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/10/2023)
09/11/2023		RETURN of 302 APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12873361) to attorney for correction. Reason for return: Applicant must list all parties he is representing on the PHV application. Please select the check box to indicate you represent more than one party and then add the parties in the text box provided on the application. (rvb) (Entered: 09/11/2023)
09/11/2023	304	APPLICATION for Admission of Eliot Kim Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/11/2023)
09/11/2023	305	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/11/2023. APA exhibits 31 and 266, and direct and cross testimony of Dr. Adrienne Jones admitted into the Grant and Pendergrass records. Testimony of APA expert witness Dr. Adrienne Jones concluded. Defendants' exhibit 59 admitted. APA witness Sherman Lofton sworn and testified. APA witness Dr. Jason Ward sworn and testified as expert. APA exhibit 4 admitted. Grant and Pendergrass expert witness Dr. Orville Burton sworn and testified. Pendergrass exhibit 4 and Grant exhibit 4 admitted. Pendergrass exhibit 14 and Grant exhibit 15 admitted over objection (these exhibits, as well as testimony of Dr. Burton also admitted as part of the APA record.) Defendants' exhibit 107 admitted. All Plaintiffs rested. Oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). Oral argument heard. Matter taken under advisement. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/12/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/12/2023)
09/11/2023		ORAL MOTION by Defendant for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). (ddm) (Entered: 09/13/2023)
09/12/2023		APPROVAL by Clerks Office re: 304 APPLICATION for Admission of Eliot Kim Pro Hac Vice. Attorney Eliot Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal

		Church, Janice Stewart, Eric T. Woods. E-filing access may be requested after an order granting the application is entered. (djs) (Entered: 09/12/2023)
09/12/2023		DOCKET ORDER granting 304 Application for Admission Pro Hac Vice of Eliot Kim. Entered by Judge Steve C. Jones on 9/12/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 09/12/2023)
09/12/2023	306	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/12/2023. The Court issued a verbal order denying Defendants' oral motion for Judgment on Partial Findings Pursuant to Fed.R.Civ.P. 52(c) as made on 9/11/2023. Defendants' case began. Witness Gina Wright sworn and testified. Defendants' exhibits 186, 187, 185 admitted. John Morgan sworn and testified as expert witness. Defendants' exhibits 1, 2, 5 admitted in re: APA plaintiffs; exhibits 1, 3, 6 admitted in re: Grant plaintiffs; and exhibits 4 and 7 admitted in re: Pendergrass plaintiffs. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/13/2023)
09/13/2023	307	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/13/2023. Testimony of John Morgan continued and concluded. Dr. John Alford sworn and testified as expert witness for Defendants. Defendants exhibit 8 (exclusive of pages 2-9) and exhibit 97 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/14/2023. Exhibits retained to be forwarded to the Clerks Office. (Court Reporter V. Zborowski and P. Coudriet)(rsg) (Entered: 09/13/2023)
09/14/2023	308	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial concluded on 9/14/2023. Testimony of Dr. John Alford continued and concluded. Ryan Germany sworn and testified. APA cross examination of witness German incorporated into Pendergrass and Grant records. Defendants rested. Renewed oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). The Court issued a verbal order denying Defendants' motion. Closing arguments heard. This matter was taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/15/2023)
09/15/2023	309	Witness List filed by Plaintiffs'. (rsg) (Entered: 09/15/2023)
09/15/2023	310	Witness List filed by Defendants. (rsg) (Entered: 09/15/2023)
09/15/2023	311	Exhibit List filed jointly by Plaintiffs and Defendants. (rsg) (Entered: 09/15/2023)
09/15/2023	312	Exhibit List by Alpha Phi Alpha Fraternity, Inc.. (rsg) (Entered: 09/15/2023)
09/15/2023	313	Exhibit List by Coakley Pendergrass. (rsg) (Entered: 09/15/2023)
09/15/2023	314	Exhibit List by Annie Lois Grant. (rsg) (Entered: 09/15/2023)
09/15/2023	315	Exhibit List by Brad Raffensperger. (rsg) (Entered: 09/15/2023)
09/18/2023	316	<i>Plaintiffs' Notice of Submitting Proposed Corrections to Trial Transcript</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 9/19/2023 to edit docket text (ddm). (Entered: 09/18/2023)
09/25/2023	317	Proposed Findings of Fact by Brad Raffensperger. (Tyson, Bryan) (Entered: 09/25/2023)
09/25/2023	318	Proposed Findings of Fact by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 09/25/2023)

10/04/2023	319	ORDER certifying to the United States Attorney General that the constitutionality of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301(b) has been called into question as affirmative defenses in the Pretrial Order. The Attorney General is requested to submit his position as to intervention in reference to this issue no later than 60 DAYS of the date of this Certification Order. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023	320	ORDER directing Defendants to promptly comply with the requirements of compliance with Rule 5.1 (on CM/ECF) on or before Tuesday, October 10, 2023. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023		Clerk's Certificate of Mailing to Honorable Merrick Garland re 319 Order. (rsg) (Entered: 10/04/2023)
10/06/2023	321	MOTION to Withdraw Elizabeth Marie Wilson Vaughan as Attorneyby Brad Raffensperger. (Vaughan, Elizabeth) (Entered: 10/06/2023)
10/10/2023	322	NOTICE by Brad Raffensperger re 320 Order, Set Submission Deadline of <i>Constitutional Question</i> (Tyson, Bryan) (Entered: 10/10/2023)
10/17/2023	323	ORDER advising that if the Parties have any additional concerns/questions as to the corrected transcripts, they shall notify the court reporters by 5:00 P.M., THURSDAY, OCTOBER 19, 2023. After said deadline, the Court will request that the court reporters finalize the transcripts. Signed by Judge Steve C. Jones on 10/17/2023. (ddm) (Entered: 10/17/2023)
10/18/2023	324	Notice for Leave of Absence for the following date(s): January 9, 2024 - January 19, 2024, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 10/18/2023)
10/25/2023		DOCKET ORDER granting 321 Motion to Withdraw as Attorney. Attorney Elizabeth Marie Wilson Vaughan terminated as counsel for Defendant. Entered by Judge Steve C. Jones on 10/25/2023. (pdw) (Entered: 10/25/2023)
10/25/2023	325	TRANSCRIPT of Proceedings held on 9/5/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1 A.M. Session. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	326	TRANSCRIPT of Bench Trial Proceedings held on 9/6/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2 A.M. SESSION. Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Appendix Notice of Filing Transcript) Modified on 2/1/2024 to update text (anc). (Entered: 10/25/2023)
10/25/2023	327	TRANSCRIPT of Bench Trial Proceedings held on 9/7/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Entered: 10/25/2023)
10/25/2023	328	TRANSCRIPT of Bench Trial Proceedings held on 9/8/23, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4 P.M. SESSION. Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Appendix Notice of Filing Transcript) Modified on 2/1/2024 in order to update text (anc). (Entered: 10/25/2023)
10/25/2023	329	TRANSCRIPT of Bench Trial Proceedings held on 9/11/23, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	330	TRANSCRIPT of Bench Trial Proceedings held on 9/12/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	331	TRANSCRIPT of Bench Trial Proceedings held on 9/13/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 7 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	332	TRANSCRIPT of Bench Trial Proceedings held on 9/14/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 8 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/26/2023	333	OPINION AND MEMORANDUM OF DECISION advising of the Court's findings and conclusions following a non-jury trial and consideration of the evidence. It is ordered that the Pendergrass and Grant Plaintiffs lack standing to bring suit against the members of the State Election Board; thus, Sarah Tindall Ghazal, Janice W. Johnston, Edward Lindsey, and Matthew Mashburn are DISMISSED from this case. Alpha Phi Alpha Plaintiffs have

carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 34, 43, 44, and Enacted House Districts 74 and 78.¹³⁸ Alpha Phi Alpha Plaintiffs have not met their burden as to the remaining challenged districts. Pendergrass Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plan, SB 2EX, as to the following enacted district/ areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. Grant Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 44, and Enacted House Districts 61, 64, 78, 117, 133, 142, 143, 145, 147, and 149.¹³⁹ Grant Plaintiffs have not met their burden as to the remaining challenged districts. This Court further concludes that declaratory and permanent injunctive relief are appropriate. The Court, therefore, DECLARES the rights of the parties as follows. SB 2EX violates Section 2 of the Voting Rights Act as to the following districts/areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. SB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 43, and 44. HB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted House Districts 61, 64, 74, 78, 117, 133, 142, 143, 145, 147, and 149. The Court PERMANENTLY ENJOINS Defendant Raffensperger, as well as his agents and successors in office, from using SB 2EX, SB 1EX, and HB 1EX in any future election. The Court's injunction affords the State a limited opportunity to enact new plans that comply with the Voting Rights Act by DECEMBER 8, 2023. This timeline balances the relevant equities and serves the public interest by providing the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one as the Court will not allow another election cycle on redistricting plans that the Court has determined on a full trial record to be unlawful. The Court is confident that the General Assembly can accomplish its task by DECEMBER 8, 2023: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced nearly 22 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult. The Clerk is DIRECTED to enter judgment in favor of the Alpha Phi Alpha Plaintiffs (in Civil Action No. 1:21-cv-05337), Pendergrass Plaintiffs (in Civil Action No. 1:21-cv-05339), and Grant Plaintiffs (in Civil Action No. 1:22-cv-00122) and against Brad Raffensperger. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. After entry of judgment, the Clerk is DIRECTED to close these three cases. The Court will retain jurisdiction over these matters for oversight and further remedial proceedings, if necessary. The Court reiterates that Georgia has made great strides since 1965 towards equality in voting. However, the evidence before this Court shows that Georgia has not reached the point where the political process has equal openness and equal opportunity for everyone. Accordingly, the Court issues this Order to ensure that Georgia continues to move toward equal openness and equal opportunity for everyone to participate in the electoral system. Signed by Judge Steve C. Jones on 10/26/2023. (ddm) Modified on 10/26/2023 to edit text (ddm). (Entered: 10/26/2023)

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CLERK'S JUDGMENT entered in favor of PLAINTIFFS and against remaining Defendants in accordance with this Court's Order of October 26, 2023. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. (ddm)--Please refer to <http://www.ca11.uscourts.gov> to obtain an appeals jurisdiction checklist-- (Entered: 10/26/2023)

10/26/2023		Civil Case Terminated. (ddm) (Entered: 10/26/2023)
11/03/2023	335	NOTICE by United States of America <i>Notice of Intervention Pursuant to 28 U.S.C. § 2403(a)</i> (Attachments: # 1 Brief)(Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	336	NOTICE of Appearance by Daniel J. Freeman on behalf of United States of America (Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	337	NOTICE of Appearance by Michael Elliot Stewart on behalf of United States of America (Stewart, Michael) (Entered: 11/03/2023)
11/08/2023	338	Unopposed MOTION for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 11/08/2023)
11/09/2023	339	ORDER GRANTING 338 Plaintiffs' Unopposed Motion for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees. Plaintiffs shall have until 30 days after the Court receives the Eleventh Circuit's mandate in Defendant's appeal to file a motion for attorneys' fees and expenses and a bill of costs. If Defendant does not appeal, Plaintiffs shall have until 30 days following the expiration of Defendant's time to appeal to file a motion for attorneys' fees and expenses. Signed by Judge Steve C. Jones on 11/09/2023. (ddm) (Entered: 11/09/2023)
11/17/2023	340	<i>Response to United States on Constitutionality of Section 2 of the Voting Rights Act</i> 335 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 11/20/2023 to edit docket text (ddm). (Entered: 11/17/2023)
11/22/2023	341	NOTICE OF APPEAL as to 333 Order,,,,,,,,,,,,, 334 Clerk's Judgment, 268 Order on Motion for Summary Judgment,, 65 Order on Motion to Dismiss, by Brad Raffensperger. Filing fee \$ 505, receipt number AGANDC-13050589. Transcript Order Form due on 12/6/2023 (Tyson, Bryan) (Entered: 11/22/2023)
11/28/2023	342	ORDER perfecting the trial record in this case and providing the parties with the case name and docket location of the depositions used at trial. Signed by Judge Steve C. Jones on 11/28/2023. (rsg) (Entered: 11/28/2023)
11/28/2023	343	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 341 Notice of Appeal, filed by Brad Raffensperger. (pjm) (Entered: 11/28/2023)
11/28/2023	344	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Judgment, Orders and Docket Sheet to US Court of Appeals re: 341 Notice of Appeal. (pjm) (Entered: 11/28/2023)
11/30/2023	349	EXHIBITS (Parties Joint Exhibits 1 and 2) admitted and retained at the 308 Bench Trial - Concluded,, 301 Bench Trial - Continued, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Joint Ex. 1, # 2 Joint Ex. 2)(sct) (Entered: 12/07/2023)
11/30/2023	357	EXHIBITS (Plaintiff's Exhibits: 1-6,10,31,53-54,266,325,327-340) admitted and retained at the 301 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, 308 Bench Trial - Concluded, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1

		Pltf Ex. 1 (pages 1-96), # 1 Pltf Ex. 1 (pages 97-202), # 2 Pltf Ex. 1 (pages 203-304), # 4 Pltf Ex. 1 (pages 305-447), # 5 Pltf Ex. 1 (pages 448-588), # 6 Pltf Ex. 1 (pages 589-643), # 7 Pltf Ex. 1 (pages 644-747), # 8 Pltf Ex. 1 (pages 748-870), # 9 Pltf Ex. 2, # 10 Pltf Ex. 3, # 11 Pltf Ex. 4, # 12 Pltf Ex. 5, # 13 Pltf Ex. 6, # 14 Pltf Ex. 10, # 15 Pltf Ex. 31, # 16 Pltf Ex. 53, # 17 Pltf Ex. 54, # 18 Pltf Ex. 266, # 19 Pltf Ex. 325, # 20 Pltf Ex. 327, # 21 Pltf Ex. 328, # 22 Pltf Ex. 329, # 23 Pltf Ex. 330, # 24 Pltf Ex. 331, # 25 Pltf Ex. 332, # 26 Pltf Ex. 333, # 27 Pltf Ex. 334, # 28 Pltf Ex. 335, # 29 Pltf Ex. 336, # 30 Pltf Ex. 337, # 31 Pltf Ex. 338, # 32 Pltf Ex. 339, # 33 Pltf Ex. 340)(sct) (Additional attachment(s) added on 1/4/2024: # 34 Exhibit Pltf Ex. 1 (pgs 103-106)) (sct). (Additional attachment(s) added on 1/4/2024: # 35 Exhibit Pltf Ex. 1 (pgs 177-178)) (sct). (Entered: 12/13/2023)
11/30/2023	359	EXHIBITS AUDIO/VIDEO (Plaintiff's Exh. 1) admitted and retained at the 308 Bench Trial - Concluded, 301 Bench Trial - Continued, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Pltf A/V Ex. 1)(sct) (Entered: 12/13/2023)
11/30/2023	360	EXHIBITS (Defendant's Exhibits: 1-8,21,59,89,92,97,107,154,185-187) admitted and retained at the 301 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, 308 Bench Trial Concluded, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks.. (Attachments: # 1 Deft Ex. 1, # 2 Deft Ex. 2 (pages 1-181), # 3 Deft Ex. 2 (pages 181-220), # 4 Deft Ex. 2 (pages 221-362), # 5 Deft Ex. 3, # 6 Deft Ex. 4, # 7 Deft. Ex 5, # 8 Deft Ex. 6, # 9 Deft Ex. 7, # 10 Deft. Ex 8, # 11 Deft Ex. 21, # 12 Deft Ex. 59, # 13 Deft Ex. 89, # 14 Deft Ex. 92, # 15 Deft Ex. 97, # 16 Deft Ex. 107, # 17 Deft Ex. 154, # 18 Deft Ex. 185, # 19 Deft Ex. 186, # 20 Deft Ex. 187)(sct) (Additional attachment(s) added on 12/15/2023: # 21 Deft Ex. 3 part 2, # 22 Deft Ex. 3 part 3) (kdw). (Entered: 12/13/2023)
12/04/2023	345	MOTION for Entry of Remedial Scheduling Order 333 Order,,,,,,,,,,,,, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/04/2023)
12/04/2023	346	USCA Acknowledgment of 341 Notice of Appeal, filed by Brad Raffensperger. Case Appealed to USCA- 11th Circuit. Case Number 23-13914-D. (pjm) (Entered: 12/05/2023)
12/05/2023		DOCKET ORDER re 345 MOTION for Entry of Remedial Scheduling Order filed by Plaintiffs. Defendant is ORDERED to file an expedited response no later than 9:00 AM on 12/06/2023, to include Defendant's proposed schedule. Entered by Judge Steve C. Jones on 12/05/2023. (pdw) (Entered: 12/05/2023)
12/06/2023	347	RESPONSE re 345 MOTION for Entry of Remedial Scheduling Order 333 Order,,,,,,,,,,,,, filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/06/2023)
12/06/2023	348	ORDER granting 345 Plaintiffs' Joint Motion for Entry of Remedial Scheduling Order. However, because time is of the essence in this matter, the Court finds it necessary to enter a more compressed schedule than that proposed by either Party. See order for new deadlines. A hearing, set for December 20, 2023, at 9:00 a.m., will be held at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia, in Courtroom 1907. Each set of Plaintiffs will have one hour to present evidence and argument and may proceed in any order they prefer. Defendant will have one hour to present evidence and argument directly following each set of Plaintiffs. To be clear, the presentations will be ordered as follows: One set of Plaintiffs will begin and will

		have up to one hour to present, Defendant will respond to that presentation and will have up to one hour to do so. The next set of Plaintiffs will make their presentation (up to one hour) and Defendant will then have up to one hour to respond. Finally, the final set of Plaintiffs will present (up to one hour), and Defendant will have up to one hour to respond. Signed by Judge Steve C. Jones on 12/06/2023. (rsg) (Entered: 12/06/2023)
12/06/2023		Set Hearings: Status Conference set for 12/20/2023 at 09:00 AM in ATLA Courtroom 1907 before Judge Steve C. Jones. (rsg) (Entered: 12/06/2023)
12/07/2023	350	NOTICE TO COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5th, 2023 through September 14th, 2023 pursuant to Local Rule 79.1D. Re: 349 Exhibits, (sct) (Entered: 12/07/2023)
12/08/2023	351	NOTICE by Brad Raffensperger of <i>Adoption of Remedial Plans</i> (Tyson, Bryan) (Entered: 12/08/2023)
12/11/2023	352	ADMINISTRATIVE ORDER NO. 23-08: IN RE USE OF CELLULAR TELEPHONES AND ELECTRONIC EQUIPMENT ON THE 19TH FLOOR OF THE RICHARD B. RUSSELL BUILDING ON DECEMBER 20, 2023. Signed by Judge Timothy C. Batten, Sr. on 12/11/2023. (pdw) (Entered: 12/11/2023)
12/12/2023	353	Appellant's BRIEF by Georgia State Conference of the NAACP, et al.. (Attachments: # 1 Exhibit Amici Curiae Brief, # 2 Exhibit Declaration of Dr. Moon Duchin)(Kastorf, Kurt) (Entered: 12/12/2023)
12/12/2023	354	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Plaintiffs' Objections to Defendant's Remedial Map</i> (Attachments: # 1 Affidavit Cooper Declaration)(Garabadu, Rahul) (Entered: 12/12/2023)
12/12/2023	355	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Supplemental Documents in Support of Plaintiffs' Objections to Defendant's Remedial Maps</i> (Attachments: # 1 Exhibit Appendix 1, # 2 Exhibit Ex A-1, # 3 Exhibit Ex A-2, # 4 Exhibit Ex A-3, # 5 Exhibit Ex B, # 6 Exhibit Ex C, # 7 Exhibit Ex D, # 8 Exhibit Ex E, # 9 Exhibit Ex F, # 10 Exhibit Ex G-1, # 11 Exhibit Ex G-2, # 12 Exhibit Ex G-3, # 13 Exhibit Ex H-1, # 14 Exhibit Ex h-2, # 15 Exhibit Ex H-3, # 16 Exhibit Ex H-4, # 17 Exhibit Ex H-5, # 18 Exhibit Ex H-6, # 19 Exhibit Ex I-1, # 20 Exhibit Ex I-2, # 21 Exhibit Ex I-3, # 22 Exhibit Ex J, # 23 Exhibit Ex K-1, # 24 Exhibit Ex K2, # 25 Exhibit Ex L1, # 26 Exhibit Ex L-2, # 27 Exhibit Ex L-3, # 28 Exhibit Ex M-1, # 29 Exhibit Ex M-2, # 30 Exhibit Ex M-3, # 31 Exhibit Ex M-4, # 32 Exhibit Ex M-5, # 33 Exhibit Ex M-6, # 34 Exhibit Ex N, # 35 Exhibit Appendix 3)(Garabadu, Rahul) (Entered: 12/12/2023)
12/12/2023	356	NOTICE Of Filing (Corrected) by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 355 Notice (Other),,, (Attachments: # 1 Appendix 1, # 2 Appendix 2, # 3 Appendix 3, # 4 Exhibit A-1, # 5 Exhibit A-2, # 6 Exhibit A-3, # 7 Exhibit B, # 8 Exhibit C, # 9 Exhibit D, # 10 Exhibit E, # 11 Exhibit F, # 12 Exhibit G-1, # 13 Exhibit G-2, # 14 Exhibit G-3, # 15 Exhibit H-1, # 16 Exhibit H-2, # 17 Exhibit H-3, # 18 Exhibit H-4, # 19 Exhibit H-5, # 20 Exhibit H-6, # 21 Exhibit I-1, # 22 Exhibit I-2, # 23 Exhibit I-3, # 24 Exhibit J, # 25 Exhibit K-1, # 26 Exhibit K-2, # 27 Exhibit L-1, # 28 Exhibit L-2, # 29 Exhibit L-3, # 30 Exhibit M-1, # 31 Exhibit M-2, # 32 Exhibit M-3, # 33 Exhibit M-4, # 34 Exhibit M-5, # 35 Exhibit M-6, # 36 Exhibit N)(Garabadu, Rahul) (Entered: 12/12/2023)

12/13/2023	358	NOTICE TO PLAINTIFF'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 357 Exhibits (sct) (Entered: 12/13/2023)
12/13/2023	361	NOTICE TO DEFENDANT'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 360 Exhibits. (sct) Modified on 1/18/2024 (mec). (Entered: 12/13/2023)
12/14/2023	362	ORDER GRANTING the Motion for Leave to File Brief as Amici Curiae in Opposition to Defendant's Proposed Remedial Maps. Alpha Doc. No. 353 , Grant Doc. No. 316 , Pendergrass Doc. No. 316 . The Clerk is DIRECTED to refile Alpha Doc. Nos. [353-1], Grant Doc. No. [316-1], and Pendergrass Doc. No. [316-1] as a new docket entry in each case on CM/ECF. Signed by Judge Steve C. Jones on 12/14/2023. (ddm) (Entered: 12/14/2023)
12/14/2023	363	AMICUS CURIAE BRIEF in opposition to Defendants' Proposed Remedial Maps filed by Georgia State Conference of the NAACP, et al. (Attachments: # 1 Declaration of Dr. Moon Duchin)(ddm) (Entered: 12/14/2023)
12/14/2023	364	MOTION to Withdraw Joseph D. Zabel as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 12/15/2023 to edit docket text (ddm). (Entered: 12/14/2023)
12/15/2023	365	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Remedial Hearing</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/15/2023)
12/15/2023	366	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>During Remedial Hearing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 12/15/2023)
12/18/2023	367	ORDER allowing counsel for the Plaintiffs and accompanying staff to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	368	ORDER allowing counsel for the Defendants to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	369	<i>Consolidated Response to Plaintiffs' Objections Regarding Remedial Plans</i> 354 filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of Gina Wright, # 2 Exhibit B - Report of Dr. Michael Barber, # 3 Exhibit C - Senate Committee Hearing (11-29-2023), # 4 Exhibit D - House Committee Hearing (11/29/2023), # 5 Exhibit E - House Committee Hearing (11/30/2023), # 6 Exhibit F - Senate Committee Hearing (12/4/2023), # 7 Exhibit G - Senate Floor Debate (12/1/2023), # 8 Exhibit H - House Floor Debate (12/1/2023), #

		Exhibit 1 House Floor Debate (12/7/2023), # 1 Exhibit 2 2024 Election Calendar (Tyson, Bryan) Modified on 12/19/2023 to edit docket text (ddm). (Entered: 12/18/2023)
12/19/2023	370	Plaintiffs' Reply Brief in Support of their Objections to Defendants' Remedial Proposal 354 filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 12/20/2023 to edit docket text (ddm). (Entered: 12/19/2023)
12/20/2023	371	Minute Entry for proceedings held before Judge Steve C. Jones: Evidentiary Hearing held on 12/20/2023 pursuant to the Court's Order of 12/06/2023 regarding the remedial phase of these proceedings following the anticipated enactment of remedial state legislative and congressional plans by the Georgia General Assembly. The Court heard oral argument from counsel. Gina Wright called by Defendants, sworn and testified. These matters were taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 12/20/2023)
12/21/2023	372	TRANSCRIPT of Remedial Hearing Proceedings held on 12/20/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1 - A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/11/2024. Redacted Transcript Deadline set for 1/22/2024. Release of Transcript Restriction set for 3/20/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 12/21/2023)
12/27/2023	373	TRANSCRIPT of Proceedings held on 12/20/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/17/2024. Redacted Transcript Deadline set for 1/29/2024. Release of Transcript Restriction set for 3/26/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 12/27/2023)
12/27/2023	374	Notice for Leave of Absence for the following date(s): 1/9/24 - 1/31/24; 4/1/24 - 4/5/24; 5/20/24 - 5/24/24; 6/3/24 - 6/14/24; 11/14/24 - 11/16/24, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 12/27/2023)
12/28/2023	375	ORDER finding that the General Assembly fully complied with this Court's order requiring the creation of Black-majority districts in the regions of the State where vote dilution was found. Hence, the Court OVERRULES Plaintiffs' objections (Doc. No. 354) and HEREBY APPROVES SB 1EX and HB 1EX. Signed by Judge Steve C. Jones on 12/28/2023. (ddm) (Entered: 12/28/2023)
01/05/2024		DOCKET ORDER granting 364 Motion to Withdraw as Attorney. Attorney Joseph D. Zabel terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 1/05/2024. (pdw) (Entered: 01/05/2024)
01/05/2024	376	MOTION to Withdraw Rahul Garabadu as Attorneyby Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/05/2024)
01/11/2024	377	ORDER granting 376 Motion to Withdraw as Attorney. Attorney Rahul Garabadu terminated. Signed by Judge Steve C. Jones on 1/11/2024. (rsg) (Entered: 01/11/2024)

01/16/2024	378	Appeal Remark: Absent objection filed within 14 days of this letter, this appeal will be consolidated by the Clerk with 23-13916 and 23-13921 pursuant to FRAP 3(b)(2) and 11th Cir. R. 12-2. re 341 Notice of Appeal,.Case Appealed to USCA - 11th Circuit Case Number 23-13914-AA. (rlh) (Entered: 01/16/2024)
01/22/2024	379	NOTICE OF APPEAL as to 375 Order, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. Case Appealed to USCA - 11th Circuit. Filing fee \$ 605, receipt number AGANDC-13171907. Transcript Order Form due on 2/5/2024 (Lakin, Sophia) (Entered: 01/22/2024)
01/22/2024	380	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 379 Notice of Appeal, filed by Eric T. Woods, Alpha Phi Alpha Fraternity, Inc., Phil Brown, Janice Stewart, Katie Bailey Glenn, and Sixth District of the African Methodist Episcopal Church. (pjm) (Entered: 01/22/2024)
01/22/2024	381	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to USCA - 11th Circuit re: 379 Notice of Appeal. (pjm) (Entered: 01/22/2024)
01/25/2024	382	USCA Acknowledgment of 379 Notice of Appeal, filed by Eric T. Woods, Alpha Phi Alpha Fraternity, Inc., Phil Brown, Janice Stewart, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church. Case Appealed to USCA- 11th Circuit. Case Number 24-10230-A. (pjm) (Entered: 01/25/2024)
01/31/2024	383	TRANSCRIPT of Proceedings held on 9/5/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	384	TRANSCRIPT of Proceedings held on 9/6/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	385	TRANSCRIPT of Proceedings held on 9/7/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 to update text (anc). (Entered: 01/31/2024)
01/31/2024	386	TRANSCRIPT of Proceedings held on 9/8/2023, before Judge Steven. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)

01/31/2024	387	TRANSCRIPT of Proceedings held on 9/11/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	388	TRANSCRIPT of Proceedings held on 9/12/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	389	TRANSCRIPT of Proceedings held on 9/13/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	390	TRANSCRIPT of Proceedings held on 9/14/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
02/05/2024	391	TRANSCRIPT ORDER FORM for proceedings held on December 20, 2024 (Evidentiary Hrg) before Judge Steve C. Jones, re: 379 Notice of Appeal. Court Reporter: V. Zborowski & P. Coudriet. (Lakin, Sophia) Modified on 2/6/2024 to update text (pjm). (Entered: 02/05/2024)

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APA Doc. 65

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

**ALPHA PHI ALPHA FRATERNITY
INC. et al.,**

Plaintiffs,

v.

**BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia,**

Defendant.

CIVIL ACTION FILE

No. 1:21-CV-05337-SCJ

ORDER

This matter is before the Court on a Motion to Dismiss filed by Defendant Brad Raffensperger, in his official capacity as Secretary of State of Georgia (hereinafter, “Defendant”). Doc. No. [43].¹

I. BACKGROUND

Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glen, Phil Brown, and Janice

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court’s docketing software.

Stewart (collectively, the “Plaintiffs”) filed their Complaint for Declaratory and Injunctive Relief against Defendant on December 30, 2021. Doc. No. [1]. In their Complaint, Plaintiffs challenge the State of Georgia’s newly adopted legislative maps, specifically Senate Bill 1EX and House Bill 1EX on the ground of dilution of the voting strength of Black Georgians. Id. at 1, 24–25. Plaintiffs’ cause of action is based upon a violation of Section 2 of the Voting Rights Act of 1965 (“VRA”), 52 U.S.C. § 10301. Id. at 56–57.

On January 14, 2022, Defendant filed a Motion to Dismiss, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), in which he seeks the dismissal of all Plaintiffs’ claims against him. Doc. No. [43]. He specifically argues that Plaintiffs fail to request a three-judge court for an action involving “the apportionment of congressional districts or the apportionment of any statewide legislative body,” see 28 U.S.C. § 2284(a), and that this Court, therefore, lacks subject matter jurisdiction over Plaintiffs’ claims against him. Doc. No. [43-1], 2. Defendant also asserts that even if this case is properly before a single-judge court, Plaintiffs’ Complaint fails to state a claim against Defendant for declaratory relief because Congress has not expressed an intent to provide a private right of action under Section 2. Id. at 13. Lastly, Defendant requests certification of any denial

of his motion for immediate review to the Eleventh Circuit Court of Appeals. Id. at 15–17. Plaintiffs subsequently filed a response to the motion, to which Defendant filed a reply. Doc. Nos. [47]; [58]. Plaintiffs have also filed a Notice of Supplemental Authority in Support of Their Opposition to the Motion to Dismiss. Doc. No. [61]. This matter is now ripe for review, and the Court rules as follows.

II. LEGAL STANDARD

A. Motion to Dismiss

Defendant moves to dismiss this action for lack of subject matter jurisdiction and failure to state a claim pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

“Subject matter jurisdiction defines the court’s authority to hear a given type of case; it represents the extent to which a court can rule on the conduct of persons or status of things.” Carlsbad Tech., Inc. v. HIF Bio, Inc., 556 U.S. 635, 639 (2009) (internal quotations and citations omitted). A party may therefore challenge the Court’s subject matter jurisdiction by filing a motion pursuant to Federal Rule of Civil Procedure 12(b)(1). See Fed. R. Civ. P. 12(b)(1).

A motion to dismiss for lack of subject matter jurisdiction may be either a “facial” or “factual” attack. Morrison v. Amway Corp., 323 F.3d 920, 924 n.5 (11th

Cir. 2003) (citation omitted). “Facial attacks challenge subject matter jurisdiction based on the allegations in the complaint, and the district court takes the allegations as true in deciding whether to grant the motion.” Id. “Factual attacks challenge subject matter jurisdiction in fact, irrespective of the pleadings.” Id. When resolving a factual challenge to subject matter jurisdiction, the Court may consider extrinsic evidence such as testimony and affidavits. Id. In this case, the challenge is based on the allegations of the Complaint and the Court deems Defendant to have brought a facial attack on subject matter jurisdiction.

“The burden for establishing federal subject matter jurisdiction rests with the party bringing the claim,” here Plaintiffs. Sweet Pea Marine, Ltd. v. API Marine, Inc., 411 F.3d 1242, 1247 (11th Cir. 2005).

A defendant may also move to dismiss a complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

A complaint has failed to state a claim if the facts as pled, accepted as true, do not state a claim for relief that is plausible on its face. Ashcroft v. Iqbal, 555 U.S. 662, 687 (2009); Twombly, 550 U.S. at 561–62, 570. Labels, conclusions, and formulaic recitations of the elements of the cause of action “will not do.”

Twombly, 550 U.S. at 555. To state a plausible claim, a plaintiff need only plead “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678.

B. Interlocutory Appeal

28 U.S.C. § 1292(b) provides that a district court may certify an order for interlocutory appeal if the following three elements are met: (1) the subject order “involves a controlling question of law”; (2) there must be a “substantial ground for difference of opinion” regarding the controlling question of law; and (3) an immediate appeal from the subject order “may materially advance the ultimate termination of the litigation.” However, “[t]he proper division of labor between the district courts and the court of appeals and the efficiency of judicial resolution of cases are protected by the final judgment rule, and are threatened by too expansive use of the § 1292(b) exception to it.” McFarlin v. Conseco Servs., LLC, 381 F.3d 1251, 1259 (11th Cir. 2004). Therefore, an interlocutory appeal under 28 U.S.C. § 1292(b) is reserved for “exceptional” cases. Caterpillar, Inc. v. Lewis, 519 U.S. 61, 74 (1996).

III. ANALYSIS

The Court first addresses Defendant's Motion to Dismiss and then turns to his request for an interlocutory appeal.

A. Defendant's Motion to Dismiss Is Due to Be Denied

The Court finds that Defendant's Motion to Dismiss is due to be denied. First, Section 2284 does not require a plaintiff to request a three-judge court to hear purely statutory challenges to the apportionment of a statewide legislative body. Second, Plaintiffs can assert these claims because for the past forty-five years the Supreme Court and lower courts have allowed private individuals to assert challenges under Section 2 of the VRA. See Thornburg v. Gingles, 478 U.S. 30 (1986).

1. *Three-Judge Court*

a) The statutory text does not require a three-judge court

Defendant asks the Court to dismiss this action because Plaintiffs did not seek a three-judge court under 28 U.S.C. § 2284(a). Doc. No. [43-1], 2.² Defendant

² The statute reads: "A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." 28 U.S.C. § 2284(a).

argues that Section 2284(a) requires plaintiffs challenging the apportionment of a statewide legislative body to request a three-judge court. Id. at 3–12. First, Defendant argues that the Court must read the statute’s “shall” language to require referral to a three-judge court whenever Section 2284(a) is triggered. Id. at 3–4. Defendant then contends that Plaintiffs’ lawsuit triggers Section 2284(a), arguing that the statute requires a three-judge court to be convened when any action challenges “the apportionment of any statewide legislative body,” regardless of whether that challenge is constitutional or statutory. Id. at 5–7. Defendant points to the statute’s text to support his argument, stating that “the prepositive modifier requiring a challenge be ‘constitutional’ in nature before triggering the three-judge panel is interrupted by a determiner, which means the ‘constitutionality’ requirement only applies to challenges to congressional districts.” Id. at 6. In Section 2284(a), Defendant argues, the determiner is the word “the,” following the word “or,” which means that the “constitutional” element required in congressional districting challenges is not required for actions challenging statewide legislative apportionment, which is the type of challenge Plaintiffs bring. Id. at 6–7.

Plaintiffs oppose the Motion to Dismiss. Doc. No. [47].³ Plaintiffs argue that Section 2284(a) does not require a three-judge court for purely non-constitutional claims. Id. at 7–8. They contend that under a plain reading of the statutory text, “constitutionality of” modifies “the apportionment of any statewide legislative body” in Section 2284(a), which means that an action must challenge the constitutionality of the apportionment of a statewide legislative body to allow referral to a three-judge court. Id. at 10–16. Plaintiffs undertake their own textual analysis, noting that “[a] prepositive modifier generally applies to all items in a parallel series” and arguing that Section 2284(a) contains a “straightforward, parallel construction” that should be construed as mandating three-judge courts only for constitutional challenges. Id. at 12. Plaintiffs argue that a textual analysis using the “series-qualifier” canon of construction shows that Congress employed a parallel structure or series such that “constitutionality of” modifies both “the apportionment of congressional districts” and “the apportionment of any statewide legislative body.” Id. at 12–14. Plaintiffs argue that their textual analysis produces “the more natural parallel reading of the

³ Plaintiffs originally filed their opposition at Doc. No. [46] but later filed their corrected brief at Doc. No. [47]. The Court refers only to Doc. No. [47].

statute,” whereas Defendant’s analysis results in “an unparallel and unnatural” reading of the statute. Id. at 14. Further, Plaintiffs reject Defendant’s argument that the use of “the” before “apportionment of” is a “determiner” that interrupts the series in Section 2284(a) in a way that limits the “constitutional” modifier to challenges to congressional districts because both subsequent phrases are parallel in that they start with “the apportionment of.” Id. at 14–16. Thus, Plaintiffs argue, the repeated use of “the” does not interrupt the phrase in a way that cabins the modifying power of “constitutionality”; instead, the repeated use of “the apportionment of” “merely emphasizes the parallel structure of the sentence.” Id. at 15–16. Moreover, Plaintiffs argue that the exception to the series-qualifier canon on which Defendant relies “is not a hard and fast rule” and is especially “susceptible to context.” Id. at 16. According to Plaintiffs, context here shows that their parallel-structure interpretation of the statute is the correct reading. See id.

In reply, Defendant rejects Plaintiffs’ “parallel structure” reasoning, arguing instead that the additional language required to achieve this parallel structure only “muddies the interpretative waters.” Doc. No. [58], 3. Defendant contends that Congress would have known about and accounted for the series-qualifier canon when deciding how to word this statute, and interpretation under

that canon compels a finding that “constitutionality of” does not modify “the apportionment of any statewide legislative body.” See id. at 3–4. Further, Defendant contends that the statute’s wording is not as parallel as Plaintiffs suggest, noting that Congress could have added “of” after “or” to enhance the parallel nature of the phrases. Id. at 4–5. Additionally, Defendant argues that Plaintiffs’ interpretation renders the additional “the” redundant, which violates the interpretative “surplusage canon” that requires every word to be given effect if possible. Id. at 5–6.

As always, when interpreting a statute, the Court looks first to the statutory text. CSX Corp. v. United States, 18 F.4th 672, 679 (11th Cir. 2021). Section 2284(a) provides that “[a] district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” To start, the Court agrees with Defendant that Section 2284(a)’s use of “shall” is mandatory and requires the Court to refer a matter to a three-judge court when Section 2284(a) is triggered. The Court does not agree, however, that the three-judge-court requirement is triggered when a party brings a solely statutory claim.

The Court starts its analysis by acknowledging that when presenting and applying their preferred canons of statutory construction, both Defendant and Plaintiffs cite Reading Law: The Interpretation of Legal Texts by Antonin Scalia and Bryan Garner (2012) ("Reading Law").⁴ Of course, the canons of construction are "interpretative tools" that should be used as "rules of thumb" to help determine the meaning of legislation. CBS Inc. v. PrimeTime 24 Joint Venture, 245 F.3d 1217, 1225 (11th Cir. 2001) (citation omitted). "The canons assist the Court in determining the meaning of a particular statutory provision by focusing on the broader, statutory context." Id. The Court keeps in mind, however, that "statutory interpretation is not a rigid mathematical exercise," DaVita Inc. v. Virginia Mason Mem'l Hosp., 981 F.3d 679, 690 (9th Cir. 2020), and treating the

⁴ The Court recognizes that Reading Law is a popular reference used often by the Supreme Court, see, e.g., Facebook, Inc. v. Duguid, --- U.S. ---, 141 S. Ct. 1163, 1169 (2021), and courts in the Eleventh Circuit, see, e.g., Hincapie-Zapata v. U.S. Att'y Gen., 977 F.3d 1197, 1201 (11th Cir. 2020). Indeed, this Court's research shows that courts in the Eleventh Circuit have cited this text in over two hundred published decisions. Of course, as a secondary authority, Reading Law is not binding on this Court and thus should be employed only for its persuasive value and to help expound upon the principles of statutory interpretation it details. Cf. Johnson v. United States, 576 U.S. 591, 635 (2015) (Alito, J., dissenting) (citing Reading Law as a secondary authority); Sanchez v. Launch Tech. Workforce Sols., LLC, 297 F. Supp. 3d 1360, 1366 n.7 (N.D. Ga. 2018) (noting that a secondary authority written by a former jurist provided "at best, only persuasive authority"). Thus, this Court relies on Reading Law for what persuasive authority it provides.

canons of statutory interpretation “like rigid rules” can “lead [a court] astray,” Facebook, Inc. v. Duguid, --- U.S. ---, 141 S. Ct. 1163, 1175 (2021) (Alito, J., concurring).

After careful review and consideration, the Court determines that Plaintiffs’ interpretation of the statute comports with the plain meaning of the text as well as applicable canons of construction. First, the Court agrees with Plaintiffs that under a plain-language reading of the statute, “constitutionality of” modifies both “the apportionment of congressional districts” and “the apportionment of any statewide legislative body.” To put it simply, the Court believes that most readers of the statute would readily interpret “constitutionality of” to modify both subsequent phrases.⁵ See Levin v. United States, 568 U.S. 503, 513 (2013) (stating that when courts construe statutes, they must “giv[e] the words used their ordinary meaning”). Because the parties present textual arguments, however, the Court will also wrestle with the canons of construction.

The parties’ dispute comes down to whether “constitutionality,” as a prepositive modifier, modifies only “the apportionment of congressional districts”

⁵ Indeed, the case treatment discussed below bolsters this view, as the vast majority of courts have adopted this plain-language interpretation for decades.

or that phrase *and* the subsequent “the apportionment of any statewide legislative body.” The parties appear to agree that the most applicable canon of construction is the series-qualifier canon, but even though they both rely heavily on Reading Law, they disagree as to how it should be employed here. On its own review, the Court finds that while Reading Law provides helpful examples to explain the series-qualifier canon,⁶ it does not provide an example on point with the wording found in Section 2284(a). Thus, looking to the statutory text, the Court agrees with Plaintiffs’ contention that Section 2284(a) contains a parallel

⁶ For instance, Reading Law provides simple constructions in which a prepositive adjective modifies multiple subsequent nouns or phrases. One example is “[c]haritable institutions or societies,” in which “[c]haritable” modifies both “institutions” and “societies.” Reading Law at 147. Another example is “[i]nternal personnel rules and practices of an agency,” in which “[i]nternal personnel” should be read to modify both “rules” and “practices.” Id. at 148. The Court fully agrees with the interpretations of those straightforward examples. The treatise goes on to note that “[t]he typical way in which syntax would suggest no carryover modification is that a determiner (*a, the, some, etc.*) will be repeated before the second element,” providing the example “[t]he charitable institutions or the societies,” in which “the presence of the second *the* suggests that the societies need not be charitable.” Id. (emphases in original). Although that last example gets closer to the language at issue here because it contains two terms separated by distinct determiners, it is simpler than the lengthier excerpt in Section 2284(a) providing that a three-judge court must be convened “when otherwise required by an Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” As discussed above, that additional language provides context that helps the reader arrive at the statute’s meaning. Thus, while the examples in Reading Law are helpful to introduce and explain the basics of the series-qualifier canon, the examples do not control the outcome here.

construction in which “constitutionality of” should be read to modify both subsequent phrases. First, the statute uses “when” twice in a parallel series to separate the triggering of the three-judge-court rule into two overarching camps: (1) “when otherwise required by Act of Congress” and (2) “when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” The Court finds that the second of those two phrases presents yet another parallel series in which “the constitutionality of” is followed by two phrases worded in parallel fashion: “the apportionment of congressional districts” and “the apportionment of any statewide legislative body.” Under this reading, the allegedly redundant “the,” which Defendant argues is an interrupting determiner, becomes a necessary part of the statute’s parallel structure. As a result, “constitutionality of” should be read to modify both “the apportionment of congressional districts” and “the apportionment of any statewide legislative body.”

The Court rejects Defendant’s narrower interpretation that abandons any attempt at a plain reading of the statute and focuses more on the immediate phrases than the broader statute to arrive at the statute’s meaning. Defendant’s briefing starts with making passing references to how “clear” the statute is but

then jumps straight to discussing the allegedly critical role a “prepositive modifier” plays in dictating the meaning of Section 2284(a). See Doc. No. [43-1], 6. Again, this Court must look first to a statute’s plain and ordinary meaning, Mike Smith Pontiac, GMC, Inc. v. Mercedes-Benz of N. Am., Inc., 32 F.3d 528, 531 (11th Cir. 1994), and the Court does not believe that an analysis that starts in earnest with contemplation of prepositive modifiers is an analysis that adequately considers the plain reading of the statute. While the canons of construction can be helpful tools, the Court is not persuaded by Defendant’s attempt to start his analysis with a surgical deconstruction of the statutory text that all but ignores what meaning a plain reading of that text would yield.

And turning to Defendant’s mode of analysis, as Reading Law concedes, the series-qualifier canon is “highly sensitive to context,” and “[o]ften the sense of the matter prevails.” Reading Law at 150. Here, the Court finds that the plain-language reading is the prevailing sense of the matter, and a broader review of the statute provides the context necessary to construe the statute properly. Also, given the plain meaning of the statute, the Court is not persuaded by Defendant’s argument that Congress would have added yet more language if it had intended to make the phrases truly parallel—indeed, the Court finds it more likely that

Congress would have rearranged the statute's language if it had not intended "constitutionality of" to modify "the apportionment of any statewide legislative body."⁷

For these reasons, the Court finds that under a plain reading and textual analysis of Section 2284(a), the statute provides that a three-judge court shall be convened when the constitutionality of (1) the apportionment of congressional districts or (2) the apportionment of any statewide legislative body is challenged. And as shown below, the caselaw only bolsters this finding.

b) Courts find that three-judge courts do not hear challenges under Section 2 of the Voting Rights Act

Prior to 2013, following the decennial census, various states and counties (the "covered jurisdictions"), including Georgia, were required to submit their proposed legislative maps to the United States Attorney General before they

⁷ For example, simply switching the relevant phrases after "challenging" would have made such an interpretation imminently clear: "A district court of three judges shall be convened . . . when an action is filed challenging the apportionment of any statewide legislative body or the constitutionality of the apportionment of congressional districts." That Congress did not use such a construction is telling. And just as this Court must recognize that "Congress legislates with knowledge of our basic rules of statutory construction," McNary v. Haitian Refugee Ctr., Inc., 498 U.S. 479, 496 (1991), the Court must assume that Congress would not mire its meaning in ambiguity when much clearer wording is well within its grasp.

could enact them into law (“preclearance”).⁸ 52 U.S.C. § 10303(a)(1) (“Section 4”). A three-judge court was required to hear the action when a party brought a challenge under Section 4. 52 U.S.C. §§ 10303(a)(5); 10304(a). However, in 2013, the United States Supreme Court held that the coverage formula, which determined which states had to undergo preclearance, was unconstitutional. Shelby Cnty., 570 U.S. at 556–57. Accordingly, this is the first decennial census since the passage of the VRA where Georgia was not required to submit its proposed legislative maps for preclearance. As Defendant notes, plaintiffs are bringing purely statutory challenges to state legislative maps for the first time in earnest because pre-Shelby County, these claims accompanied either a claim under Section 5 of the VRA or a constitutional challenge to state legislative maps. Doc. No. [58], 6–7.

⁸ “Section 4 of the [VRA] provides the ‘coverage formula,’ defining the ‘covered jurisdictions’ as States or political subdivisions that maintained tests or devices as prerequisites to voting, and had lower voter turnout, in the 1960s and early 1970s.” Shelby Cnty. v. Holder, 570 U.S. 529, 529 (2013). The covered jurisdictions included: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, four counties in California, five counties in Florida, two counties in Michigan, seven counties in New Hampshire, three counties in New York, thirty-nine counties in North Carolina, and two counties in South Dakota. 28 C.F.R. pt. 51, App. (2012).

Given the recent change in law, there is a lack of binding authority concerning whether Section 2284 requires a three-judge court to hear challenges to the apportionment of statewide legislative bodies brought solely under Section 2 of the VRA. However, this Court is not alone in grappling with this issue. See Thomas v. Reeves, 961 F.3d 800 (5th Cir. 2020); Singleton v. Merrill, Case No. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM, 2021 WL 5979497, at *3 (N.D. Ala. Nov. 23, 2021). In Thomas, the en banc court ruled that it did not have jurisdiction to hear an action challenging the apportionment of statewide legislative districts pursuant to Section 2 of the VRA because these maps would not be used in any future elections.⁹ Thomas, 961 F.3d at 801. However, all eleven judges agreed that Section 2284 can plausibly be read as only requiring a three-judge court when a plaintiff brings a constitutional challenge to apportionment. See id. at 802 (Costa, J., concurring) (“A person on the street would read [Section

⁹ In *dicta*, the Fifth Circuit issued two concurring opinions “to explain . . . [the] plain [language] of the three-judge statute as well as its ancestry.” Thomas, 961 F.3d at 802. One concurrence, joined by six of the judges, agreed with this Court that the plain language of the statute does not require a three-judge court to hear purely statutory challenges to the apportionment of a statewide legislative body. Id. at 801 (Costa, J., concurring). The second concurrence, joined by five judges, found that the statute requires a three-judge court to hear statutory challenges to the apportionment of a statewide legislative body. Thomas, 961 F.3d at 827 (Willett, J., concurring) (emphasis in original).

2284] as requiring a three-judge court only for constitutional challenges.”); id. at 827 (Willett, J., concurring) (“Requiring only a single judge to decide section 2-only challenges . . . is a plausible reading of the statute . . .”).

In Singleton, four separate actions were filed challenging Alabama’s legislative maps. Singleton, 2021 WL 5979497, at *1. There, two of the cases challenged either the statewide legislative maps or the congressional maps solely on constitutional grounds, one case challenged the congressional maps on statutory and congressional grounds, and one challenged the congressional maps on purely statutory grounds. Id. The single-judge court did not consolidate the statutory case with the constitutional cases because “plaintiffs intentionally have not asserted a claim that independently supports the jurisdiction of a three-judge [court] under Section 2284 . . . to include those plaintiffs in this consolidated action could exceed the limited jurisdiction of this [three-judge] court under that statute.” Id. at *3. These cases support the reading that Section 2284 is limited to actions asserting constitutional challenges to the apportionment of congressional districts and constitutional challenges to the apportionment of statewide legislative bodies. While instructive, these cases do not definitively answer the

question of whether a single judge lacks jurisdiction to hear statutory challenges to the apportionment of a statewide legislative body.

Before Shelby County, three-judge courts routinely disbanded once a claim brought pursuant to Section 5 of the VRA, which invoked a three-judge court, was terminated, and only claims brought pursuant to Section 2 of the VRA remained. See, e.g., Rural West Tenn. African-American Affairs Council v. Sunquist, 209 F.3d 835, 838 (6th Cir. 2000) (“Because the amended complaint contained no constitutional claims [and only the Section 2 claim remained], the three-judge court disbanded itself.”); Bone Shirt v. Hazeltine, 336 F. Supp. 2d 976, 980 (D.S.D. 2004) (a single-judge court decided a challenge to a statewide legislative plan brought pursuant to Section 2 of the VRA after a three-judge court resolved the plaintiffs’ Section 5 claim); Langsdon v. Darnell, 9 F. Supp. 2d 880, 882 n.3 (W.D. Tenn. 1998) (the three-judge court disbanded because the second amended complaint contained no constitutional claims). These cases suggest that three-judge courts are generally not invoked where only challenges to Section 2 of the VRA remain before the Court.

In support of reading Section 2284 as requiring a three-judge court to hear statutory challenges to the apportionment of statewide legislative bodies,

Defendant points to a 2001 case out of the Third Circuit Court of Appeals, which found that “Congress was concerned less with the source of law on which an apportionment challenge was based than on the unique importance of apportionment cases generally.” Doc. No. [43-1], 8 (quoting Page v. Bartels, 248 F.3d 175, 190 (3d Cir. 2001)). Upon closer examination of Page, this Court finds that the Third Circuit was confronted with the issue of whether a single-judge court had jurisdiction to issue a preliminary injunction when the plaintiffs challenged the statewide legislative districts under Section 2 of the VRA and the Fourteenth and Fifteenth Amendments to the Constitution. Id. at 184, 187–88. The Supreme Court had already decided this issue and had held that a three-judge court “could properly consider the [statutory] question and grant relief in the exercise of jurisdiction ancillary to that conferred by the constitutional attack on the state statutes which plainly required a three-judge court.” Allee v. Medrano, 416 U.S. 802, 812 (1974). The Third Circuit held that when an “‘action’ . . . includes a challenge brought under § 2 of the Voting Rights Act, the § 2 challenge, as well as the Fourteenth and Fifteenth Amendment challenges, are subject to § 2284(a)’s requirement that they be heard by a three-judge district court.” Page, 248 F.3d at 188. The Court does not read Page to hold that a single-judge court lacks

jurisdiction to hear challenges to the apportionment of statewide legislative bodies brought pursuant to Section 2 of the VRA alone. Thus, this Court will not expand the Third Circuit’s reading of the statute to encompass actions that do not contain a constitutional claim.

Finally, limiting Section 2284 to constitutional challenges to apportionment is consistent with the narrow construction that the Supreme Court has given to Section 2284. The Supreme Court has “stressed that the three-judge-court procedure is not ‘a measure of broad social policy to be construed with great liberality.’” Gonzalez v. Automatic Emp. Credit Union, 419 U.S. 90, 98 (1974) (quoting Phillips v. United States, 312 U.S. 246, 251 (1941)). In fact, “Congress established the three-judge-court apparatus for one reason: to save state and federal statutes from improvident doom, on constitutional grounds, at the hands of a single federal district judge.” Id. at 97. Following Supreme Court precedent and applying Section 2284 narrowly, Plaintiffs were not required to request a three-judge court. Section 2284 applies only to constitutional claims concerning the apportionment of statewide legislative bodies; it does not apply to purely statutory claims concerning the apportionment of statewide legislative bodies.

Dismissing Plaintiffs' claims would result in this Court splitting from the other courts (discussed above) where three-judge courts do not hear challenges brought solely under Section 2 of the VRA. Thus, the Court does not find that Plaintiffs were required to request a three-judge court to hear their claims.

c) **Legislative history**

Section 2284's legislative history confirms that three-judge courts are convened to hear constitutional claims concerning the apportionment of congressional districts and constitutional claims concerning the apportionment of any statewide legislative body, not purely statutory claims. Courts can evaluate legislative history to confirm the plain meaning of a statute and to understand Congress's intent behind the statute.

As for the propriety of using legislative history at all, common sense suggests that inquiry benefits from reviewing additional information rather than ignoring it. As Chief Justice Marshall put it, "[w]here the mind labours to discover the design of the legislature, it seizes every thing from which aid can be derived."

Wisconsin Pub. Intervenor v. Mortier, 501 U.S. 597, 612 n.4 (1991) (quoting United States v. Fisher, 2 Cranch 358, 386, 2 L.Ed. 304 (1805)); see also Carr v. U.S., 560 U.S. 438, 457–58 (2010) (evaluating the correspondence between the committee to confirm the plain meaning of the statutory text); United States v. Florida, 938 F.3d

1221, 1245 (11th Cir. 2019) (“[W]e are mindful that courts need not examine legislative history if the meaning of the statute is plain, but it may do so, particularly if a party’s interpretation is based on a misreading or misapplication of legislative history.”); Harris v. Garner, 216 F.3d 970, 977 n.4 (11th Cir. 2000) (“[W]e see no inconsistency in pointing out that both the statutory language and legislative history lead to the same interpretive result.”).

As discussed above, the plain language only requires a three-judge court to hear cases challenging the constitutionality of a statewide legislative body, not purely statutory challenges to the apportionment of a statewide legislative body. See supra III. A. The legislative history confirms this reading. The Senate Report begins by stating that “[t]his bill eliminates the requirement for three-judge courts in cases seeking to enjoin the enforcement of State or Federal laws on the grounds that they are unconstitutional, except in reapportionment cases.” S. Rep. No. 94-204 (1976), 1-2, reprinted in 1976 U.S.C.C.A.N. 1988. When discussing the purpose of the amendment, the Senate did not distinguish between constitutional challenges to congressional districts and all challenges—constitutional and statutory—to statewide legislative bodies. Rather, the Senate Report states that

three-judge courts apply to challenges to the constitutionality of reapportionment. Id. at 1–2.

Section 2284 was originally enacted in response to the Supreme Court’s decision in Ex Parte Young, 209 U.S. 123 (1908), and “prohibited a single Federal district court judge from issuing interlocutory injunctions against allegedly unconstitutional State statutes and required that cases seeking such injunctive relief be heard by a district court made up of three judges.” S. Rep. No. 94–204, 2.¹⁰ In response to the growing backlog of cases produced by this statute, Congress amended the law and removed constitutional challenges to State laws generally from the purview of a three-judge court. However, “[t]he bill *preserves* three-judge courts for cases involving congressional reapportionment or the

¹⁰ The original statute read:

An interlocutory or permanent injunction restraining the enforcement, operation of execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judges thereof upon the grounds of unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges.

28 U.S.C. § 2281 (1948), 62 Stat. 968.

reapportionment of a statewide legislative body.” *Id.* at 9 (emphasis added). Because the original statute only authorized three-judge courts to hear challenges “upon the grounds of unconstitutionality of such statute” (28 U.S.C. § 2281 (1948), 62 Stat. 968), the “preservation” discussed is to a three-judge court’s jurisdiction to hear constitutional challenges to the apportionment of statewide legislative bodies. Reading Section 2284 to encompass statutory challenges would be an expansion, not a preservation, of the three-judge court’s jurisdiction.

The Senate Report highlights this in the “Section-by-Section Analysis” where it states, “[s]ubsection (a) would also *continue* the requirement for a three-judge court in cases challenging the constitutionality of any statute apportioning congressional district or apportioning any statewide legislative bodies.” S. Rep. No. 94-204, 12 (emphasis added). Again, the Senate Report clarifies that the 1976 amendments do not create new grounds for a three-judge court to hear apportionment challenges. Rather, it “continues” the requirement from the previous statute—a statute that only authorized three-judge courts to hear constitutional challenges. It also explicitly states that the statute applies to constitutional challenges and is silent about statutory challenges.

Additionally, the Senate Report notes explicitly that three-judge courts can hear claims that are expressly authorized by an act of Congress. “A three-judge court is mandatory without request by anyone in suits under sections 4(a), 5(a), and 10 of the Voting Rights Act of 1965.” Id. When Congress amended Section 2284, it was careful to note that three-judge courts have jurisdiction over particular statutory challenges; however, absent from that list are challenges brought pursuant to Section 2 of the VRA. Because Section 2284, as amended, “preserved” or “continued” the jurisdictional requirements from Section 2281, it only applies to constitutional challenges to the apportionment of districts and particular statutory challenges authorized by Congress. Because Congress did not expressly authorize a three-judge court to hear Section 2 claims, a three-judge court cannot exercise jurisdiction over Plaintiffs’ claims. Accordingly, the legislative history confirms that constitutional challenges to a congressional district and constitutional challenges to a statewide legislative body are properly determined by a three-judge court. However, statutory challenges, unless specifically authorized by congressional act (i.e., sections 4(a), 5(a), and 10 of the Voting Rights Act of 1965), are properly decided by a single-judge court.

Accordingly, Section 2284's legislative history confirms that a three-judge court is authorized when a party challenges either the constitutionality of the apportionment of congressional districts or the constitutionality of the apportionment of statewide legislative bodies. Section 2284 is silent as to its application with respect to challenges to the apportionment of statewide legislative bodies brought pursuant to Section 2 of the VRA. Thus, the Court will not dismiss Plaintiffs' claims because they did not ask for a three-judge court.

d) Federalism

Defendant argues that federalism weighs in favor of requiring a three-judge court. Specifically, Defendant argues that "[i]t is entirely plausible that Congress wanted federal courts to show more deference to state reapportionment plans that only affect state interests than to state reapportionment plans which affect a national interest." Doc. No. [58], 10 (quoting Thomas v. Bryant, 919 F.3d 298, 323 (5th Cir. 2019) (Clement, J., dissenting)). Plaintiffs, in turn, argue that the concerns of overburdening the judiciary weigh against referring purely statutory claims to a three-judge court. Doc. No. [47], 16-17. The Supreme Court, in Allen v. State Board of Elections, 393 U.S. 544, 562-63 (1969), abrogated by Ziglar v. Abbassi, --- U.S. ----, 137 S. Ct. 1843

(2017)¹¹ addressed these two competing arguments. The Supreme Court began by noting that “congressional enactments providing for the convening of three-judge courts must be strictly construed.” Allen, 393 U.S. at 561 (citing Phillips, 312 U.S. at 251). The Court also observed that “[c]onvening a three-judge court places a burden on our federal court system, and may often result in a delay in a matter needing swift initial adjudication.” Id. When discussing the need for a three-judge court in claims brought under Section 5 of the VRA, the Supreme Court noted, “[t]he clash between federal and state power and the potential disruption to state government are apparent. There is no less a clash and potential for disruption when the disagreement concerns whether a state enactment is subject to § 5.” Id. at 562. The Supreme Court ultimately concluded, “in light of the extraordinary nature of the Act in general, and the unique approval requirements of § 5, Congress intended that disputes involving the coverage of § 5 be determined by a district court of three judges.” Id. at 563.

¹¹ The Supreme Court noted after discussing Allen that later “the arguments for recognizing implied causes of action for damages began to lose their force.” Ziglar, 137 S. Ct. at 1855–86.

The Supreme Court in Allen analyzed the dual concerns of the burden on the courts by convening a three-judge court and the unique federalism concerns imposed by a three-judge court. As the Supreme Court ultimately found, Congress grappled with those concerns when it enacted Section 5 of the VRA and expressly required a three-judge court to hear those actions. That is not the case with respect to Section 2 of the VRA. First, Section 2 of the VRA does not expressly invoke the jurisdiction of a three-judge court, like Sections 4, 5, and 10 of the VRA do. Second, after Congress amended the three-judge court statute in 1976, it “preserved” and “continued” the jurisdiction of the three-judge court with respect to apportionment cases. S. Rep. No. 94-204, 9, 12. Defendant’s reading does not “preserve” and “continue” the jurisdiction under Section 2281; it expands the three-judge court’s jurisdiction. If this Court adopted Defendant’s reading, it would circumvent Congress’s careful weighing of the clash between federal and state power. Allen, 393 U.S. at 563.

Given the Supreme Court’s instruction that “congressional enactments providing for the convening of three-judge courts must be strictly construed,” Phillips, 312 U.S. at 251, the Court finds that the federalism concerns that weigh

in favor of a three-judge court hearing this case are not outweighed by the plain language of Section 2284.

For the above reasons, the Court finds that Defendant's Motion to Dismiss is due to be denied because Section 2284(a) does not require or authorize a three-judge court to hear this purely statutory challenge to the apportionment of a statewide legislative body.¹²

2. *Private Right of Action*

In his Motion, Defendant asserts that the Complaint should be dismissed because there is no private right of action conferred by Section 2 of the VRA. Doc. No. [43-1], 12. In support of his motion, Defendant relies upon a recent concurring opinion by Justice Neil Gorsuch in the case of Brnovich v. Democratic National Committee, --- U.S. ----, 141 S. Ct. 2321 (2021), in which he noted that Supreme Court jurisprudence has "assumed – without deciding – that the Voting Rights Act of 1965 furnishes an implied cause of action under" Section 2. Id. at 2350 (Gorsuch, J., concurring). Justice Gorsuch also indicated that "[l]ower courts

¹² Because the Court finds that this action should not be heard by a three-judge court, the Court also finds that Defendant's Motion to Dismiss is due to be denied insofar as it argues that Plaintiffs failed to request a three-judge court pursuant to this District's Local Rules. See Doc. No. [43-1], 11–12.

have treated this as an open question.” Id. Also in his motion, Defendant examines the statutory language of Section 2 and states that one cannot find any “rights-creating language in Section 2,” as compared to other parts of the VRA. Doc. No. [43-1], 13 (quotations omitted). Defendant further relies upon Supreme Court and Eleventh Circuit precedent which indicates that courts may not create causes of action where there is no clear and affirmative manifestation of Congress’s intent to create one. Id. at 13–14; see also Alexander v. Sandoval, 532 U.S. 275, 286–87 (2001); In re Wild, 994 F.3d 1244, 1255 (11th Cir. 2021) (en banc)).

The Court begins by acknowledging that it is correct that lower courts have treated the question of whether the VRA furnishes an implied right of action under Section 2 as an open question. However, in a recent trend, the lower courts that have answered the open question have all answered the question in the affirmative. See Singleton v. Merrill, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 209–10 (N.D. Ala. Jan. 24, 2022), ECF No. 107 (“Holding that Section [2] does not provide a private right of action would work a major upheaval in the law, and we are not prepared to step down that road today.”); League of United Latin Am. Citizens v. Abbott, No. EP21CV00259DCGJESJVB, 2021 WL 5762035, at *1 (W.D. Tex. Dec. 3, 2021) (“[I]t would be ambitious indeed

for a district court—even a three-judge court—to deny a [Section 2] private right of action in the light of precedent and history.”); Ga. State Conf. of NAACP v. State, 269 F. Supp. 3d 1266, 1275 (N.D. Ga. 2017) (“Even though the statute does not explicitly provide a private right of action, it is clear from the text that if the statute offers a right of action to an individual, then that right must be one that is enforceable against a ‘State or political subdivision.’ Given that Section 2 contains an implied private right of action”) (citations omitted).

While not binding, the Court accepts these holdings as persuasive authority and draws guidance from them. The Court also derives guidance from the Supreme Court’s opinion in Morse v. Republican Party of Virginia, 517 U.S. 186, 232 (1996) in which the Court stated: “Although § 2, like § 5, provides no right to sue on its face, ‘the existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965.’” Id. (citing S. Rep. No. 97-417, at 30). In his briefing, Defendant appears to characterize the Morse opinion as non-binding dicta because the Court was not addressing an express challenge to private Section 2 enforcement. Doc. No. [58], 2. “Even so, dicta from the Supreme Court is not something to be lightly cast aside.” Peterson v. BMI Refractories, 124 F.3d 1386, 1392 n.4 (11th Cir. 1997).

Like the court in Abbott, this Court agrees with the statement that “although the Supreme Court has not addressed an express challenge to private Section 2 enforcement, the Court’s precedent permits no other holding.” Abbott, 2021 WL 5762035, at *1. This is because there is no reason to ignore or refute the decades of Section 2 litigation challenging redistricting plans in which courts (including the Supreme Court) have never denied a private plaintiff the ability to bring a Section 2 claim. Id.

As aptly stated by the Abbott court, “[a]bsent contrary direction from a higher court,” this Court declines to “break new ground on this particular issue.” Id.

B. Immediate Appeal of this Court’s Ruling is Not Authorized

Defendant asserts that this Court should authorize an immediate appeal if it rules against Defendant on the issues presented in his motion.

After review, the Court denies Defendant’s request as none of the questions for which Defendant seeks certification are issues involving a

"controlling question of law as to which there is substantial ground for difference of opinion." 28 U.S.C. §1292(b).¹³

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendant's Motion to Dismiss Plaintiffs' Complaint (Doc. No. [43]). Defendant's request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is **DENIED**.

IT IS SO ORDERED this 27th day of January, 2022.


HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

¹³ The Court recognizes that in his brief Defendant quotes appellate dissenting opinions concerning the lack of statutory provisions in Sections 2 and 10 of the VRA under which private plaintiffs may sue. See Doc. No. [44], 8-9. However, "no federal court anywhere ever has held that Section [2] does not provide a private right of action." Singleton, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 230, ECF No. 107. In the absence of such a ruling, the Court does not think that the Section 2/private right of action issue is a question that is appropriate for immediate appeal.

APA Doc. 141

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

ATLANTA DIVISION

ALPHA PHI ALPHA FRATERNITY
INC., a nonprofit organization on
behalf of members residing in Georgia;
SIXTH DISTRICT OF THE
AFRICAN METHODIST
EPISCOPAL CHURCH, a Georgia
nonprofit organization; ERIC T.
WOODS; KATIE BAILEY GLENN;
PHIL BROWN; JANICE STEWART,

Plaintiffs,

vs.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia.

Defendant.

No. 21 Civ. 5337 (SCJ)

**AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

**STATUTORY CLAIMS ONLY --
SINGLE-JUDGE DISTRICT
COURT**

INTRODUCTION

1. Section 2 of the Voting Rights Act makes it illegal for States to draw district lines that water down the voting strength of voters from particular racial groups. Yet Georgia's newly-adopted legislative maps do just that. The new State Senate and State House maps dilute the voting strength of Black Georgians

because they fail to include more than a half-dozen additional districts where Black voters could form a majority and have the opportunity to elect candidates of their choice.

2. Georgia is one of the fastest growing states in the Nation—and that growth has been driven entirely by Black Georgians and other Georgians of color. Over the last decade, Georgia’s Black population grew by 16 percent, while the population of white Georgians fell during the same period. Black Georgians today comprise a third of Georgia residents, and people of color now make up nearly half of the State’s population. The growth of the State’s Black and other minority communities is driving Georgia’s continued economic growth and its increasing prominence on the national stage.

3. Yet the new legislative maps for Georgia’s General Assembly, which were rushed through the legislative process in a week and a half, do not account for the growth of Georgia’s Black population. Rather, the new maps systematically minimize the political power of Black Georgians in violation of federal law.

4. Georgia’s growing Black population could easily support over a half-dozen new Black-majority State Senate and State House districts in areas where Black voters, despite voting cohesively, have previously been unable to elect candidates of their choice. That includes new Black-majority districts in areas

around metro Atlanta, Augusta, Southwestern Georgia, and elsewhere across the State. But the State's maps do not do that. Instead, the State drew only a small handful of new Black-majority districts, mostly in areas that were already electing Black-preferred candidates. Thus, despite the tremendous growth of the State's Black population over the past decade, Black Georgians will have few new political opportunities in the State Senate and State House under the State's new maps.

5. The State's maps negate the unprecedented growth of Black communities in Georgia, unnecessarily packing Black Georgians together in some places, dissecting areas with large, cohesive Black populations in others, and ultimately diminishing Black Georgians' true voting strength statewide and in specific districts. Especially in light of Georgia's legacy of racial discrimination against and subordination of its Black population and the ongoing, accumulated effects of that legacy, the State's maps will prevent Black Georgians from exercising political power on an equal playing field with white Georgians.

6. Georgia can and must do better than this. The State's manipulation of the redistricting process to dilute the political strength of Black voters robs fellow citizens of the ability to engage in politics with equal dignity and equal opportunity, violating Section 2 of the Voting Rights Act of 1965, as amended 52

U.S.C. § 10301. Plaintiffs—Alpha Phi Alpha Fraternity Inc., the Nation’s oldest Black fraternity; the Sixth District of the African Methodist Church, one of the Nation’s oldest Black churches; and Eric Woods, Katie Bailey Glenn, and Phil Brown, individuals whose votes will be diluted under Georgia’s unfair maps—accordingly seek declaratory and injunctive relief blocking the implementation of the unlawful new maps for both chambers of the General Assembly.

JURISDICTION, COURT TYPE, AND VENUE

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because it arises under federal law, including 52 U.S.C. § 10301 and 42 U.S.C. § 1983. This Court also has jurisdiction of this action pursuant to 28 U.S.C. §§ 1343(a)(4) and 1357, because this is a civil action to secure equitable relief under Section 2 of the Voting Rights Act, which is an Act of Congress that protects the right to vote.

8. Plaintiffs’ action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

9. The challenge here is based solely on the federal Voting Rights Act. Accordingly, there is no basis to convene a three-judge court pursuant to 28 U.S.C. § 2284, and the case is properly before a single-judge district court.

10. This Court has personal jurisdiction over the Defendant, who is a citizen of the State of Georgia and resides within this District.

11. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of Georgia, as the Georgia Assembly sits within this District.

PARTIES

12. Plaintiff ALPHA PHI ALPHA FRATERNITY INC. (“Alpha Phi Alpha”) is the first intercollegiate Greek-letter fraternity established for Black Men. Founded at Cornell University in 1906, Alpha Phi Alpha’s members have long stood up for the civil rights of Black Americans. Members of the fraternity have included civil rights leaders such as Martin Luther King, Jr., Thurgood Marshall, and W.E.B. DuBois. Alpha Phi Alpha has thousands of members in Georgia, including Black Georgians who are registered voters and reside in newly drawn districts whose boundaries dilute Black voting strength, including but not limited to new Georgia Senate Districts 16, 17, and 23 as well as the Georgia House Districts drawn in those areas and in other areas discussed herein. These members suffer harm because they are denied the opportunity to elect candidates of their choice.

13. Alpha Phi Alpha has long made political participation for its members and Black Americans an organizational priority. Beginning in the 1930s, Alpha Phi Alpha created a National Program called “A Voteless People is a Hopeless People,” which seeks to enhance Black political participation and voting. Alpha Phi Alpha actively registers voters through its “First of All, We Vote” initiative, holds events to raise political awareness and empower Black communities, and fights efforts to diminish Black political power. The new maps directly affect those efforts by undermining the ability of Black Georgians, including members of Alpha Phi Alpha, to elect representatives of their choice.

14. Georgia’s unfair and discriminatory redistricting frustrates and impedes Alpha Phi Alpha’s organizational priorities by diminishing the voices and diluting the voting strength of Black Georgians, who Alpha Phi Alpha works to empower and engage in greater civic and political participation. If the new maps take effect, Alpha Phi Alpha will be forced to divert resources from its broader voter registration and community empowerment initiatives to the affected districts in order to protect the representation and interests of its members and to try to counteract the negative effects of vote dilution.

15. Plaintiff SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH (“AME Church”) is a nonprofit religious organization.

The AME Church traces its roots to 1816 as the first independent Protestant denomination founded by Black people in response to segregation and discrimination in the Methodist Episcopal Church. The Sixth District is one of twenty districts of the AME Church, and covers the entirety of the State of Georgia.

16. There are more than 500 member-churches that are part of the AME Church in Georgia, with 36 congregations and tens of thousands of members in Atlanta alone. AME Church's members include Black Georgians who are registered to vote and reside in newly drawn districts whose boundaries dilute Black voting strength, including but not limited to new Georgia Senate Districts 16, 17, and 23 as well as the Georgia House Districts drawn in those areas and in other areas discussed herein. These members suffer harm because they are denied the opportunity to elect candidates of their choice.

17. Encouraging and supporting civic participation among its members is a core aspect of the AME Church's work. Advocating for the right to vote, regardless of candidate or party, and encouraging the AME Church's eligible members to vote has been a priority of the Church. The 1965 civil rights march from Selma to Montgomery in Alabama was organized in and began at the steps of Brown Chapel AME Church in Selma. After they were beaten by Alabama state

troopers on the Edmund Pettus Bridge on “Bloody Sunday,” the wounded marchers fled back to the sanctuary of Brown Chapel. AME Church’s current activities in support of voter participation reflect this storied history. Today, AME Church continues to encourage civic participation by holding “Souls to the Polls” events to transport churchgoers to polling locations during advance voting periods, registering voters for elections, hosting “Get Out the Vote” efforts to increase voter turnout, and providing food, water, encouragement, and assistance to voters waiting in lines at polling locations. The new maps directly affect those efforts by undermining the ability of Black Georgians, including the Church’s members, to elect representatives of their choice.

18. Georgia’s unfair and discriminatory redistricting frustrates and impedes AME Church’s core organizational priorities by diminishing the voices and diluting the voting strength of Black Georgians, who AME Church works to empower and engage in greater civic and political participation. If the new maps take effect, AME Church will be forced to divert resources from its broader voter registration and community empowerment initiatives to the affected districts in order to protect the representation and interests of its members and to try to counteract the negative effects of vote dilution.

19. Plaintiff ERIC T. WOODS is a Black citizen of the United States and the State of Georgia. Mr. Woods is a resident of Tyrone, Georgia in Fayette County and has been registered to vote at his current address since 2011. Under the State's new State Senate plan, he will reside in State Senate District 16. He lives in a region where Black Georgians form a cohesive political community and tend to support the same candidates, and where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a district in which Black voters would have the opportunity to elect their preferred candidates. However, under the State's redistricting plan, Mr. Woods' candidate of choice will typically be outvoted by the white majority in the district in which he now resides. The State's new plan dilutes Mr. Woods' voting power and denies him an equal opportunity to elect a candidate of his choice to the Georgia State Senate.

20. Plaintiff KATIE BAILEY GLENN is a Black citizen of the United States and the State of Georgia. Ms. Glenn is a resident of McDonough, Georgia in Henry County and has been registered to vote at her current address for approximately 50 years. Under the State's new State Senate plan, she will reside in State Senate District 17 and State House District 117. She lives in a region where Black Georgians form a cohesive political community and tend to support the same

candidates, and where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a district in which Black voters would have the opportunity to elect their preferred candidates. However, under the State's redistricting plan, Ms. Glenn's candidate of choice will typically be outvoted by the white majority in the district or districts in which she now resides. The State's new plan dilutes Ms. Glenn's voting power and denies her an equal opportunity to elect a candidate of her choice to the Georgia State Senate and/or the Georgia State House.

21. Plaintiff PHIL S. BROWN is a Black citizen of the United States and the State of Georgia. Mr. Brown is a resident of Wrens, Georgia in Jefferson County and a member of the local AME Church. He has been registered to vote at his current address for years. Under the State's new State Senate plan, he will reside in State Senate District 23. He lives in a region where Black Georgians form a cohesive political community and tend to support the same candidates, and where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a district in which Black voters would have the opportunity to elect their preferred candidates. However, under the State's redistricting plan, Mr. Brown's candidate of choice will typically be outvoted by the white majority in the district in which he now resides. The State's new plan

dilutes Mr. Brown's voting power and denies him an equal opportunity to elect a candidate of his choice to the Georgia State Senate.

22. Plaintiff JANICE STEWART is a Black citizen of the United States and the State of Georgia. Ms. Stewart is a resident of Thomasville, Georgia in Thomas County and a member of the local AME Church. She has been registered to vote at her current address for years. Under the State's new State House plan, she will reside in State House District 173. She lives in a region where Black Georgians form a cohesive political community and tend to support the same candidates, and where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a district in which Black voters would have the opportunity to elect their preferred candidates. However, under the State's redistricting plan, Ms. Stewart's candidate of choice will typically be outvoted by the white majority in the district in which she now resides. The State's new plan dilutes Ms. Stewart's voting power and denies her an equal opportunity to elect a candidate of her choice to the Georgia State House.

23. Defendant BRAD RAFFENSPERGER is being sued in his official capacity as the Secretary of State of Georgia. Defendant RAFFENSPERGER is the State of Georgia's chief election officer and as such is responsible for overseeing the conduct of its elections and implementing election laws and regulations,

including the State House and State Senate district maps at issue in this litigation. *See* Ga. Code Ann. § 21-2-50(b); Ga. Comp. R. & Regs. 590-1-1-.01, .02 (2018); *Jacobsen v. Fla. Sec’y of State*, 974 F.3d 1236 (11th Cir. 2020).

LEGAL BACKGROUND

24. The Voting Rights Act of 1965 (the “VRA”) is the crown jewel of the Civil Rights Movement—a hard won and sweeping national reform that sought to replace the disenfranchisement and racial discrimination of the Jim Crow era with a true multi-racial democracy. Both Democratic and Republican members of Congress and presidents have repeatedly reauthorized and expanded the VRA, including most recently in 2006, when the statute was reauthorized by a massive bipartisan majority in the U.S. House of Representatives, a unanimous U.S. Senate, and the “proud” signature of President George W. Bush.

25. The VRA prohibits any state law or practice “which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color” 52 U.S.C. § 10301(a). The VRA has always applied to redistricting, and Section 2 of the VRA in particular bars any redistricting scheme whereby members of a racial minority group “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

26. As Congress made clear when it reauthorized and amended the VRA in the 1980s, a Section 2 claim may be established purely based on discriminatory effects, and does not require discerning or ferreting out any particular intent on the part of state lawmakers. *See, e.g., Thornburg v. Gingles*, 478 U.S. 30, 47 (1986). A court considering a potential Section 2 violation in the redistricting context thus needs only determine whether the result of the enacted plan is the dilution of minority political strength, regardless of any intent. In this way, the VRA continues to operate as a powerful tool for uprooting and ameliorating “the accumulation of discrimination” that can stymie political participation among racial minority groups.

27. The unlawful dilution of Black voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority.” *Gingles*, 478 U.S. at 46 n.11.

28. Courts applying Section 2’s effects-based standard rely on the test laid out in the Supreme Court’s *Gingles* decision. Under the *Gingles* standard, a plaintiff challenging a redistricting scheme as a dilution of minority voting strength must first show that three preconditions are met: (1) the racial minority group or groups are sufficiently large and geographically compact to constitute a majority in

a single-member district; (2) the minority group is politically cohesive; and (3) the white majority votes as a bloc such that it will usually defeat the minority group's preferred candidate. 478 U.S. at 49–51.

29. Beyond those preconditions, vote-dilution claims under Section 2 are subject to “[a] totality of circumstances” analysis, guided by factors enumerated by Congress in a Senate Report that accompanied the 1982 amendment to the VRA.¹ The Senate Report itself and the cases interpreting it have made clear that these factors are not-exhaustive and that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the

¹ These non-exhaustive factors include: (1) the extent of any history of official discrimination that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process; (2) the extent to which voting is racially polarized; (3) the extent to which the State has voting practices or procedures that may enhance the opportunity for discrimination against the minority group; (4) whether the members of the minority group have been denied access to a candidate slating process, if any; (5) the extent to which members of the minority group in the State bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process; (6) whether political campaigns have been characterized by overt or subtle racial appeals; and (7) the extent to which members of the minority group have been elected to public office in the jurisdiction. *See* S. Rep. No. 97-417, at 28–29 (1982). Courts have also considered (8) whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group; and (9) whether the policy underlying the State's use of the challenged standard, practice or procedure is tenuous.

other.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. 97-417, at 29 (1982)). The ultimate question is whether minority voters “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

STATEMENT OF FACTS

BLACK POPULATION GROWTH IN GEORGIA

30. Georgia has undergone a dramatic demographic shift over the last decade. The State’s population grew by over 1 million people to 10.71 million people, up 10.6% from 2010. Black, Latino, Asian, and multiracial Georgians collectively account for *all* of this population growth.

31. Georgia’s Black population in particular increased by almost half a million people over the past decade—a 16% jump—while the State’s overall white population fell during the same period. Today, a third of Georgia residents are Black.²

² Unless otherwise noted, and wherever possible, references to “Black” in this Complaint refer to the demographic category “any part Black,” and thus include people who identify as mixed race or multiracial so long as they identify as any part Black. This category is slightly different from another demographic category, “Non-Hispanic Black.”

32. Georgia’s steady demographic shift has resulted in the white percentage of the electorate decreasing and the percentage of voters of color increasing. Between 2000 and 2019, Georgia’s eligible voter population grew by 1.9 million, with nearly half of this increase attributed to growth in the State’s Black voting population, according to a Pew Research Center analysis of data from the 2019 American Community Survey (the “2019 ACS Survey”).³

33. By 2019, the Black voting-eligible population in Georgia had reached a record high of 2.5 million eligible voters, making up a third of the State’s total electorate. As a share of eligible voters in the State overall, Black voters saw a 5-point increase between 2000 and 2019.

34. Much of Georgia’s population gain comes from the fast-growing and rapidly diversifying metro Atlanta and surrounding counties. Today, the growth of Black, Hispanic, and Asian populations in the metro Atlanta area has transformed some of Atlanta’s suburbs from predominantly white into multiracial communities. Among those metro Atlanta counties that have seen double-digit growth over the

³ Abby Budiman & Luis Noe-Bustamante, *Black Eligible Voters Have Accounted for Nearly Half of Georgia Electorate’s Growth Since 2000*, Pew Rsch. Ctr. (Dec. 15, 2020), <https://www.pewresearch.org/fact-tank/2020/12/15/black-eligible-voters-have-accounted-for-nearly-half-of-georgia-electorates-growth-since-2000/>

last ten years are Fayette, Clayton, Dekalb, Henry, Rockdale, Walton, Spalding, and Newton Counties. Many of these metro Atlanta counties, like Clayton, already had large or even majority Black populations to begin with, and all had significant further increases in their Black populations over the last decade.

35. In addition to metro Atlanta, a substantial part of Georgia's Black population (including much of the rural Black population) is distributed across counties located in the "Black Belt"—a region of the American South where Black slave labor historically was concentrated and where Black Georgians today comprise a substantial portion of the population. Georgia's Black Belt consists of predominantly rural counties running east to west across a swath of the state's central and southern regions, roughly from Augusta to Macon to Southwest Georgia. Those counties include a number of counties outside and near the city of Augusta that have large Black populations, among others, Burke, Hancock, Jefferson, Richmond, Taliaferro, and Washington Counties. Some counties in that area (such as Richmond and Burke) have seen significant population growth over the last decade, while others, even where there has been overall population decline, have nevertheless seen relative gains in the Black percentage of the population. Those counties also include a number of counties outside and near the cities of Columbus and Albany in southwestern Georgia that have large Black populations,

among others, Marion, Stewart, Webster, Sumter, Terrell, Early, Dougherty, Mitchell, and Thomas Counties. Some counties in that area have seen population growth over the last decade, while others, even where there has been overall population decline, have nevertheless seen relative gains in the Black percentage of the population.

THE 2021 REDISTRICTING PROCESS IN GEORGIA

36. From start to finish, the General Assembly’s 2021 redistricting process was an opaque affair that denied the public generally, and Black voters and their representatives in particular, any ability to meaningfully participate.

37. That is particularly troubling because the present redistricting effort is the first full cycle in over 50 years that will have occurred without approval or oversight from the United States Department of Justice, which had previously conducted such oversight pursuant to Section 5 of the VRA.

38. Prior to 2013, the redistricting process in Georgia was subject to Section 5’s “preclearance” requirement. Under that requirement, any change in the rules or process with respect to voting in jurisdictions with the worst records and histories of discrimination in voting (so-called “covered jurisdictions”) could not be enforced unless and until the jurisdiction first obtained a determination of the change’s fairness to minority voters from a federal court in Washington, D.C. or

from the United States Attorney General. The State of Georgia was a covered jurisdiction under the Section 5 regime.

39. However, in 2013, the United States Supreme Court in *Shelby County, Ala., v. Holder*, 570 U.S. 529 (2013), struck down the formula used to determine which jurisdictions were covered by Section 5 of the VRA, functionally ending the preclearance regime. As a result, jurisdictions like Georgia no longer need to seek preclearance for changes to their voting rules.

40. The Georgia Senate Committee on Reapportionment and Redistricting (the “Senate Committee”) and the Georgia House Committee on Legislative and Congressional Reapportionment (the “House Committee” and, together with the Senate Committee, the “Redistricting Committees”) are responsible for creating and updating Congressional and state legislative district lines in accordance with U.S. Census data.

41. This year, the Redistricting Committees presided over a process that was marked by a lack of transparency, and that culminated in a rushed special legislative session to pass the challenged maps.

No Meaningful Public Participation: “Town Halls” Before Full Census Data Release and No Maps for the Public to Review

42. From the start, advocates for transparency in the redistricting process called on the Redistricting Committees to adopt guidelines that would ensure that the public could review and comment on proposed maps prior to the General Assembly taking them up.⁴ State Senate Minority Leader Gloria Butler, a member of the Senate Committee who represents a majority-Black Senate district, similarly urged that “Georgians are entitled to not only examine the criteria used to create their own districts, but also provide substantive feedback on any proposed maps before they are adopted.”⁵

43. Despite those calls, the Redistricting Committees adopted guidelines that contained no requirement to publicize the proposed plans in advance.⁶

⁴ Letter from Fair Districts GA, et al., to the Honorable Geoff Duncan & the Honorable David Ralston, *Public Participation in the Upcoming Redistricting Process* (Apr. 19, 2021).

⁵ David Armstrong, Sherry Liang, & Stephen Fowler, *Georgians Urge Transparency in Redistricting Process, Demand End to Backroom Deals*, GPB (July 29, 2021); *see also, e.g.*, Ross Williams, *Calls for Transparency During Georgia Redistricting Tour a Common Refrain – and a Longshot*, Ga. Recorder (July 30, 2021).

⁶ House Committee, 2021–2022 Guidelines for the House Legislative and Congressional Reapportionment Committee, https://www.house.ga.gov/Documents/CommitteeDocuments/2021/Legislative_an

44. Rather than giving the public an opportunity to comment on the actual proposed maps, the Redistricting Committees convened a series of “town-hall meetings,” all of which were held in the two-month period *before* the August 2021 release of the Census block-level data (i.e., the information that states use to redraw congressional and state legislative districts), and months before any maps were proposed.

45. No town halls were held in three of metro Atlanta’s most populous counties—Gwinnett, Cobb, and DeKalb counties.

46. Despite having no proposed maps on which to comment and no Census block-level data to analyze, hundreds of Georgians nevertheless participated in the town hall meetings to make their voices heard. During the hearings, speakers called for fairness in drawing maps, more opportunities for meaningful public input, and more transparency in the process.⁷

47. The other avenue for public participation was a web portal, where the Chairs of the Redistricting Committees frequently noted that members of the

d_Congressional_Reapportionment/2021-2022%20House%20Reapportionment%20Committee%20Guidelines.pdf.

⁷ Stephen Fowler, Sherry Liang, & David Armstrong, *Here’s What Georgians Had to Say About 2021 Redistricting at Town Halls Across the State*, GPB (Aug. 10, 2021).

public could submit comments about redistricting via a web portal. However, the web portal only allowed Georgians to submit comments as text. Members of the public who wished to submit their own proposed maps or any other types of attachments were unable to do so. The Redistricting Committees also failed to make the hearing process accessible to non-English speakers.⁸

The Governor Calls a Special Legislative Session Before Any Maps Are Shown to the Public.

48. On September 23, before the Redistricting Committees had proposed any maps, Governor Brian Kemp called for a special legislative session of the General Assembly, to begin on November 3, 2021, in order to finalize congressional and state legislative maps. Four days later, Lieutenant Governor Geoff Duncan and Senate Committee Chairman John F. Kennedy released the first proposed map of the State's congressional (but not its state legislative) districts.

49. On October 28, 2021, with the special session starting the next week, the Senate Democratic Caucus publicly released its proposed Senate map for consideration (the "Senate Democratic proposal"). On October 29, 2021, the House

⁸ See, e.g., Dave Williams, *Rights Groups Push for Redistricting Maps Reflecting Growth of Minorities*, Statesboro Herald (Aug. 30, 2021), <https://www.statesboroherald.com/local/rights-groups-push-redistricting-maps-reflecting-growth-minorities/>.

Democratic Caucus publicly released its proposed House map for consideration (the “House Democratic proposal”).

50. On November 2, 2021, while municipal elections were under way across the State of Georgia, and with the start of the special session less than 24 hours away, the Redistricting Committee Chairs released proposed Senate and House maps (the “Senate Committee proposal” and “House Committee proposal,” respectively) for consideration during the special session.

The State Senate Map Is Rushed Through the Legislative Process

51. The Senate map was rushed through the entire legislative process in under two weeks.

52. Specifically, on November 4, 2021, less than 48 hours after the Senate Committee proposal was first released, the Senate Committee convened to discuss the proposal.

53. During the legislative process, proponents of the Senate Committee proposal indicated that they believed their only obligation under the Voting Rights Act was to maintain existing majority-minority districts, which they viewed as “voting-rights protected districts.” Contrary to that apparent belief, however, the Voting Rights Act applies to every aspect of the redistricting process, and prohibits

the State from taking *any* action to prevent its Black citizens from participating in politics on equal footing.

54. The next day, November 5, the Senate Committee convened again. Senator Butler explained that the Senate Democratic proposal provided more minority-majority districts and Black-majority districts than the Committee proposal did. At the end of the meeting, Senator Butler moved to table a vote on the Senate Committee proposal, noting that more time was needed to assess the proposed maps. The motion failed. The Committee map was then passed out of the Committee, less than 72 hours after it had been released to the public.

55. On November 9, 2021, one week after the Senate Committee proposal was released to the public, the full Senate passed the Committee map, now stylized as Senate Bill 1EX (“S.B. 1EX”). On November 15, 2021, less than two weeks after the map was released to the public, the House passed S.B. 1EX. Not a single legislator of color in the House or the Senate voted in favor of S.B. 1EX.

The State House Map Is Rushed Through the Legislative Process

56. The State House map was rushed through the legislative process in mere days, similarly without transparency or opportunity for meaningful debate or public engagement.

57. On November 5, 2021, less than 72 hours after the House Committee proposal had been released, the House Committee convened to discuss the proposal and the House Democratic proposal.

58. On November 8, 2021, the House Committee held a hearing to consider the proposed maps. This hearing was the first time the public would be able to comment on the proposed House maps. Less than *two hours* before the hearing began, a new version of the House Committee proposal was released, now styled as House Bill 1EX (“H.B. 1EX”). The House Committee Chair explained that the revised version was “probably 75% the same” as the previous House Committee proposal. H.B. 1EX was quickly passed out of Committee.

59. On November 10, 2021, approximately 48 hours after H.B. 1EX was publicly released, the full House voted to pass the new proposal. On November 12, 2021, 4 days after H.B. 1EX was publicly released, the Senate voted to pass the new proposal. Not a single legislator of color in the House or the Senate voted in favor of H.B. 1EX.

60. On December 30, 2021 Governor Kemp signed S.B. 1EX and H.B. 1EX into law. Despite the General Assembly’s rushing those measures through the legislative process in less than two weeks, Governor Kemp waited for nearly 40 days after the special session ended before signing them into law.

THE HASTILY-PASSED MAPS DILUTE BLACK VOTING STRENGTH

61. In the end, despite the tremendous growth in Georgia's Black population, the districts that emerged from the General Assembly's hasty process included few, if any, new Black majority State Senate and State House districts in any areas that were not already electing candidates supported by Black voters. In other words, the State drew maps that systematically impede the growth of Black communities' political power, despite the growth in their populations. Those new maps for both the State Senate and the State House dilute Black voting strength statewide and in specific districts and undercut the ability of Black voters to participate in politics and exercise political power on equal footing with white voters.

62. Georgia's Black population is sufficiently numerous and geographically compact to comprise the majority of the voting age population in *at least* three Senate districts that the State failed to draw.

63. This includes areas in the southern metro Atlanta region, and specifically in and around new Senate Districts 16 and 17. The areas in and around these districts have seen enormous change and diversification over the last decade, including substantial growth of the Black population. Instead of drawing new majority Black districts in those areas to accurately reflect the growth of the Black

population, as they could have, the Redistricting Committee drew and jammed through the legislative process a map that carves up the large, cohesive Black communities in those areas, rendering Black voters in those districts unable to elect candidates of their choice despite those communities' booming populations.

64. Senate District 16 (“SD16”) in S.B. 1EX includes all or part of Fayette, Spalding, Pike, and Lamar Counties, and lies in the southwestern part of the burgeoning Atlanta metropolitan area. In Fayette County, the largest of those, the Black voting-age population has increased by over 50% over the last 10 years, while the white voting-age population has decreased slightly. In Spalding County, the second-largest in that group, the Black voting-age population is up by over 18%. Meanwhile, sizeable Clayton County, which borders Fayette County, is approximately 75% Black, and the Black voting-age population there has also grown by approximately 30% over the last decade. Black voters are sufficiently numerous in the area in and/or around SD16 that a district could have been drawn in that area with Black voting-age population greater than 50%. In particular, the State could have drawn an additional majority-Black district in the southern portion of the Atlanta metro region, around where SD16 was drawn, by “unpacking” the Black population in Senate Districts 34 and 44 (which include parts of Clayton and Dekalb counties as well as part of Fayette County) and

thereby “uncracking” the Black population in SD16. Instead, the Black voting-age population of SD16 under S.B. 1EX is just 24%.

65. Senate District 17 (“SD17”) in S.B. 1EX includes parts of Henry, Newton, and Walton Counties (as well as all of Morgan County), and lies in the central-eastern part of the burgeoning Atlanta metropolitan area. Those counties have also seen explosive growth in the Black population over the past decade. Henry County’s Black voting-age population increased by almost 75% in the last decade; Newton County’s increased by more than 45%; Walton County’s by over 40%. Meanwhile, sizeable Dekalb and Rockdale Counties, which border Henry, Newton, and Walton Counties, both have large and growing Black populations. Dekalb County is around 50% Black and its Black voting-age population increased by 12% over the last decade; Rockdale County is almost 60% Black and its Black voting-age population increased by 53% over the last decade. Black voters are sufficiently numerous in the area in and/or around SD17 that a district could have been drawn in that area with a Black voting-age population greater than 50%. In particular, the State could have drawn an additional majority-Black State Senate district in the southeastern portion of the Atlanta metro region, around where SD17 was drawn, by “unpacking” the Black population in (among others) Senate Districts 10 and 43 (which include parts of Henry, Rockdale, and Newton

Counties) and “uncracking” the Black population in SD17, which under S.B.1 EX, has been combined with predominantly white populations in Walton and Morgan Counties. The Black voting-age population of SD17 under S.B. 1EX is less than 34%.

66. Another new Black-majority State Senate district could have been drawn in the area west of Augusta, including portions of what is known as Georgia’s Black Belt, which includes the area in and around Senate District 23 (“SD23”) in S.B. 1EX. The relative size of the Black population in that area has increased over the last decade. For example, SD23 under S.B. 1EX includes a significant portion of Richmond County, where an already-large Black voting-age population has increased in the last decade by double digits, as well as Burke County (among others), which also already had a substantial Black population and which also has seen increases in its Black voting age populations. Meanwhile, additional nearby counties with significant and growing Black populations, such as Baldwin, Hancock, and Washington Counties, were left out of SD23 under S.B. 1EX. A district could have been drawn in that area in and/or around SD 23 such that the Black voting-age population of that district was greater than 50%. In particular, the State could have drawn an additional majority-Black State Senate district in the Augusta region, around where SD23 was drawn, by “unpacking” the

Black population in Senate Districts 22 and 26 and “uncracking” the Black population in SD23 and Senate District 25. But here, too, the State failed to draw a district that accorded a cohesive Black community the opportunity to elect candidates of their choice, instead dividing up Black voters and drawing a district in which white bloc voting would continue to defeat Black voters’ candidates of their choice.

67. In the end, S.B. 1EX, which was summarily rushed through the legislative process, created only a single new Black majority State Senate district in the entire state, and it did so in an area that was already electing Black-preferred candidates, thus ensuring that the massive growth of the Black population in Georgia would not translate into an increase in political power in the Georgia State Senate.

68. Georgia’s Black population is also sufficiently numerous and geographically compact to comprise the majority of the voting age population in *at least* five House districts that the State failed to draw.

69. At least three new, additional Black-majority House Districts could have been drawn in the southern and eastern portions of the Atlanta metro area, in similar places to SDs 16 and 17 as discussed above.

70. In particular, the State could have drawn an additional Black-majority House District in the area in and/or around Spalding, Clayton, and Henry Counties, in and/or around the area where House Districts 74 and 117 under H.B. 1EX (and where Senate Districts 16 and 17 under S.B. 1EX) were drawn, by “unpacking” the Black population in (among others) House District 78 (which stretches into Clayton County) and “uncracking” the Black population in House Districts 74 and/or 117, including in parts of Henry and Spalding Counties that have seen substantial growth in their Black populations but that were both drawn into districts with Black voting-age populations well below 40%. As already explained, Black voters are sufficiently numerous in those counties and the areas around them that an additional House District could have been drawn such that the Black voting-age population of the district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that.

71. The General Assembly also could have drawn at least one additional Black-majority House District in the area in and/or around Henry and/or Spalding Counties, in and/or around where House District 117 under H.B. 1EX (and Senate District 17 under S.B. 1EX) was drawn, for example, by “unpacking” the Black population in (among others) House District 116 and “uncracking” the Black population in House Districts 117 and 134. As already explained, those counties

and the areas around them also have sizeable and growing Black populations. Black voters are sufficiently numerous in that area that an additional House District could have been drawn such that the Black voting-age population of the district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that.

72. The General Assembly also could have drawn an additional Black-majority House District in the area in and/or around Newton County, in and/or around where House District 114 under H.B. 1EX was drawn, by “unpacking” the Black population in (among others) House District 92 and “uncracking” the Black population in House District 114. As already explained, Newton County’s voting-age population is nearly 50% Black, and the Black voting-age population has increased by over 45% over the last decade. Black voters are sufficiently numerous in that area that an additional House District could have been drawn such that the Black voting-age population of the district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that, instead cracking Newton County in half.

73. The General Assembly also could have drawn an additional Black-majority House District in the area outside Augusta, for example in and/or around (among others) Baldwin County, and in and/or around the area where (among

others) House Districts 118, 124, 133, 149, and 155 under H.B. 1EX (and Senate District 23 under S.B. 1EX) were drawn, by (among other things) “uncracking” the Black population in House Districts 133 (which includes parts of Baldwin County and Milledgeville) and 155 (which includes Wilkinson County). As already explained, those counties and the areas around them (among others) have sizeable and growing Black populations. Black voters are sufficiently numerous in that area that an additional House District could have been drawn with a Black voting-age population of the district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that, ultimately drawing five total Black-majority House Districts in and around Augusta when it could have drawn six.

74. The General Assembly also could have drawn an additional Black-majority House District in the area in and around Macon-Bibb County, in and/or around the area where (among others) House Districts 144 and 145 under H.B. 1EX were drawn. Macon-Bibb County and the areas around it have sizeable Black populations, and the Black population in Macon-Bibb County has increased by double digits over the last decade, such that Macon-Bibb (which is one of the State’s most populous counties) is now over 50% Black by voting age population. Black voters are sufficiently numerous in that area that an additional House District in and around Macon-Bibb County could have been drawn such that the

Black voting-age population of the new district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that, drawing two such districts when it could have drawn at least three.

75. The General Assembly also could have drawn an additional Black-majority House District in the area around Columbus and Albany in the southwestern portion of the State, in and/or around (among others) Muscogee, Marion, Stewart, Webster, Sumter, Terrell, Dougherty, Mitchell, and Thomas Counties, and in and/or around the area where House Districts 137, 140, 141, 150, 153, and 154 under H.B. 1EX were drawn. As already explained, those counties and the areas around them have sizeable Black populations. Black voters are sufficiently numerous in that area that an additional House District could have been drawn such that the Black voting-age population of the district was greater than 50%. Yet with H.B. 1EX, the General Assembly failed to do that, drawing six total Black-majority House Districts in the Southwestern Georgia region around Columbus and Albany when it could have drawn seven. An additional majority-Black district could have been drawn in the region by (for example) “unpacking” the Black population in House District 153 (which includes Albany), and “uncracking” the Black populations in House Districts 171 and 173 (which include Mitchell and Thomas Counties).

76. The General Assembly also failed to draw other potential new Black-majority districts in other parts of the State, diluting the voting strength of Black voters in those areas as well.

77. The State ultimately drew only a total of two additional Black majority State House districts in the entire state, and, as with the Senate map, it did so largely in areas that were already electing Black-preferred candidates, again minimizing the growth of Black political power.

78. Instead of drawing districts reflecting the tremendous growth of the State's Black population over the last decade, the State instead repeatedly opted to draw fewer, more concentrated Black-majority districts, effectively "packing" black voters in some districts and "cracking" other cohesive Black populations, thereby diluting their strength in the regions at issue.

79. Black voters in Georgia tend to vote similarly, and Black communities exhibit substantial cohesion in terms of voters' candidate preferences. White voters in Georgia likewise tend to vote cohesively against Black-preferred candidates. This phenomenon, known as "racially-polarized voting," exists in each of the areas where the challenged districts just discussed were drawn, with Black voters tending to vote cohesively as a bloc, and white voters also voting as a bloc against the Black-preferred candidates.

80. The level of racially polarized voting in those areas where the challenged districts discussed above are located means that the preferred candidates of Black voters will typically be defeated by a white majority under the districting scheme enacted by S.B. 1EX and H.B. 1EX.

81. Thus, under the maps as Georgia drew them, Black voters whose communities are sufficiently numerous to constitute a working majority and elect candidates of their choice will nevertheless be marginalized, with their political strength diluted.

82. The totality of the circumstances in this case⁹ confirms that Black voters in Georgia have less opportunity than white voters to participate in the political process and elect representatives of their choice.

1. Georgia’s History of Subordinating Black Voters, Including Through the Redistricting Process

83. Georgia has a long and well-documented history of state-sanctioned discrimination against Black voters, which resonates into the present and burdens Black political participation.

⁹ As noted already, the determination whether a challenged districting scheme unlawfully dilutes Black voting strength is based on the totality of the circumstances, taking into account a non-exhaustive set of historical and contextual factors known as the “Senate Factors.” *See supra* n.1 and accompanying text.

84. For over a century, unrelenting discrimination was “ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also Johnson v. Miller*, 864 F. Supp. 1354, 1379–80 (S.D. Ga. 1994) (“[W]e have given formal judicial notice of the State’s past discrimination in voting, and have acknowledged it in the recent cases.”), *aff’d and remanded sub nom. Miller v. Johnson*, 515 U.S. 900 (1995); *Ga. State Conf. of the NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013), *aff’d in part, vacated in part, rev’d in part and remanded*, 775 F.3d 1336 (11th Cir. 2015).

85. After Reconstruction, state and local governments in Georgia contrived numerous formal legal means to effectively eradicate the Black vote, such as poll taxes, whites-only primaries, literacy tests, and grandfather clauses. Polling places were moved without notice, ballots went unrecognized, ballot boxes were “stuffed” with fraudulent ballots, and vote counts were manipulated.¹⁰

¹⁰ John Hope Franklin, *Slavery to Freedom: A History of Negro Americans* 333 (Alfred A. Knopf, 3d ed. 1967).

86. Those methods of discrimination survived well into the twentieth century. The poll tax, for example, was not abolished until 1945, after it had been in effect for almost 75 years. Whites-only primaries remained in place until 1945, when a federal court invalidated the system in *King v. Chapman*, 62 F. Supp. 639 (M.D. Ga. 1945), *aff'd sub nom. Chapman v. King*, 154 F.2d. 460 (5th Cir. 1946), *cert. denied*, 327 U.S. 800 (1946). Georgia's literacy test and grandfather clause, which the Supreme Court noted in *South Carolina v. Katzenbach*, 383 U.S. 301 (1966), were "specifically designed to prevent Negroes from voting" (*id.* at 310–11), remained in place until the enactment of the Voting Rights Act of 1965. As recently as 1962, 17 municipalities and 48 counties in Georgia required racially segregated polling places.

87. Georgia's redistricting scheme for the General Assembly in particular has systematically undermined Black representation. In 1917, Georgia established the "county-unit" voting system, which assigned different voting power to urban and rural counties, diminishing the voting strength of urban areas where there tended to be greater numbers of Black voters. This system was in place for nearly half a century, until the U.S. Supreme Court struck it down as contrary to the principle of "one person, one vote." *See Gray v. Sanders*, 372 U.S. 368, 381 (1963).

88. Voter discrimination in Georgia is far from ancient history. Even after the passage of the VRA in 1965, Georgia continued to adopt policies that suppressed or weakened the Black vote. As a result, the entire state of Georgia was designated as a covered jurisdiction subject to Section 5 preclearance, due to its long history of racially discriminatory practices and procedures in voting and elections.

89. During the first redistricting cycle after the VRA's passage, a three-judge district court upheld a federal objection to the State's redistricting plans and determined that Georgia had diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See Georgia v. United States*, 411 U.S. 526 (1973).

90. The next cycle, when Georgia attempted to institute a redistricting plan following the 1980 U.S. Census, a federal district court again found the plan was designed with a racially discriminatory purpose. *Busbee v. Smith*, 549 F. Supp. 494, 499–500 (D.D.C. 1982), *aff'd mem.*, 459 U.S. 1166 (1983).

91. In all, between 1968 and 2013, before the Section 5 preclearance process was effectively halted by the Supreme Court, the federal Department of Justice objected to state- and local-level election and districting measures in Georgia on the basis of racial discrimination over 170 times.

92. Since 1982, plaintiffs secured favorable outcomes in at least 74 lawsuits brought against governmental units in Georgia under Section 2 of the Voting Rights Act, and that count is almost certainly underinclusive. At least five of these lawsuits resulted in reported judicial decisions; at least 69 more were settled favorably without a reported decision. Indeed, in the last decade alone, Section 2 plaintiffs have successfully challenged a number of discriminatory practices taking place in the same regions and even the same counties as the districts challenged in this lawsuit, such as Fayette County in Metro Atlanta and Sumter County in Southwestern Georgia. *See Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1305 (11th Cir. 2020); *Ga. State Conf. of the NAACP*, 950 F. Supp. 2d at 1314–16.

93. In the years following the Supreme Court’s abrogation of the VRA’s preclearance requirements, Georgia and its counties and municipalities have enacted a deluge of discriminatory voting practices and procedures.¹¹ For example,

¹¹ See Jennifer L. Patin, *Voting Rights Communication Pipelines: Georgia after Shelby County v. Holder*, Laws.’ Comm. for Civ. Rts. Under L. (June 21, 2016), <https://www.lawyerscommittee.org/georgiavra2016/>.

since 2013 the State has shuttered nearly 10% of its polling locations.¹² Former Secretary of State (and current Governor) Brian Kemp provided a manual to counties that repeatedly reminded them that they were no longer required to obtain preclearance from the Department of Justice in order to close polling locations in areas with “low incomes, small populations and substantial minority populations.”¹³

94. The above is just a sampling from Georgia’s history of discrimination, segregation, and subordination. As courts in this district have held, the accumulated weight of all that history has resulted in “diminished political influence and opportunity” for Black citizens in Georgia into the present day. *See, e.g., Cofield v. City of LaGrange, Ga.*, 969 F. Supp. 749, 756–57 (N.D. Ga. 1997); *see also, e.g., Ga. State Conf. of the NAACP*, 950 F. Supp. 2d at 1314–16 (N.D. Ga. 2013).

¹² Mark Niesse, Maya T. Prabhu and Jacquelyn Elias, *Voting Precincts Closed Across Georgia Since Election Oversight Lifted*, The Atlanta J.-Const. (Aug. 31, 2018).

¹³ *Id.*

2. Subordination of Black Georgians through Political Violence

95. The *de jure* political restrictions and other barriers to political power imposed by Georgia on its Black citizens have further been accompanied by the constant threat and reality of political violence as a tool to cement white dominance in the political arena. That violence, echoing through history to the present day, similarly undermines Black political participation.

96. After the Civil War, and even before the end of Reconstruction, the Ku Klux Klan began organizing in Georgia and engaging in lethal voting-related violence to prevent Black men from participating in the political process.¹⁴ For example, in 1868, twenty-eight newly-elected Black representatives—Georgians who had been enslaved until only a few years prior, and who had risen up to be elected to the General Assembly following the end of the war—were expelled from that body on the basis of racial animus. When a group of mostly Black citizens marched in protest, they were shot at, and some were killed, by hostile white citizens. This violent episode, known as the Camilla Massacre, intimidated many black voters from going to the polls on subsequent election days. Indeed, just

¹⁴ See, e.g., Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* 29, 35-37 (Cambridge Univ. Press, 2003).

months later, three Black men were gunned down outside a polling place in Savannah.¹⁵

97. Throughout the late 19th century, white supremacists imposed a reign of terror meant to force Black Americans into a subordinate state. White mobs lynched nearly two hundred victims during the 1890s, an average of roughly one victim per month. Those lynchings continued well into the 1940s. While the reasons for these extrajudicial killings varied, the increase in mob violence correlated with campaigns to erase Black Georgians from public life.

98. The rise of a mass civil rights movement and voting rights campaign in the wake of *Brown v. Board of Education* increased Black political participation, and also white resistance to this participation. This resistance often took the form of new waves of violence, such as the 16th Street Baptist Church bombing and the assassination of Martin Luther King, Jr., that were meant to terrorize Black citizens and suppress the burgeoning movement for Black political rights.

3. Racial Polarization in Georgia

99. This Court has recognized that “voting in Georgia is highly racially polarized,” and “[d]istricts with large black populations are likely to vote

¹⁵ Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863–1877* 426 (N.Y.: Perennial Classics, 2002).

Democratic.” *Ga. State Conf. of the NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018); *see also, e.g., Wright*, 979 F.3d at 1305.

100. Indeed, Black voters in Georgia are politically cohesive. For example, in the 2008 presidential election, Barack Obama secured 98% of Black voter support in Georgia and only 23% of white voter support.

101. More recently, 99% of Black voters supported Stacey Abrams for governor in 2018, compared to only 16% of white voters. And in recent runoff elections for U.S. Senate, Black voters’ candidates of choice, Reverend Raphael Warnock and Jon Ossoff, won with roughly 97% of Black voter support compared to 18% of white voter support.

102. The white majority usually votes as a bloc to defeat Black voters’ candidates of choice. That is true with respect to statewide contests (notwithstanding a few recent victories by Black-preferred candidates in the 2020 presidential and U.S. Senate races that saw unprecedented turnout) and particularly with respect to more localized contests in areas within or near the regions where Plaintiffs allege that additional Black majority districts can and should be drawn.

103. Racial polarization is another factor supporting the conclusion that Black voters’ political strength is diluted by the districting scheme drawn by the General Assembly in S.B. 1EX and H.B. 1EX. Those districts undermine Black

representation, particularly when considered in combination with Black voters' geographic concentration and with the State's long legacy of unfair and discriminatory redistricting.

4. Discriminatory Electoral Devices

104. Georgia's continued use of electoral devices that shut out racial minorities further undercuts Black voters' ability to participate in politics on equal footing. Chief among those devices is the majority vote requirement, whereby when no candidate receives an outright majority, the State requires a runoff election between the plurality winner and the candidate with the next highest number of votes.

105. The majority-vote requirement is deeply rooted in racist policy.¹⁶ The requirement was adopted in 1963, following the demise of the county-unit system. Federal court decisions in cases like *Toombs v. Fortson*, 205 F. Supp. 248 (N.D. Ga. 1962), and *Wesberry v. Sanders*, 376 U.S. 1 (1964), required the State to drop the county-unit system and reapportion its legislative districts to be roughly equal in population. Those decisions severely limited key tools that the white majority had previously used to suppress the political power of Black voters.

¹⁶ See generally Laughlin McDonald, *The Majority Vote Requirement: Its Use and Abuse in the South*, 17 Urb. Law. 429 (1985).

106. The majority-vote requirement was a direct response to decisions like *Toombs* and *Wesberry*. Denmark Groover, who introduced the proposal, was recalled to have said on the state house floor, “[W]e have got to go to the majority vote because all we have to have is a plurality and the Negroes and the pressure groups and special interests are going to manipulate this State and take charge if we don’t go for the majority vote.”

107. The majority vote/runoff system, which Georgia continues to deploy, weakens Black voters. When elections are decided using plurality voting, the white vote in a majority white jurisdiction can be split among several different candidates, while Black voters can—in theory—vote as a single bloc for a candidate of their choice, who could then end up winning with a plurality. But with majority runoff voting, even if white voters split their vote in the first round and a Black-preferred candidate somehow obtains a plurality, white voters receive a second chance to unite behind a white candidate to ensure victory.

108. The Supreme Court has acknowledged that runoff elections serve to dilute minority voting power in at-large elections. In *Rogers v. Lodge*, 458 U.S. 613 (1981), the Court upheld a trial-court finding that Georgia’s majority-vote requirement, especially when combined with at-large voting, helped a white majority to consistently out-vote an organized Black minority, and thus worked “to

submerge the will of the minority” and “deny the minority’s access to the system.” *Id.* at 627 (citation omitted); *see also City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982) (U.S. Department of Justice properly conditioned approval of town’s at-large election scheme on elimination of majority-vote requirement)). Yet Georgia continues to employ this discriminatory device, including in combination with at-large voting. *See also Georgia State Conf. of the NAACP v. Fayette Cty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338 (N.D. Ga. 2015) (granting preliminary injunction against at-large voting scheme).

5. Ongoing Effects of Georgia’s History of Discrimination

109. On top of those deeply ingrained patterns of discrimination in elections and voting itself, Black Georgians and others also face the continued burden of discrimination and disparities on a number of other fronts, from education, employment, and transportation, to healthcare, to housing, to unequal treatment in the criminal justice system. All of those disparities in turn affect the ability of Black Georgians to participate in politics on equal footing.

110. For example, Georgia’s history of segregated education, which persisted into the 1970s, continues to effect socioeconomic inequality in Georgia to this day. Many Black Georgians who attended segregated schools during the time of *de jure* segregation are in their 50s and 60s today—together, they comprise over

a quarter of all Black voters in the state. And even today, many children in Georgia continue to attend effectively segregated and unequal schools, with Black children facing harsher school discipline, scoring lower on standardized testing, and attending college at lower rates.

111. Black Georgians also face persistent disparities across a number of other economic metrics. In Georgia, the poverty rate for African Americans is double that of non-Hispanic whites (18.8% versus 9%), according to the 2019 ACS Survey. For Georgians under 18, that gap is even wider: The poverty rate for African Americans under 18 is nearly three times the rate of non-Hispanic whites (28.1% versus 9.5%).

112. The same 2019 ACS Survey, shows a stark racial disparity in median household income (\$47,083 for African Americans versus \$71,790 for non-Hispanic whites) and median family income (\$58,582 versus \$87,271). It also reveals that the unemployment rate of African Americans is nearly double that of non-Hispanic whites (7% versus 3.8%).

113. Black Georgians have significantly lower rates of homeownership than non-Hispanic whites. Only 47% of African Americans own their own home compared to 75% non-Hispanic whites, according to the 2019 ACS Survey. And

the median home values of African Americans who do own homes is significantly less than that of non-Hispanic whites (\$164,900 to \$220,100).

114. These economic disparities also persist in access to transportation. For example, according to the 2019 ACS Survey, more than three times as many African Americans are part of a household that has no vehicle available as non-Hispanic whites (11.7% to 3.4%).

115. Black Georgians also face disparities with respect to housing, experiencing more housing instability and moving more frequently. In addition, Georgia continues to have high levels of residential segregation, including in Atlanta and the areas around Augusta and Columbus and Albany in Southwestern Georgia.

116. Health outcomes also continue to be consistently worse for Black Georgians compared to whites. For example, the infant mortality rate of Black infants is more than double that of white infants (11.2 versus 4.9).¹⁷ Black women

¹⁷ Kaiser Family Foundation, *State Health Facts: Infant Mortality Rate by Race/Ethnicity*, <https://www.kff.org/other/state-indicator/infant-mortality-rate-by-race-ethnicity/?currentTimeframe=0&selectedDistributions=white--black-or-african-american&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Nov. 30, 2021).

are nearly three times more likely to die from pregnancy-related causes than white women, and the Georgia Department of Public Health has found that 70% of such pregnancy-related deaths are preventable.¹⁸

117. These and many other disparities dramatically affect political participation. The correlation, for example, between wealth and economic stability and voter participation, is well established. Indeed, socioeconomic factors such as education, income, poverty, and employment, as well as housing stability and access to healthcare, have all been shown to affect voting behavior, such that the persistent racial disparities amount to burdens on Black Georgians' ability to participate in the political process on equal footing.

118. Meanwhile, criminal justice policies that disproportionately affect Black Georgians, like disenfranchisement for persons with criminal convictions, directly block some Black Georgians from participating in politics, and further burden Black communities from exercising political power on a level playing field.

119. These disparities are all interconnected, and spring from concerted policy decisions meant to isolate and marginalize Black Georgians in particular, among them the legacy and continued reality of segregated and unequal education,

¹⁸ Ga. Dep't of Public Health, *Maternal Mortality Factsheet 2012–2016*, <https://dph.georgia.gov/maternal-mortality> (last visited Nov. 30, 2021).

redlining and housing discrimination, discrimination in lending and employment, the imposition of punitive collateral consequences in the criminal justice system, and unremedied decisions around the construction public transportation infrastructure that cut off Black communities from economic opportunity. The collective weight of those policies and the disparities that flow from them all disadvantage Black Georgians' ability to fully participate in politics.

6. Use of Racial Appeals in Political Campaigns

120. Racial appeals have long been used by political campaigns in Georgia. At the height of Jim Crow, Georgia's Senator Walter George noted at a campaign stop in Barnesville (part of Senate District 16) that national reformers would seek "to send a Connecticut judge down here. . . to try you on an anti-lynching charge." While this type of racially-charged fearmongering may have changed in form, the sentiment has continued to pervade our political discourse. As just a few examples:

121. In 2005, State Representative Sue Burmeister, who represented a Richmond County district at the time, complained that Black voters in her district's Black-majority precincts only showed up at the polls when they were "paid to vote."

122. In 2009, Nathan Deal, a former Congressman who was elected Governor in 2010, ridiculed criticism of voter ID measures as “the complaints of ghetto grandmothers who didn’t have birth certificates.”

123. State Senator Michael Williams, a former Forsyth County legislator who ran for Governor in 2018, toured the State in a “deportation bus” and pledged to “put them on this bus and send them home.” Williams, who represented a county where white mobs ran out most Black residents in a violent 1912 racial cleansing, also campaigned heavily on protecting sculptures of Confederate soldiers at Stone Mountain.

7. (Lack of) Success of Black Candidates

124. Black voters have historically been and continue to be underrepresented in Georgia State government. From 1907 until 1962, not a single Black politician held a seat in the Georgia legislature. Thereafter, the State Senate had only two Black members until 1983, after the redistricting following the 1980 Census. And in 1999, less than 20% of both State chambers were Black, whereas Black Georgians represented nearly 29% of the State’s population according to the 2000 Census.¹⁹

¹⁹ See Charles S. Bullock III & Ronald Keith Gaddie, *Voting Rights Progress in Georgia*, 10 N.Y.U. J. Leg. & Pub. Pol’y 1, 29–30 & tbl.7 (2006).

125. That disparity persists today: The voting age population of Georgia was almost 33% Black, but the Georgia General Assembly remains only 27% Black—a disparity that translates into several State Senators and as many as 10 or 11 members of the State House of Representatives.

126. Meanwhile, Black candidates almost never win statewide office. Despite the fact that a third of voting-eligible Georgians are Black, Georgia elected its first Black Senator since Reconstruction only last year, and has still never elected a Black governor or a Black Secretary of State. Indeed, before this past year’s Senate election, the last time a Black candidate won any statewide office in a contested election was in 2006.

127. Moreover, in the particular areas where the districts at issue in this lawsuit are located, Black candidates have rarely and in some instances never before won election to the General Assembly.

8. Unresponsiveness of Elected Officials to Black Voters

128. Moreover, the candidates that *have* succeeded in the areas around the challenged districts have been unresponsive to the concerns of Black Georgians, further confirming that S.B. 1EX and H.B. 1EX will contribute to an unequal political playing field for Black voters.

129. Such unresponsiveness is evidenced by the continuing, unremedied socioeconomic and other disparities faced by Black Georgians that were discussed already, none of which have been adequately addressed by elected policymakers.

130. Another recent example of this unresponsiveness is the General Assembly's passage of S.B. 202, which was supported by every white Republican member of the General Assembly, including those who will represent Black voters in districts whose boundaries dilute Black voting power under the maps set forth in S.B. 1EX and H.B. 1EX. Civil rights groups, civic institutions serving the Black community, and political leaders and representatives of the community have unanimously decried S.B. 202—which imposes new restrictions on absentee voting and other new barriers to the franchise—as an unwarranted burden on the right to vote, and one that will fall disproportionately on the rights of Black Georgians in particular. Advocates also opposed provisions in the bill that appear to allow State officials to supplant local election boards in predominantly Black jurisdictions like Fulton County. Black Georgians and their institutions, leaders, and representatives strenuously opposed S.B. 202 to no avail.

131. The unresponsiveness of elected officials in Georgia to the concerns of Black Georgians is also evidenced by the ongoing purge of Black members of

various county election boards in the State, including in Spalding and Morgan Counties.²⁰

132. It is also demonstrated by Georgia elected officials’ opposition to the reauthorization of the VRA. Georgia’s representatives led an unsuccessful campaign against the VRA’s reauthorization in 2006, rebelling against their own political party and trying to doom the legislation by proposing “poison pill” amendments to the VRA on the floor of the U.S. House of Representatives.

9. Lack of Valid Rationale for the Discriminatory Maps

133. Finally, the State has offered no valid rationale for its decision to systematically dilute Black political power in Georgia and to silence the voices of Black Georgians by refusing to draw new majority Black districts.

134. Tellingly, in the Georgia legislative hearings, legislators defending the new redistricting maps, when asked to justify why their proposed districts were drawn in the way they were drawn, explained that when a district was previously a “VRA district,” they had “maintain[ed] the existing district.” This language demonstrates that legislators sought to do nothing more than maintain existing

²⁰ James Oliphant and Nathan Layne, *Georgia Republicans purge Black Democrats from county election boards*, Reuters (Dec. 9, 2021), <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/?s=09>.

majority-minority districts from the 2011 redistricting process, and reveals a flawed understanding of what the Voting Rights Act requires. The Voting Rights Act demands more than mechanical preservation of existing majority-minority districts.

135. Meanwhile, the State's rushed process hammers home the lack of any considered rationale for S.B. 1EX and H.B. 1EX. As explained already, the maps challenged here emerged from a shoddy process that contained no room for democratic debate. The Redistricting Committees never allowed the public to engage in the mapmaking process or review proposed maps ahead of time. Instead, the Committees jammed the proposed maps through the legislative process within days of their first being proposed, without meaningful deliberation or measured consideration, and without considering any alternatives.

136. In sum, S.B. 1EX and H.B. 1EX unlawfully dilute the voting strength of Black Georgians in violation of Section 2 of the Voting Rights Act. The maps drafted in 2021 could have—and should have—been drawn to give the increased Black population in Georgia a full and fair opportunity to elect representatives of their choosing and participate in politics on equal footing with white citizens. Instead, the State drew maps that dilute and weaken the Black vote. The broader context—including Georgia's long history of official and pervasive discrimination

against Black voters, racially-polarized voting, discriminatory voting practices that survive in the State to this day, and other disparities that reflect the legacy of discrimination and that continue to disproportionately burden Black political participation—amply supports the conclusion that Georgia’s unfair new redistricting scheme improperly and unlawfully dilutes the vote of Black citizens in Georgia.

CLAIM FOR RELIEF

COUNT 1: SECTION 2 OF THE VOTING RIGHTS ACT (52 U.S.C. § 10301 AND 42 U.S.C. § 1983)

137. The allegations contained in the preceding paragraphs 1 through 123 are re-alleged as if fully set forth herein.

138. S.B. 1EX violates Section 2 of the Voting Rights Act, as amended, 52 U.S.C. § 10301.

139. S.B. 1EX denies or abridges the Plaintiffs’ and/or their members’ right to vote on account of their race and color, by diluting their voting strength as Black citizens in Georgia. It does not afford Plaintiffs an equal opportunity to participate in the political process and to elect representatives of their choice and denies Plaintiffs the right to vote in elections without discrimination on account of their race and color, all in violation of 52 U.S.C. § 10301.

140. H.B. 1EX also violates Section 2 of the Voting Rights Act, as amended, 52 U.S.C. § 10301.

141. H.B. 1EX denies or abridges the Plaintiffs' and/or their members' right to vote on account of their race and color, by diluting their voting strength as Black citizens in Georgia. It does not afford Plaintiffs an equal opportunity to participate in the political process and to elect representatives of their choice and denies Plaintiffs the right to vote in elections without discrimination on account of their race and color, all in violation of 52 U.S.C. § 10301.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Declare S.B. 1EX and H.B. 1EX to be in violation of Section 2 of the Voting Rights Act;
- B. Preliminarily and permanently enjoin the Defendant and his agents from holding elections under S.B. 1EX and H.B. 1EX;
- C. Set a reasonable deadline for State authorities to enact or adopt redistricting plans for the Georgia State Senate and State House that do not abridge or dilute the ability of Black voters to elect candidates of choice and, if State authorities fail to enact or adopt valid redistricting plans by the Court's

- deadline, order the adoption of remedial redistricting plans that do not abridge or dilute the ability of Black voters to elect candidates of choice;
- D. Order, if necessary, an interim electoral plan for the 2022 elections;
- E. Order expedited hearings and briefing, consider evidence, and take any other action necessary for the Court to order a VRA-compliant plan for new State Senate and House districts in Georgia.
- F. Award Plaintiffs' their costs, expenses, and disbursements, and reasonable attorneys' fees incurred in bringing this action in accordance with 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988;
- G. Retain jurisdiction over this matter until Defendant has complied with all orders and mandates of this Court;
- H. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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APA Doc. 144

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

ALPHA PHI ALPHA FRATERNITY
INC., et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION

FILE NO. 1:21-CV-05337-SCJ

DEFENDANT’S ANSWER TO PLAINTIFFS’ AMENDED COMPLAINT

Defendant Brad Raffensperger, in his official capacity as Secretary of the State of Georgia (the “Defendant” or the “Secretary”), answer Plaintiffs’ Amended Complaint [Doc. 141] (the “Amended Complaint”) as follows:

FIRST AFFIRMATIVE DEFENSE

The allegations in Plaintiffs’ Amended Complaint fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs’ claims are barred for failure to name necessary and indispensable parties.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack constitutional standing to bring this action.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs lack statutory standing to bring this action.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' federal claims against Defendant are barred by the Eleventh Amendment to the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by sovereign immunity.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because Section 2 of the Voting Rights Act provides no provide right of action.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they should be heard by a three-judge panel.

NINTH AFFIRMATIVE EFENSE

Defendant denies that Plaintiffs have been subjected to the deprivation of any right, privilege, or immunity under the Constitution or laws of the United States.

TENTH AFFIRMATIVE DEFENSE

Defendant reserves the right to amend his defenses and to add additional ones, including lack of subject matter jurisdiction based on the

mootness or ripeness doctrines, as further information becomes available in discovery.

Defendant answers the specific numbered paragraphs of Plaintiffs' Amended Complaint as follows:

1. Paragraph 1 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

2. Defendant admits the allegations set forth in Paragraph 2 of the Amended Complaint.

3. Defendant denies the allegations set forth in Paragraph 3 of the Amended Complaint.

4. Defendant admits that the State House of Representatives map includes two additional majority-Black districts. Defendant denies the remaining allegations set forth in Paragraph 4 of the Amended Complaint.

5. Defendant denies the allegations set forth in Paragraph 5 of the Amended Complaint.

6. Defendant admits that the Amended Complaint seeks declaratory and injunctive relief. Defendant denies the remaining allegations set forth in Paragraph 6 of the Amended Complaint.

7. Defendant admits that this Court has federal-question jurisdiction for claims arising under the Voting Rights Act. Defendant denies the remaining allegations set forth in Paragraph 7 of the Amended Complaint.

8. Defendant admits the allegations set forth in Paragraph 8 of the Amended Complaint.

9. Defendant admits that the sole claim in the Amended Complaint is based on the Voting Rights Act. The remaining allegations in Paragraph 9 of the Amended Complaint set forth legal conclusions to which no response is required, and therefore, Defendant denies the same.

10. Defendant admits the allegations set forth in Paragraph 10 of the Amended Complaint.

11. Defendant admits the allegations set forth in Paragraph 11 of the Amended Complaint.

12. The allegations in Paragraph 12 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

13. The allegations in Paragraph 13 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

14. The allegations in Paragraph 14 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

15. The allegations in Paragraph 15 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

16. The allegations in Paragraph 16 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

17. The allegations in Paragraph 17 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

18. The allegations in Paragraph 18 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

19. The allegations in Paragraph 19 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

20. The allegations in Paragraph 20 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

21. The allegations in Paragraph 21 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

22. The allegations in Paragraph 22 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

23. Defendant admits that he is the Secretary of State of Georgia and that the Secretary of State is designated by statute as the chief election official. Defendant further admits that he has responsibilities under law

related to elections. Defendant denies the remaining allegations contained in Paragraph 23 of the Amended Complaint.

24. Defendant admits the allegations set forth in Paragraph 24 of the Amended Complaint.

25. Paragraph 25 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

26. Paragraph 26 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

27. Paragraph 27 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

28. Paragraph 28 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

29. Paragraph 29 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph, including its footnote, are denied.

30. Defendant admits that Georgia's population grew by over 1 million people to 10.71 million people which is a 10.6% increase from 2010. The remaining allegations in Paragraph 30 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

31. Defendant admits that Georgia's Black population increased by almost half a million people from 2010 to 2020. The remaining allegations in Paragraph 31 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

32. Defendant admits that, as a percentage of the electorate, the white percentage has decreased and the percentage of voters of color has increased over the last ten years. The remaining allegations in Paragraph 32 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

33. Defendant admits that, as of the 2019 American Community Survey, the Black voting-eligible population had reached a record high of 2.5 million eligible voters. The remaining allegations in Paragraph 33 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

34. Defendant admits that many counties in metro Atlanta have seen significant population growth, including Black population growth. The

remaining allegations in Paragraph 34 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

35. Defendant admits that Georgia's Black Belt consists of predominantly rural counties across the central and southern part of the state. Defendant further admits that many counties in the Black Belt have large Black populations. The remaining allegations in Paragraph 35 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

36. Defendant denies the allegations set forth in Paragraph 36 of the Amended Complaint.

37. Defendant admits that Georgia is no longer required to seek preclearance of its redistricting plans prior to implementing them. The remaining allegations in Paragraph 37 set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

38. Defendant admits that, prior to 2013, it was a covered jurisdiction under Section 4 of the Voting Rights Act and was required to seek preclearance of election laws prior to enforcement. The remaining allegations in Paragraph 38 set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

39. Defendant admits the allegations set forth in Paragraph 39 of the Amended Complaint.

40. The allegations in Paragraph 40 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

41. Defendant denies the allegations set forth in Paragraph 41 of the Amended Complaint.

42. The allegations in Paragraph 42 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

43. Defendant admits the allegations set forth in Paragraph 43 of the Amended Complaint.

44. Defendant admits that the Redistricting Committees held a series of town-hall meetings to gather public input before the COVID-delayed Census data was released. The remaining allegations in Paragraph 44 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

45. The allegations in Paragraph 45 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

46. Defendant admits that hundreds of Georgians participated in the town hall meetings. The remaining allegations in Paragraph 46 of the

Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

47. Defendant admits that members of the public could submit comments to the Redistricting Committees via a web portal. The remaining allegations in Paragraph 47 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

48. Defendant admits the allegations set forth in Paragraph 48 of the Amended Complaint.

49. Defendant admits the allegations set forth in Paragraph 49 of the Amended Complaint.

50. Defendant admits the allegations set forth in Paragraph 50 of the Amended Complaint.

51. Defendant denies the allegations set forth in Paragraph 51 of the Amended Complaint.

52. Defendant admits the allegations set forth in Paragraph 52 of the Amended Complaint.

53. Defendant denies the allegations set forth in Paragraph 53 of the Amended Complaint.

54. The allegations in Paragraph 54 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

55. Defendant admits the allegations set forth in Paragraph 55 of the Amended Complaint.

56. Defendant denies the allegations set forth in Paragraph 56 of the Amended Complaint.

57. Defendant admits the allegations set forth in Paragraph 57 of the Amended Complaint.

58. The allegations in Paragraph 58 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

59. Defendant admits the allegations set forth in Paragraph 59 of the Amended Complaint.

60. Defendant admits that Governor Kemp signed S.B. 1EX and H.B. 1EX into law on December 30, 2021. The remaining allegations in Paragraph 60 of the Amended Complaint are denied.

61. Defendant denies the allegations set forth in Paragraph 61 of the Amended Complaint.

62. Defendant denies the allegations set forth in Paragraph 62 of the Amended Complaint.

63. Defendant denies the allegations set forth in Paragraph 63 of the Amended Complaint.

64. Defendant denies the allegations set forth in Paragraph 64 of the Amended Complaint.

65. Defendant denies the allegations set forth in Paragraph 65 of the Amended Complaint.

66. Defendant denies the allegations set forth in Paragraph 66 of the Amended Complaint.

67. Defendant denies the allegations set forth in Paragraph 67 of the Amended Complaint.

68. Defendant denies the allegations set forth in Paragraph 68 of the Amended Complaint.

69. Defendant denies the allegations set forth in Paragraph 69 of the Amended Complaint.

70. Defendant denies the allegations set forth in Paragraph 70 of the Amended Complaint.

71. Defendant denies the allegations set forth in Paragraph 71 of the Amended Complaint.

72. Defendant denies the allegations set forth in Paragraph 72 of the Amended Complaint.

73. Defendant denies the allegations set forth in Paragraph 73 of the Amended Complaint.

74. Defendant denies the allegations set forth in Paragraph 74 of the Amended Complaint

75. Defendant denies the allegations set forth in Paragraph 75 of the Amended Complaint.

76. Defendant denies the allegations set forth in Paragraph 76 of the Amended Complaint.

77. Defendant admits that there are two additional majority-Black state House districts on the 2021 adopted state House plan. Defendant denies the remaining allegations set forth in Paragraph 77 of the Amended Complaint.

78. Defendant denies the allegations set forth in Paragraph 78 of the Amended Complaint.

79. Defendant admits that Black and white voters vote in blocs and prefer different candidates. Defendant denies the remaining allegations set forth in Paragraph 79 of the Amended Complaint.

80. Defendant denies the allegations set forth in Paragraph 80 of the Amended Complaint.

81. Defendant denies the allegations set forth in Paragraph 81 of the Amended Complaint.

82. Defendant denies the allegations set forth in Paragraph 82 of the Amended Complaint.

83. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. Defendant denies the remaining allegations set forth in Paragraph 83 of the Amended Complaint.

84. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 84 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

85. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 85 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

86. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 86 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

87. Paragraph 87 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

88. Paragraph 88 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

89. Defendant admits that plans drawn when Democrats controlled Georgia government were objected to in 1971, 1981, 1991, and 2001. The remaining allegations of Paragraph 89 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

90. Defendant admits that plans drawn when Democrats controlled Georgia government were objected to in 1971, 1981, 1991, and 2001. The remaining allegations of Paragraph 90 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

91. Paragraph 91 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

92. Paragraph 92 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

93. Defendant denies the allegations set forth in Paragraph 93 of the Amended Complaint.

94. Paragraph 94 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

95. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 95 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

96. The allegations in Paragraph 96 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

97. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 97 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

98. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 98 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

99. Paragraph 99 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

100. Defendant admits that, in past elections, Black voters cohesively supported Democratic candidates. Defendant denies the remaining allegations set forth in Paragraph 100 of the Amended Complaint.

101. Defendant admits that, in past elections, Black voters cohesively supported Democratic candidates. Defendant denies the remaining allegations set forth in Paragraph 101 of the Amended Complaint.

102. Defendant admits that, in past elections, white voters cohesively supported Republican candidates. Defendant denies the remaining allegations set forth in Paragraph 102 of the Amended Complaint.

103. Defendant denies the allegations set forth in Paragraph 103 of the Amended Complaint.

104. Defendant admits that Georgia has a majority-vote requirement for most of its elections. Defendant denies the remaining allegations set forth in Paragraph 104 of the Amended Complaint.

105. Defendant admits that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of

Paragraph 105 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

106. The allegations in Paragraph 106 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

107. Defendant denies the allegations set forth in Paragraph 107 of the Amended Complaint.

108. Paragraph 108 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same.

109. Defendant denies the allegations set forth in Paragraph 109 of the Amended Complaint.

110. Defendant denies the allegations set forth in Paragraph 110 of the Amended Complaint.

111. The allegations in Paragraph 111 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

112. The allegations in Paragraph 112 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

113. The allegations in Paragraph 113 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

114. The allegations in Paragraph 114 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

115. The allegations in Paragraph 115 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

116. The allegations in Paragraph 116 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

117. Defendant denies the allegations set forth in Paragraph 117 of the Amended Complaint.

118. Defendant denies the allegations set forth in Paragraph 118 of the Amended Complaint.

119. Defendant denies the allegations set forth in Paragraph 119 of the Amended Complaint.

120. The allegations in Paragraph 120 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

121. The allegations in Paragraph 121 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

122. The allegations in Paragraph 122 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

123. The allegations in Paragraph 123 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

124. The allegations in Paragraph 124 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

125. The allegations in Paragraph 125 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

126. Defendant admits that Georgia elected its first Black U.S. Senator in 2021 and has not yet elected a Black Governor or Secretary of State. The remaining allegations in Paragraph 126 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

127. The allegations in Paragraph 127 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

128. Defendant denies the allegations set forth in Paragraph 128 of the Amended Complaint.

129. Defendant denies the allegations set forth in Paragraph 129 of the Amended Complaint.

130. Defendant admits that Democratic-aligned interest groups opposed S.B. 202. Defendant denies the remaining allegations set forth in Paragraph 130 of the Amended Complaint.

131. Defendant denies the allegations set forth in Paragraph 131 of the Amended Complaint.

132. The allegations in Paragraph 132 of the Amended Complaint are outside Defendant's knowledge and are therefore denied on that basis.

133. Defendant denies the allegations set forth in Paragraph 133 of the Amended Complaint.

134. Paragraph 134 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendant denies the same. The remaining allegations in this Paragraph are denied.

135. Defendant denies the allegations set forth in Paragraph 135 of the Amended Complaint.

136. Defendant denies the allegations set forth in Paragraph 136 of the Amended Complaint.

137. Defendant incorporates his responses to Paragraphs 1 through 123 as if fully set forth herein.

138. Defendant denies the allegations set forth in Paragraph 138 of the Amended Complaint.

139. Defendant denies the allegations set forth in Paragraph 139 of the Amended Complaint.

140. Defendant denies the allegations set forth in Paragraph 140 of the Amended Complaint.

141. Defendant denies the allegations set forth in Paragraph 141 of the Amended Complaint.

Prayer for Relief

Defendant denies that Plaintiffs are entitled to any relief they seek. Defendant further denies every allegation not specifically admitted in this Answer.

Respectfully submitted this 13th day of April, 2022.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing DEFENDANT'S ANSWER TO PLAINTIFFS' AMENDED COMPLAINT has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

APA Doc. 244

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

ALPHA PHI ALPHA FRATERNITY
INC., et al.,

Plaintiffs,

vs.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia.

Defendant.

CASE NO. 1:21-CV-5337-SCJ

**PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

This is a trial case, and it always has been. Trial courts have a “special vantage point” in Section 2 vote dilution cases, which involve claims that are “[n]ormally . . . resolved pursuant to a bench trial.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1343 (11th Cir. 2015) (“*Ga. NAACP*”) (vacating grant of summary judgment in Section 2 case). Summary judgment is rarely appropriate because Section 2 claims involve an “intensely local appraisal” of all the relevant facts and the resolution of “complex questions of fact and law.” *Id.* at 1349; *see also Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 587 F. Supp. 3d 1222, 1241 (N.D. Ga. 2022) (explaining that “[t]he *Gingles* requirements ‘present mixed questions of law and fact’” (citation omitted)).

On this record, summary judgment is starkly inappropriate.

Over a year ago, this Court held that Plaintiffs were likely to succeed on the merits. *Alpha Phi Alpha*, 587 F. Supp. 3d at 1266. Plaintiffs’ case under the established *Gingles* framework has only gotten stronger since then. William Cooper’s new Illustrative Plans perform better along almost every metric while also adding new majority-Black districts; Dr. Lisa Handley’s analysis of the November 2022 elections shows continued racially polarized voting across Georgia and in the areas of interest; and Plaintiffs’ Senate Factors experts have

deepened their analyses showing that Black voters in the areas of interest cannot participate in the political process on equal terms. At trial, Plaintiffs will prove that, in the Atlanta Metro and elsewhere, the challenged districting scheme results in unequal opportunities for Black Georgians. At best, Defendant's motion simply previews trial defenses premised on contested questions of fact.

Defendant's first proposed ground for summary judgment, based on the first *Gingles* precondition ("*Gingles* 1"), rests on sharply disputed, one-sided characterizations of Mr. Cooper's Illustrative Plans. Out of 34 assertions of supposedly material facts in Defendant's Rule 56.1 Statement regarding the Illustrative Plans, fully 27 are disputed. *See* Pl.'s Resp. to Def.'s SUMF ¶¶ 32-65. In fact, far from showing that Mr. Cooper was "improperly focused on race" (Br. 4), the record demonstrates that Mr. Cooper meticulously and successfully balanced traditional districting principles while also drawing maps that include additional Black-majority districts. Mr. Cooper's Illustrative Plans are at least as compact as the enacted maps. Plaintiffs' Statement of Additional Facts ("SOAF") ¶¶ 94-98. They split fewer counties, fewer precincts, fewer metro areas, fewer regional commissions. SOAF ¶¶ 99-110. As Mr. Cooper explained in his report and testified in response to district-by-district questioning, he made line-drawing decisions on numerous grounds other than race, including communities'

geographic proximity, common transportation arteries, socioeconomic commonalities, meeting strict population deviation requirements, keeping districts compact, reducing splits, and protecting incumbents, all while also drawing additional majority-Black districts in areas where Georgia's Black population is especially numerous and concentrated. *See infra* pp. 13-16.

This Court already found Mr. Cooper “highly credible.” *Alpha Phi Alpha*, 587 F. Supp. 3d at 1244. When asked whether he prioritized race over other traditional districting considerations in drawing the Illustrative Plans, Mr. Cooper was crystal clear: “[a]bsolutely not.” Dep. of William Cooper [Dkt. 221] (“Cooper Dep.”) 221:4-7. Defendant may pursue his contrary assertion that Mr. Cooper was “improperly focused on race” at trial. But to suggest that no reasonable trier of fact could disagree, on this record, is unsupportable.

Defendant's second ground for summary judgment, based on the second and third *Gingles* preconditions, fares no better. The record shows that Black voters in the areas of interest vote cohesively (“*Gingles* 2”) and that the White majority typically votes as a bloc to defeat Black voters' preferred candidates in those areas (“*Gingles* 3”). Defendant does not disagree; instead, he tries to rewrite the legal standard, suggesting that Plaintiffs must *also* prove that race rather than partisanship caused these voting patterns. There is no basis in text or precedent to

adopt that rule. And even if there were, the next step would be a trial on contested facts, not summary judgment.

The evidence shows that Georgia’s polarized voting patterns are best explained by race, not party. Historian Dr. Jason Ward’s analysis shows racial attitudes and divisions drove the State’s present partisan alignment, especially in response to the parties’ positions on civil rights and racial equality. Dr. Adrienne Jones’s analysis shows that the salience of race in politics continues into the present day, with racial appeals pervading political campaigns in Georgia. And Dr. Lisa Handley’s analysis of Democratic primaries shows that racial polarization persists even accounting for party affiliation.

As with *Gingles* 1, Defendant may pursue his “party not race” arguments at trial. Because a factfinder could easily reject them, the motion should be denied.

FACTUAL BACKGROUND

I. Georgia’s Black Population Grows Dramatically

Georgia’s Black¹ population has experienced massive growth in recent years. SOAF ¶¶ 25-54. Between 2000 to 2020, the number of Black Georgians increased by over 1.1 million people, a nearly 50% increase. SOAF ¶ 25; Report

¹ As used herein, “Black” (or “any-part Black,” or “AP Black”) refers to persons who are single-race Black or persons of two or more races and some part Black, including Hispanic Black. SOAF ¶ 25 n.1.

of William Cooper Pt. 1 [Dkt. 237-1] (“Cooper Report Pt. 1”) ¶ 50, Fig. 5. 1.1 million people is equal to the population of six entire State Senate districts or more than 19 entire State House districts. SOAF ¶ 28; Cooper Report Pt. 1 ¶ 14 n.6. Over the last decade, Georgia’s Black population increased by nearly 500,000, while the White population actually declined. SOAF ¶¶ 29, 31; Cooper Report Pt. 1 ¶ 50, Fig. 5.

Black population growth was especially substantial in the Metro Atlanta area, increasing by over 900,000 people between 2000 and 2020. SOAF ¶¶ 32, 34; Cooper Report Pt. 1 ¶ 51, Fig. 6. In the last decade alone, Black population growth in Metro Atlanta equates to more than two entire State Senate districts or more than six entire State House districts. SOAF ¶ 33; Cooper Report Pt. 1 ¶ 14 n.6. Counties in the South Metro area saw some of the highest rates of change; the five-county Fayette, Spalding, Henry, Newton, and Rockdale area experienced nearly 300% Black population growth over the last two decades even as the White population fell. SOAF ¶¶ 46, 52; Cooper Report Pt. 1 ¶ 55, Fig. 7. Meanwhile, in Southwest Georgia and the Black Belt counties outside Augusta, the Black population increased as a proportion of the overall population, becoming more concentrated. SOAF ¶¶ 41-44; Cooper Report Pt. 1 ¶ 58, Fig. 8 & ¶ 61, Fig. 9.

II. Georgia Enacts Contested Legislative Plans That Fail to Account for the Significant Increase in the State’s Black Population

The Georgia General Assembly’s post-2020 Census redistricting process failed to provide a meaningful opportunity for Black voters to participate. The House and Senate Redistricting Committees held “town halls” about redistricting *before* the release of the Census data used to redraw districts. SOAF ¶¶ 1-2; Dep. of Bonnie Rich [Dkt. 227] (“Rich Dep.”) 175:10-23, 185:10-18. They never met in Gwinnett, Cobb, or DeKalb Counties, three of Atlanta’s most populous counties. SOAF ¶ 4; Dep. of Jan Jones [Dkt. 241] (“J. Jones Dep.”) 64:10-65:20. Nor did legislators answer voter questions. SOAF ¶ 3; Rich. Dep. 182:2-5.

The actual map-drawing process was a partisan affair that took place behind closed doors. Black lawmakers believed that the Republican officials in charge of the process were not willing to entertain their input. SOAF ¶¶ 6-7; Dep. of Derrick Jackson [Dkt. 228] (“D. Jackson Dep.”) 20:9-21:5. Consistent with that, the Chair of the House Redistricting Committee testified that conversations with constituents and advocacy groups did not change her views on the maps because she viewed those Georgians as “very liberal.” SOAF ¶ 8; Rich Dep. 163:11-164:2. In the end, the House and Senate maps were passed out of committee along party and racial lines, with all five Black members voting against the maps. SOAF ¶¶ 9-10; J. Jones Dep. 207:5-209:3, 210:9-211:10. Days later, the General Assembly passed

both maps. SOAF ¶ 11; Exs. A-F. Not a single Black legislator voted in favor. SOAF ¶ 13; Exs. C-F. The entire process, from the public release of the maps through final passage, took less than two weeks. SOAF ¶ 11; Exs. A-F.

The resulting maps (the “Enacted Plans”) effectively froze the number of Black-majority legislative districts, despite the massive growth of Georgia’s Black population. The Enacted Senate Plan has the same number of Black-majority districts as the benchmark 2014 Plan, and only one more than the 2006 Plan. SOAF ¶ 54; Cooper Report Pt. 1 ¶ 70, Fig. 11. The Enacted House Plan has only two more Black-majority districts than the benchmark 2015 Plan, and four more than the 2006 Plan. SOAF ¶ 55; Cooper Report Pt. 1 ¶ 132, Fig. 23.

III. Plaintiffs File This Lawsuit

After the General Assembly approved the Enacted Plans, Governor Kemp waited for approximately 40 days, until December 30, 2021, to sign them into law. SOAF ¶ 12; Exs. A-B. Within hours, Plaintiffs brought this lawsuit under Section 2 of the Voting Rights Act, *see* Dkt. 1, and soon moved for a preliminary injunction, *see* Dkt. 26. After a six-day hearing featuring testimony from 15 witnesses, this Court held, in a 238-page opinion, that Plaintiffs were likely to succeed on the merits with respect to Senate and House districts in the Metro Atlanta area and elsewhere. *Alpha Phi Alpha*, 587 F. Supp. 3d at 1302. Among

other things, the Court concluded that Plaintiffs were likely to establish the three *Gingles* preconditions. *Id.* at 1241, 1266, 1311, 1314. However, the Court denied the request for relief in advance of the 2022 election, concluding that it was “a difficult decision” but that it was too late to change the district lines. *Id.* at 1327.

IV. Plaintiffs’ Illustrative Plans Add Majority-Black Districts While Respecting Traditional Districting Principles

To demonstrate *Gingles* 1, Plaintiffs’ expert William Cooper drew illustrative legislative maps (the “Illustrative Plans”). His goal was to determine whether creating additional majority-Black districts beyond those in the Enacted Plans “would be possible within the constraints of traditional districting principles.” SOAF ¶ 65; Cooper Dep. 33:23-25.

Mr. Cooper’s process was holistic and meticulous. He began by identifying two larger areas in the State with substantial Black populations where it might be possible to draw additional districts: Metro Atlanta, and the Black Belt, which runs roughly from Augusta to Southwest Georgia. SOAF ¶ 67; Cooper Report Pt. 1 ¶¶ 18-24, 25-35; Cooper Dep. 76:9-16, 77:2-8, 83:25-84:5. Mr. Cooper identified four regions within those larger areas on which to focus his inquiry further: South Metro Atlanta, the Eastern Black Belt, the Macon Metro, and the Western Black Belt. SOAF ¶ 68; Cooper Dep. 210:21-211:2; Cooper Report Pt. 1 ¶¶ 25-35. Mr. Cooper “did not think of [the regional areas] as being hard

boundaries,” Cooper Dep. 210:16-18, but as guideposts to aid the inquiry. SOAF ¶ 74; Cooper Dep. 97:13-15.

In drawing his Illustrative Plans, Mr. Cooper endeavored to balance all of the traditional districting principles, including “population equality, compactness, contiguity, respect for communities of interest, and the non-dilution of minority voting strength.” SOAF ¶ 75; Cooper Report Pt. 1 ¶ 10. He considered the Guidelines used by the General Assembly’s Redistricting Committees, as well as the benchmark and prior historical plans. SOAF ¶ 76; Cooper Dep. 37:2-6, 49:3-50:13. He considered compactness, testifying that he sought to “put together districts that are reasonably shaped, easy to understand, and . . . compact[.]” SOAF ¶ 77; Cooper Dep. 53:17-19. He considered population deviation, testifying that he worked to stay within the “very tight” limitations of the Enacted Plans (1% deviation for Senate districts, and 1.5% for House districts). SOAF ¶¶ 83-84; Cooper Report Pt. 1 ¶¶ 111, 184; Cooper Dep. 61:6-15, 121:20-122:7. And he considered county and precinct lines, testifying that he “made every effort to avoid splitting” counties and precincts. SOAF ¶ 78; Cooper Dep. 210:7-8.

Mr. Cooper also considered municipal boundaries, regional commission and county commission boundaries, and Census-defined metropolitan and core-based statistical areas. SOAF ¶ 86; Cooper Dep. 50:14-51:5; 207:9-208:17. He

considered geographic and economic features like transportation corridors. SOAF ¶ 86; Cooper Dep. 50:14-51:5; 207:9-208:17. He considered historical and socioeconomic connections. SOAF ¶ 86; Cooper Dep. 50:14-51:5; 207:9-208:17. He considered incumbent protection. SOAF ¶ 87; Cooper Dep. 48:24-49:2.

In addition to all these considerations, to ensure that he had some sense of “more or less where the Black population lives,” Mr. Cooper “sometimes” turned on a feature of his mapping software that indicated which precincts had an overall Black voting age population (“VAP”) of 30 percent or higher. SOAF ¶¶ 88-89; Cooper Dep. 60:15-61:1, 63:16-21. This feature did not display racial demographic information at a more granular level. SOAF ¶ 88; Cooper Dep. 60:15-61:1. When asked about maximizing the number of Black-majority districts, Mr. Cooper testified that was not his practice, as it would conflict with traditional districting principles. SOAF ¶ 92; Cooper Dep. 41:17-42:5. When asked whether he prioritized race over other districting considerations in drawing his Illustrative Plans, he testified, “absolutely not.” SOAF ¶ 91; Cooper Dep. 221:4-7.

The result of Mr. Cooper’s careful, balanced process is the Illustrative Plans, which add majority-Black Senate and House districts while considering all the traditional districting principles. The Illustrative Plans draw three additional majority-Black State Senate districts (two in South Metro Atlanta and one in the

Eastern Black Belt) and five additional majority-Black State House districts (two in South Metro Atlanta, one in the Eastern Black Belt, one in the Western Black Belt, and one in metropolitan Macon). SOAF ¶ 204; Cooper Report Pt. 1 ¶ 9.

Overall, Mr. Cooper's Illustrative Plans perform the same or better than the Enacted Plans on nearly every quantifiable metric. The overall compactness of each of the Illustrative Plans (as measured by Reock and Polsby-Popper scores) is virtually identical to those of the Enacted Plans. SOAF ¶¶ 93-98; Dep. of John Morgan [Dkt. 236] ("Morgan Dep.") 277:15-23, 278:16-279:3; Cooper Report Pt. 1 ¶ 114, Fig. 20 & ¶ 186 Fig. 36. Each Illustrative Plan has higher minimum compactness scores than the corresponding Enacted Plans (meaning the *least* compact district in each of the Illustrative Plans is more compact than the least compact district in the Enacted Plans). SOAF ¶¶ 97-98; Cooper Report Pt. 1 ¶ 114, Fig. 20 & ¶ 186, Fig. 36. The Illustrative Senate Plan splits fewer counties and fewer precincts than the Enacted Plan, and the Illustrative House Plan splits fewer counties and the same number of precincts. SOAF ¶ 99-101, 106-108; Cooper Report Pt. 1 ¶ 189, Fig. 37 & ¶ 116, Fig. 21. Each of the Illustrative Plans keeps more cities and towns intact than the Enacted Plans, and splits fewer regional commissions. SOAF ¶¶ 102-105, 109-110; Cooper Report Pt. 1 ¶ 116, Fig. 21, ¶ 119, Fig. 22, & ¶ 189, Fig. 37.

The individual new Black-majority districts in the areas of interest in the Illustrative Plans also compare favorably to those in the Enacted Plans. For example, Enacted Senate District (“SD”) 17 reaches out from diverse, booming Atlanta suburbs in Henry County to rural Morgan and Walton Counties, in a shape that the State’s own mapper Gina Wright conceded was “jagged.” SOAF ¶ 114; Dep. of Gina Wright [Dkt. 225] (“Wright Dep.”) 195:8-12. In contrast, Illustrative SD 17, which is majority-Black, groups nearby suburban areas that share socioeconomic commonalities in a smaller, more compact district. SOAF ¶¶ 116, 118-119; Cooper Report Pt. 1 ¶ 105, Fig. 17D; Cooper Dep. 139:14-19.

Similarly, Enacted SD 16 stretches for 50 miles to unite very different communities, connecting communities in suburban Atlanta such as Fayetteville with rural areas that are socioeconomically distinct. SOAF ¶¶ 127-129; Report of John Morgan [Dkt. 236-2] (“Morgan Report”) ¶¶ 24, 29; Cooper Report Pt. 1 ¶ 96, Fig. 16 & ¶ 126. By contrast, Illustrative SD 28, which is a new Black-majority district, is half the length (24 miles) and connects South Metro suburban and exurban communities that are geographically close and share socioeconomic characteristics. SOAF ¶¶ 127, 130-132; Morgan Report ¶¶ 24, 29; Cooper Report Pt. 1 ¶ 125; Cooper Dep. 126:25-127:9, 127:10-19, 130:14-23, 131:3-10.

Moreover (and in sharp contrast with Defendant’s assertion that Mr. Cooper

“could identify practically nothing beyond the race of the voters” that supported his line-drawing decisions, Br. 18), Mr. Cooper identified numerous reasons other than race for his various mapping decisions in configuring each and every one of the new majority-Black districts in the areas of focus:

- For majority-Black Illustrative SD 17, Mr. Cooper specifically identified: grouping suburban areas together, SOAF ¶ 118; Cooper Dep. 139:14-19, uniting counties with shared socioeconomic characteristics, such as similar levels of educational attainment, SOAF ¶ 119; Cooper Report Pt. 1 ¶ 127, and drawing a less “sprawling” and more compact district, SOAF ¶ 116; Cooper Report Pt. 1 ¶ 105, Fig. 17D.
- For majority-Black Illustrative SD 23, Mr. Cooper specifically identified: grouping counties in the historical Black Belt together, SOAF ¶ 122; Cooper Dep. 144:20-24; Cooper Report Pt. 1 ¶ 18, Fig. 1, uniting counties with shared socioeconomic characteristics, such as poverty levels, SOAF ¶ 123; Cooper Report Pt. 1 ¶ 129, staying within population deviation limits, SOAF ¶ 124; Cooper Dep. 143:8-17, 185:8-14, maintaining compactness, SOAF ¶ 125; Cooper Dep. 143:8-17, and following municipal and precinct lines in Wilkes County, SOAF ¶ 126; Cooper Report Pt. 1 ¶ 109 & Fig. 19B; Cooper Dep. 143:18-23, 144:4-8.

- For majority-Black Illustrative SD 28, Mr. Cooper specifically identified: uniting counties with shared socioeconomic characteristics, such as labor force participation, SOAF ¶ 130; Cooper Report Pt. 1 ¶ 125, connecting geographically proximate communities, SOAF ¶ 131; Cooper Dep. 126:25-127:9, 127:10-19, connecting suburban and exurban Metro communities, SOAF ¶ 132; Cooper Dep. 130:14-23, 131:3-10, keeping precincts whole, SOAF ¶ 133; Cooper Dep. 127:10-19, and avoiding a split of Griffin, the largest city and county seat of Spalding County, SOAF ¶ 134; Cooper Dep. 132:6-133:14.
- For majority-Black Illustrative House District (“HD”) 74, Mr. Cooper specifically identified: uniting counties with shared socioeconomic characteristics, such as labor force participation, SOAF ¶ 136; Cooper Report Pt. 1 ¶ 198, and connecting suburban communities, SOAF ¶ 137; Cooper Dep. 178:14-179:12.
- For majority-Black Illustrative HD 117, Mr. Cooper specifically identified: uniting counties with shared socioeconomic characteristics, such as labor force participation, SOAF ¶ 138; Cooper Report Pt. 1 ¶ 198, connecting geographically proximate communities, SOAF ¶ 139; Cooper Dep. 175:23-176:7, 217:9-24, adhering to population deviation

requirements, SOAF ¶ 140; Cooper Dep. 175:15-19, connecting exurban communities, SOAF ¶ 141; Cooper Dep. 176:2-7, 217:9-20, and following transportation corridors and precinct lines, SOAF ¶ 142; Cooper Dep. 176:17-22.

- For majority-Black Illustrative HD 133, Mr. Cooper specifically identified: connecting counties in the historical Black Belt, SOAF ¶ 143; Cooper Report Pt. 1 ¶¶ 174, 199, connecting counties with shared socioeconomic characteristics, such as similar levels of education, SOAF ¶ 144; Cooper Report Pt. 1 ¶ 199, protecting incumbents, SOAF ¶ 145; Cooper Dep. 183:8-12, 187:10-19, 188:12-18, following municipal boundaries, SOAF ¶ 146; Cooper Dep. 186:1-16, and following local county commission lines, SOAF ¶ 147; Cooper Dep. 186:1-16.
- For majority-Black Illustrative HD 145, Mr. Cooper specifically identified: connecting geographically proximate communities, SOAF ¶ 148; Cooper Report Pt. 1 ¶ 201, connecting counties with shared socioeconomic characteristics, such as poverty levels, SOAF ¶ 148; Cooper Report Pt. 1 ¶ 201, connecting communities within the Macon metropolitan statistical area, SOAF ¶ 149; Cooper Dep. 197:22-198:6, adhering to population deviation requirements, SOAF ¶ 150; Cooper

Dep. 197:22-198:6, and following regional commission boundaries, SOAF ¶ 151; Cooper Dep. 198:24-199:4.

- For majority-Black Illustrative HD 171, Mr. Cooper specifically identified: reducing splits of Dougherty County, SOAF ¶ 152; Cooper Dep. 193:18-25, connecting communities along historic U.S. Highway 19, a historic transportation and cultural corridor, SOAF ¶ 153; Cooper Dep. 189:2-7, 191:22-192:5, 193:7-12; Cooper Report Pt. 1 ¶ 178, connecting counties in the historical Black Belt, SOAF ¶ 154; Cooper Dep. 217:25-218:8, connecting counties with shared socioeconomic characteristics, such as similar levels of poverty, SOAF ¶ 155; Cooper Dep. 218:21-219:6; Cooper Report Pt. 1 ¶ 200, and consistency with prior district shapes, SOAF ¶ 156; Cooper Dep. 190:1-14.

V. Racially Polarized Voting Usually Results in the Defeat of Black-Preferred Candidates in the Areas of Interest

With respect to *Gingles* 2, in each of the areas of interest, *i.e.*, areas where the Illustrative Plans add majority-Black districts, Dr. Lisa Handley found that Black and White voters vote cohesively for different candidates. SOAF ¶¶ 166-168; Report of Lisa Handley [Dkt. 222, Ex. 3] (“Handley Report”) 9. In the 16 statewide general elections she analyzed, 96.1% of Black voters on average voted for the Black-preferred candidate, compared to just 11.2% of White voters. SOAF

¶¶ 166-167; Handley Report 9. The results were similar in the 54 state legislative contests she analyzed. SOAF ¶ 168; Handley Report 9.

On *Gingles* 3, Dr. Handley’s analysis also showed that Black-preferred candidates almost always lose due to White bloc voting outside of Black-majority districts. In those 54 state legislative races, “[a]ll but one of the successful Black state legislative candidates” preferred by Black voters were elected from majority-Black districts. SOAF ¶ 175; Handley Report 9-10.² Black voters, Dr. Handley explained, “are very unlikely to be able to elect their preferred candidates to the Georgia state legislature” in the areas of interest because “White voters in these areas consistently bloc vote to defeat the candidates supported by Black voters.” SOAF ¶¶ 176-177; Handley Report 9-10, 31.

Moreover, historical, sociopolitical, and statistical evidence illustrates that race plays a key role in the observed pattern of polarized voting. With respect to history, Dr. Ward found that race has “play[ed] a crucial role” in determining Georgia voters’ partisan alignment. SOAF ¶ 187; Report of Jason Ward [Dkt. 242-6] (“Ward Report”) 1, 13, 17-18, 22. Dr. Jones testified that one could “probably” “rule out partisanship” as the source of polarized voting patterns because racial

² The one exception came from a district where neither Black nor White voters made up a majority of the VAP. SOAF ¶ 175; Handley Report 9-10 & n.16.

polarization has “persisted” despite shifts in the partisan balance over time. SOAF ¶ 193; Dep. of Dr. Adrienne Jones [Dkt. 239] (“A. Jones Dep.”) 170:5-172:13.

With respect to contemporary politics, both Drs. Ward and Jones found that racial appeals in Georgia elections persist today and “continue to play a central role in political campaigns.” SOAF ¶¶ 194, 200; Ward Report 23; Report of Dr. Adrienne Jones [Dkt. 239-8] (“Jones Report Pt. 2”) at 37-44; A. Jones Dep. 172:8-13. For example, a robo-call referred to Stacey Abrams as a “Negress” and “a poor man’s Aunt Jemima” during her gubernatorial campaign. SOAF ¶ 201; Jones Report Pt. 2 38. Senator Raphael Warnock faced ad campaigns that darkened his skin color. SOAF ¶ 202; Jones Report Pt. 2 38-40. In 2020, a Republican congressional candidate in Georgia, who later prevailed, referred to Black people as the Democratic Party’s “slaves.” SOAF ¶ 203; Jones Report Pt. 2 42-43. The fact that these appeals focus on candidates’ race, and not simply on partisan affiliation, shows that race “continue[s] to play an important role in political campaigns in Georgia” and drives the polarization observed in these contests. *See* SOAF ¶ 200; Jones Report Pt. 2 37-44; A. Jones Dep. 172:8-13.

And with respect to quantitative analysis, Dr. Handley analyzed 11 recent Democratic primary elections in the seven areas of interest and found the majority of those 77 contests to be racially polarized. SOAF ¶ 183; Handley Report 9-10.

These results necessarily cannot be explained by party affiliation. SOAF ¶ 179; Dep. of Lisa Handley [Dkt. 222] (“Handley Dep.”) 33:21-25, 34:1-14; PI Hr’g Tr. (Feb. 10, 2022, AM) [Dkt. 109] 100:13-16; *cf.* SOAF ¶ 186; Dep. of John Alford [Dkt. 229] (“Alford Dep.”) 186:4-7 (agreeing primaries control for party when addressing voting behavior).

ARGUMENT

Summary judgment may be granted only “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “[T]he court must construe the facts and draw all rational inferences therefrom in the manner most favorable to the nonmoving party.” *Ga. NAACP*, 775 F.3d at 1343. Unlike at trial, the court “may not weigh the evidence or find facts” or “make credibility determinations.” *Ga. NAACP*, 775 F.3d at 1343 (quoting *Morrison v. Amway Corp.*, 323 F.3d 920, 924 (11th Cir. 2003)). If “there is sufficient evidence upon which a [fact-finder] could find” for Plaintiffs, then Defendant’s motion fails. *Ga. NAACP*, 775 F.3d at 1343 (quoting *Morrison*, 323 F.3d at 924) (cleaned up).

I. Defendant Is Not Entitled to Summary Judgment on *Gingles* 1

Plaintiffs agree with this Court that an illustrative plan may not “subordinate traditional redistricting principles to racial considerations substantially more than is

reasonably necessary to avoid liability under Section 2.” *Alpha Phi Alpha*, 587 F. Supp. 3d at 1264 (quoted in Br. 16). Mr. Cooper’s plans do no such thing.

Defendant’s assertion that “the evidence demonstrates” improper racial gerrymandering (Br. 16-18) is a one-sided construction of the facts that the record does not support and a factfinder would readily reject. Summary judgment on such a complex and factual question is plainly improper. *Ga. NAACP*, 775 F.3d at 1343. Especially so here, because each of Defendant’s factual premises is faulty.

First, Defendant claims that Mr. Cooper “used racial shading and other techniques in his efforts to create majority-Black districts” (Br. 16), but the one software feature in the record that he could be referencing—which Mr. Cooper used to occasionally show dots on precincts with over 30% Black VAP, SOAF ¶ 88; Cooper Dep. 60:15-16—is by no means impermissible. *Miller v. Johnson*, 515 U.S. 900 (1995), on which Defendant relies, is off point in at least two ways. For one, the “shading” at issue there displayed much more extensive data, namely the particular concentration of Black population across the State map. *Id.* at 925. Here, in contrast, the feature Mr. Cooper used indicates only which precincts have a Black VAP of 30% or greater. More importantly, though, the use of “shading” was not the issue in *Miller*. Rather, the problem was the adoption of a “policy of maximizing majority-black districts.” *Id.* at 924-25. Here, Mr. Cooper testified he

did *not* engage in maximization, and a fact-finder could credit his testimony (especially given that the Illustrative Plans have *fewer* Black majority districts than the preliminary injunction stage plans). SOAF ¶ 92; Cooper Dep. 41:17-42:5.

Defendant also claims that Mr. Cooper could not “identify factors that connected areas of his new majority-Black districts” (Br. 16-17) and that he “could identify practically nothing beyond the race of the voters in a number of his districts that united them” (Br. 18), but Mr. Cooper’s report and deposition provide a litany of examples to the contrary. *See supra* pp. 13-16 (listing pages of examples for each new Black-majority district in the Illustrative Plans and citing SOAF ¶¶ 113-157 and underlying record).³ To take just one, for majority-Black Illustrative SD 28, Mr. Cooper identified at least five different principles other than race that featured in his configuration of the district, including uniting counties with shared socioeconomic characteristics, connecting geographically proximate communities, connecting suburban and exurban Atlanta Metro area communities, keeping precincts whole, and avoiding a split of the City of Griffin. *See* SOAF ¶¶ 130-134; Cooper Dep. 126:25-127:9, 127:10-19, 130:14-23, 131:3-10, 132:6-

³ Defendant also asserts (Br. 17) that Cooper drew districts based on “the common community of interest shared by all Black individuals,” but ignores Cooper’s testimony that, notwithstanding the connections of history and experience shared by African-Americans in Georgia, there might also be communities-of-interest reasons *not* to group Black Georgians together. Cooper Dep. 209:2-6.

133:14; Cooper Report Pt. 1 ¶¶ 100, 125 & Fig. 17B. A fact-finder could easily reject Defendant’s unsubstantiated characterization of Mr. Cooper’s process.

Defendant also claims that “when [Mr. Cooper] split counties, he did so in ways that ensured higher concentrations of Black voters were included in the portions of counties in the new majority-Black districts” (Br. 17), but he cites nothing from the record to support that characterization. In fact, the record says otherwise. For example, as to the split of Baldwin County around Milledgeville in the Illustrative House Plan, Mr. Cooper testified that he configured those lines “to figure out a way to try to draw a plan that was somewhat more reasonably shaped than the municipal boundaries of Milledgeville” and because “there’s an incumbent who lives somewhere in all this as well.” Cooper Dep. 181:25-182:23, 183:11-12; *see also, e.g.*, Cooper Report Pt. 1 ¶ 171. When asked whether he had ever “reviewed the racial composition of the split of Milledgeville,” Mr. Cooper testified he had not. Cooper Dep. 183:4-7. Or for another example, in dividing Spalding County, Mr. Cooper used the City of Griffin’s municipal boundaries—a quintessential community of interest—as the district boundary. SOAF ¶ 134; Cooper Report Pt. 1 ¶ 100 & Fig. 17B; Cooper Dep. 132:6-133:14. Again, a fact-finder could easily reject Defendant’s broad-brush characterization.

Defendant next argues that Plaintiffs present “no evidence of the geographic

compactness of the Black community in the proposed new districts aside from the fact that they are drawn” (Br. 17-18), wholly ignoring Mr. Cooper’s demographic analysis identifying regions and counties where Black Georgians are especially numerous and concentrated, SOAF ¶¶ 67-74; *e.g.*, Cooper Report Pt. 1 ¶¶ 18-24, 25-35, 38, 54, 119; Cooper Dep. 76:9-16, 77:2-8, 83:25-84:7, 97:13-15, 210:16-18, 210:21-211:2. Consistent with that, Mr. Cooper explicitly referenced the geographic compactness and proximity of the Black populations he connected as a factor in his decisions. *See, e.g.*, SOAF ¶¶ 139, 146; Cooper Dep. 175:23-176:7, 186:1-16, 217:9-24. Defendant never even engages with this evidence.

Defendant also states that Mr. Cooper’s districts “combine distinct minority communities, often with intervening white population” (Br. 18) but (again) never explains what if any specific districts or “distinct communities” this characterization is meant to address. In any case, Mr. Cooper rejected this characterization. When asked whether there was “intervening white population” between the communities of Griffin and Locust Grove, Mr. Cooper replied that he was “just . . . not that concerned” about “the race of people at one point or another within a district.” Cooper Dep. 176:23-177:8, 178:9-13. Mr. Cooper also rejected the idea that Griffin and Locust Grove were impermissibly divergent communities, pointing out that they are both exurban communities that are “a stone’s throw”

from one another. SOAF ¶ 139; Cooper Dep. 175:23-176:7, 217:9-24. A fact-finder could credit this testimony that Mr. Cooper properly combined similar, proximate communities over Defendant’s unsupported contrary assertions.

Last, Defendant unconvincingly suggests that the Illustrative Plans are similar to the 300-mile-long congressional district at issue in *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 433 (2006) (“*LULAC*”). Br. 18. The Supreme Court rejected that district as insufficiently compact, based on “the enormous geographical distance separating the Austin and Mexican-border communities, coupled with the disparate needs and interests of these populations.” *LULAC*, 548 U.S. at 435. None of the districts in Mr. Cooper’s map remotely resembles the one in *LULAC*, and Defendant never even tries to show otherwise.

The bottom line is that Mr. Cooper balanced all of the traditional districting principles and drew a map that contains more compact districts, keeps more communities whole, and adds Black-majority districts in areas with substantial increasingly concentrated Black populations. *See supra* pp.13-16; SOAF ¶¶ 65, 91; Cooper Dep. 33:18-34:1, 221:4-7; Cooper Report Pt. 1 ¶¶ 9-10, 13; *cf. LULAC*, 548 U.S. at 433 (“While no precise rule has emerged governing § 2 compactness, the inquiry should take into account traditional districting principles such as maintaining communities of interest and traditional boundaries.” (internal

quotations omitted)). Defendant's own expert conceded that he was offering no opinion about whether the Illustrative Plans comply with traditional districting principles or whether Mr. Cooper's consideration of race was merely consistent with Voting Rights Act compliance. SOAF ¶¶ 158, 162, 163; Morgan Dep. 70:3-8, 247:18-248:8, 254:8-12, 305:16-20. On this record, a rational trier of fact could easily credit Mr. Cooper's testimony and conclude that his careful work did not gratuitously subordinate traditional districting principles to racial considerations.

II. Defendant Is Not Entitled to Summary Judgment on *Gingles* 2 and 3

Defendant's second proposed ground for summary judgment also fails. This Court has already held that "Plaintiffs need not prove the causes of racial polarization, just its existence," to satisfy *Gingles* 2 and 3. *Alpha Phi Alpha*, 587 F. Supp. 3d at 1303, 1312. Under that standard, Plaintiffs have conclusively established *Gingles* 2 and 3. And even if Plaintiffs had to affirmatively disprove race-neutral causes of polarized voting (and they do not), the next step would be a trial on contested facts, not summary judgment.

A. The Record Demonstrates Racially Polarized Voting

Under the *Gingles* framework, racially polarized voting consists of two conditions: "whether minority group members constitute a politically cohesive unit" (*Gingles* 2) and "whether whites vote sufficiently as a bloc usually to defeat

the minority's preferred candidates" (*Gingles* 3). *Thornburg v. Gingles*, 478 U.S. 30, 56 (1986). Plaintiffs have satisfied those conditions.

As to cohesion, Dr. Handley found that Black and White voters vote cohesively in all seven areas of Georgia that are the focus of this litigation, with over 90% of Black voters cohesively supporting their preferred candidates, versus approximately just over 10% of White voters. SOAF ¶¶ 166-168; Handley Report 9. Defendant's own expert, Dr. Alford, conceded that a "very high level of cohesion" exists among both Black and White voters and that Black and White voters are cohesively "supporting different candidates." SOAF ¶¶ 170, 173; *e.g.*, Alford Dep. 88:8-89:19, 112:10-113:13; *see also, e.g.*, SOAF ¶ 171; Alford Dep. 90:3-12 ("extremely cohesive Black support"). Such evidence of political cohesion easily satisfies *Gingles* 2. *See, e.g., Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1306 (11th Cir. 2020) ("*Wright II*"); *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018).

As to *Gingles* 3, Dr. Handley found that, because of racial bloc voting, Black voters are unable to elect their candidates of choice, absent a majority or near-majority Black population in the district. SOAF ¶¶ 176-177; Handley Report 9-10, 31. Those conclusions align with numerous federal court decisions holding that White bloc voting usually causes Black-preferred candidates to lose elections in

Georgia. *See, e.g., Wright II*, 979 F.3d at 1304; *Ga. NAACP*, 775 F.3d at 1340; *Hall v. Holder*, 117 F.3d 1222, 1229 (11th Cir. 1997). And here too, Dr. Alford conceded that it “may well be the case” that Black voters are generally unable to elect their preferred candidates in the challenged districts due to bloc voting by White voters. *See* SOAF ¶ 178; Alford Dep. 91:9-18.

B. Defendant’s Alternative View of the Law Is Incorrect

With the evidence conclusively against him under the existing legal standard, Defendant asks the Court to adopt a new one. Defendant argues that Plaintiffs not only must prove the existence of polarization resulting in the defeat of Black-preferred candidates, but also must *disprove* that polarized voting patterns are “on account of politics” rather than race. (Br. 5, 18-20). That is not the law.

Section 2’s text is to the contrary. In arguing that Plaintiffs must rule out other potential causes of racial polarization, Defendant rewrites the phrase “on account of race” in Section 2 as “*exclusively* on account of race.” *See* 52 U.S.C. § 10301. But the statute contains no such limitation. *See Friends of Everglades v. S. Fla. Water Mgmt. Dist.*, 570 F.3d 1210, 1224 (11th Cir. 2009) (“[W]e are not allowed to add or subtract words from a statute; we cannot rewrite it.”). As a matter of text, Section 2 Plaintiffs “are not required to prove the negative” to show racial polarization. *Nipper v. Smith*, 39 F.3d 1494, 1525 (11th Cir. 1994) (en banc)

(plurality op.); *see also* S. Rep. No. 97-417, at 27 n.109 (1982), *as reprinted in* 1982 U.S.C.C.A.N. 177 (“on account of race” means “with respect to race”).

Nor does precedent support the argument. Eleventh Circuit precedent—which Defendant ignores—is clear that a plaintiff is under no obligation to disprove partisanship in order to satisfy *Gingles* 2 and 3. *E.g.*, *Nipper*, 39 F.3d at 1525 (en banc) (plurality op.).⁴ Proof that “a bloc voting majority [will] *usually* be able to defeat candidates supported by a politically cohesive, geographically insular minority group” will “ordinarily create a sufficient inference that racial bias is at work.” *Id.* at 1525-26 (citing *Gingles*, 478 U.S. at 49). *Defendant* may then “rebut proof of vote dilution by showing that losses by minority-preferred candidates are attributable to non-racial causes.” *Nipper*, 39 F.3d at 1524, 1526; *see also Johnson v. Hamrick*, 196 F.3d 1216, 1220 (11th Cir. 1999). Such rebuttal evidence goes to the totality of the circumstances. *Nipper*, 39 F.3d at 1524 & n.60; *see also Alpha Phi Alpha*, 587 F. Supp. 3d at 1303.

Defendant’s reliance on Supreme Court precedent (Br. 19-21) is similarly unavailing. Contrary to Defendant’s suggestion, this Court correctly articulated

⁴ A majority of the *Nipper* en banc court did not disagree with Judge Tjoflat’s burden-shifting framework. *See* 39 F.3d at 1547 (Edmonson, J., concurring) (“I do not say that the rest of the Chief Judge’s opinion is wrong.”). And a panel later applied it. *See Johnson v. Hamrick*, 196 F.3d 1216, 1220 (11th Cir. 1999).

the standard set forth in *Gingles*. As to *Gingles* 2, the *Gingles* majority (and this Court) explained that “showing that a significant number of minority group members usually vote for the same candidates” sufficiently demonstrates “the political cohesiveness necessary to a vote dilution claim.” 478 U.S. at 56; *see also id.* at 53 n.21 (defining “racial bloc” or “racially polarized” voting as a situation “where ‘black voters and white voters vote differently’” (cleaned up)); *Alpha Phi Alpha*, 587 F. Supp. 3d at 1302. And as to *Gingles* 3, the majority (and this Court) explained it was sufficient for a plaintiff to show “a white bloc vote that normally will defeat the combined strength of minority support plus white ‘crossover’ votes.” 478 U.S. at 56;⁵ *Alpha Phi Alpha*, 587 F. Supp. 3d at 1312. None of the *Gingles* opinions purports to require plaintiffs to affirmatively *disprove* the role of

⁵ The *Gingles* plurality is even clearer on this point. It explained that racially polarized voting “means simply that the race of voters correlates with the selection of a certain candidate or candidates.” *Gingles*, 478 U.S. at 62 (plurality op.). That comports with Congress’s aims in the 1982 amendments, including “omit[ting]” language that “had [been] interpreted to require proof of discriminatory intent” and focusing instead on the “results” of a challenged voting scheme. *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2337 (2021).

politics in order to prevail on a vote dilution claim.⁶

The Court’s subsequent decision in *LULAC* confirms the applicable standard. There (as here), racial polarization in the relevant area was “severe.” 548 U.S. at 427. And there (as here), bloc voting by “the Anglo citizen voting-age majority will often, if not always, prevent Latinos from electing the candidate of their choice.” *Id.* On those facts, the Court held that plaintiffs had “demonstrated sufficient minority cohesion and majority bloc voting to meet the second and third *Gingles* requirements.” *Id.*; *see also Growe v. Emison*, 507 U.S. 25, 40 (1993) (*Gingles* 2 and 3 are aimed at “establish[ing] that the challenged districting thwarts a distinctive minority vote by submerging it in a larger white voting population”) (citing *Gingles*, 478 U.S. at 50). Even though in *LULAC* (as here) it was also true that race strongly correlated with partisanship, 548 U.S. at 423-24, the Court did not require plaintiffs to disprove “politics” as a cause of the polarization.

Defendant’s out-of-circuit cases (Br. 25-26) likewise fail to turn the tide. In *League of United Latin American Citizens, Council No. 4434 v. Clements*, 999

⁶ Defendant wrongly characterizes (Br. 20) the concurring opinions of Justice O’Connor and Justice White in *Gingles*, which do not suggest any requirement for Section 2 plaintiffs to disprove non-racial causes of voting patterns. Rather, those concurrences only express disagreement with Justice Brennan’s conclusion that causation evidence is *always* irrelevant, deeming such a categorical conclusion “not necessary to the disposition of this case.” *Gingles*, 478 U.S. at 101 (O’Connor, J., concurring); *see also id.* at 83 (White, J., concurring).

F.2d 831 (5th Cir. 1993) (en banc), the Fifth Circuit held only that the district court erred when it categorically “excluded evidence” of nonracial causes of voting preferences. 999 F.2d at 850-51. The court expressly declined to impose a rule requiring Section 2 plaintiffs to affirmatively disprove nonracial explanations for voter polarization. *Id.* at 860. It explained that the extent to which “‘partisan politics’ is ‘racial politics’” is a fact-specific question to be resolved at trial, and that “courts should not summarily dismiss vote dilution claims” unless “the record *indisputably proves* that partisan affiliation, not race, best explains the divergent voting patterns.” *Id.* at 850, 860-61 (emphasis added). Here, the record does no such thing. Moreover, the Fifth Circuit later applied the *Nipper* plurality’s burden-shifting framework, under which the burden is on *defendants* to “show[] that no [racial] bias exists in the relevant voting community.” *Teague v. Attala Cnty.*, 92 F.3d 283, 290 (5th Cir. 1996) (citing *Nipper*, 39 F.3d at 1524).

Defendant fares no better with *Uno v. City of Holyoke*, 72 F.3d 973, 981 (1st Cir. 1995). There, the First Circuit held that a defendant *may* offer causation evidence for a court to consider in its totality-of-circumstances analysis. *See id.* at 980. But *Uno* expressly rejected Defendant’s proposed approach: “[E]stablishing vote dilution does not require the plaintiffs affirmatively to disprove every other possible explanation for racially polarized voting.” *Id.* at 983.

Defendant's remaining arguments are likewise without merit. For one, Defendant claims that, unless established law is jettisoned in favor of his new legal standard, Section 2 might somehow come to guarantee proportional representation. Br. 25. That speculation ignores the other elements that vote dilution plaintiffs must satisfy: *Gingles* 1 limits claims to areas where the minority population is of a certain size and compactness, while the totality of circumstances analysis ensures that Section 2 plaintiffs prevail only when racial inequality in the political process is shown. *See* 52 U.S.C. §10301(b); *Solomon v. Liberty Cnty.*, 957 F. Supp. 1522, 1553 (N.D. Fla. 1997) (lack of racial bias requirement “does not lead to proportional representation”).

Defendant also wrongly suggests that Section 2's results-based test is unconstitutional because it provides “preferential treatment to particular racial groups.” Br. 27-29. But Congress has the power “both to remedy and to deter violations of rights,” including by prohibiting conduct that is “not itself forbidden by the [Fifteenth] Amendment[s]’s text.” *Nev. Dep’t of Hum. Res. v. Hibbs*, 538 U.S. 721, 727 (2003) (citations omitted). Congress determined that the results-based test was necessary in light of “extensive . . . Fifteenth Amendment violations that called out for legislative redress” and that would go unremedied and undeterred if proof of discriminatory intent were required. *Brnovich v. Democratic*

Nat'l Comm., 141 S. Ct. 2321, 2333 (2021); *see also* S. Rep. No. 97-417, at 26-27; *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966). And Congress incorporated circumstantial considerations (now called the “Senate Factors”) that are “relevant to the issue of intentional discrimination” as part of the overall, totality-of-the-circumstances analysis. *See Rogers v. Lodge*, 458 U.S. 613, 619-20 n.8, 624 (1982); S. Rep. No. 97-417, at 23-24. Section 2 thus depends in part on a showing of racial inequality; contrary to Defendant’s suggestion (Br. 22-23), plaintiffs do not and cannot prevail simply by dint of the Democratic Party losing elections. Far from improving on the well-worn *Gingles* framework, Defendant’s proposed new standard “would undermine the congressional intent behind the 1982 amendments to the VRA,” *Alpha Phi Alpha*, 587 F. Supp. 3d at 1303.

C. A Rational Trier of Fact Could Conclude that Racially Polarized Voting in Georgia Is Caused by Race

Regardless of the stage at which this Court considers causation and the role of partisanship, summary judgment would be inappropriate here, where Plaintiffs have put forth evidence that race best explains polarized voting in Georgia.

First, the historical evidence demonstrates that the partisan divide is driven by racial division and biases. According to Dr. Ward, for over 150 years “race has been the most consistent predictor of partisan preference in Georgia.” SOAF ¶ 191; Ward Report 1, 22; *see also* SOAF ¶ 192; Dep. of Jason Ward [Dkt. 242]

(“Ward Dep.”) 77:20-78:6. Attitudes towards Black voters and civil rights caused politics in Georgia to shift during the second half of the twentieth century “from an all-white Democratic Party to an overwhelmingly white Republican party over the course of a few decades,” continuing “to the present.” SOAF ¶¶ 189-190; Ward Report 17-18. The persistence of polarization in Georgia, despite shifts in the partisan landscape, demonstrates how race, not party, drives voting behavior. SOAF ¶ 193; A. Jones Dep. 170:5-172:13. Georgia voters have no inherent attachment to party labels—but have switched sides when the parties’ attitudes towards race and minorities change.⁷ See *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 845 (M.D. La.), *cert. granted before judgement*, 142 S. Ct. 2892 (2022).

Second, “racial appeals continue to play a central role in political campaigns in Georgia,” entrenching the parties’ racialized split. SOAF ¶¶ 195-200 (cleaned up); Jones Report Pt. 2 37-44 (cleaned up); A. Jones Dep. 172:8-13; Ward Report 1, 23. That includes both overt and subtle racial appeals such as “conflat[ing] Black voting with urban politics, the welfare state, federal intervention, and electoral corruption.” SOAF ¶ 195; Ward Report 1. Such “coded racial appeals

⁷ Courts have credited similar evidence in other cases. See, e.g., *League of Women Voters of Fla., Inc. v. Lee*, 595 F. Supp. 3d 1042, 1078, 1081 (N.D. Fla. 2022); *Rodriguez v. Harris County*, 964 F. Supp. 2d 686, 775, 777 (S.D. Tex. 2013), *aff’d sub nom. Gonzalez v. Harris Cnty.*, 601 F. App’x 255 (5th Cir. 2015).

have continued to this day.” *Alpha Phi Alpha*, 587 F. Supp. 3d at 1318; *see also Rodriguez v. Harris Cnty.*, 964 F. Supp. 2d 686, 776 (S.D. Tex. 2013) *aff’d sub nom. Gonzalez v. Harris Cnty.*, 601 F. App’x 255 (5th Cir. 2015) (crediting similar testimony). And third, statistical analysis shows that racial polarization persists in Democratic primaries, *e.g.*, SOAF ¶ 183; Handley Report 9-10, which necessarily “undermines Defendants’ contention that the polarization is the result of partisan factors.” *Alpha Phi Alpha*, 587 F. Supp. 3d at 1311. Dr. Alford even conceded that these primary results cannot be explained by party affiliation. SOAF ¶ 180; Alford Dep. 186:4-7.

On this record, a factfinder could conclude that partisan affiliation in Georgia is driven by race, and that race better explains voting patterns in the State. Even under Defendant’s proposed standard, the relationship between partisanship and racial polarization is at best the subject of factual dispute to be resolved at trial.

CONCLUSION

Defendant’s motion should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

/s/ Rahul Garabadu

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing *Plaintiffs' Response in Opposition to Defendant's Motion for Summary Judgment* with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel or parties of record on the service list:

This 19th day of April, 2023.

/s/ Rahul Garabadu

APA Doc. 268

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

**ALPHA PHI ALPHA FRATERNITY,
INC., et al.,**

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION CASE

No. 1:21-CV-5337-SCJ

ORDER

This matter appears before the Court on Secretary of State Raffensperger's Motion for Summary Judgment. Doc. No. [230].¹ Plaintiffs responded in opposition (Doc. No. [244]), and the Secretary replied in support of his Motion (Doc. No. [252]). On May 18, 2023, the Court heard argument on the Motion. Doc. No. [257]. Following the Supreme Court's ruling in

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

Allen v. Milligan, 599 U.S. --, 143 S. Ct. 1487 (2023), the Parties submitted supplemental briefing. Doc. Nos. [262]; [263].

Defendant’s Motion for Summary Judgment is now ripe for review. The inquiry into a vote dilution claim must involve a “comprehensive, not limited canvassing of relevant facts.” Johnson v. De Grandy, 512 U.S. 997, 1011 (1994). The Court has thoroughly analyzed the Parties’ Statements of Material Facts, the Record, and the Parties’ arguments and ultimately determines that the Motion must be **DENIED**. Material questions of fact remain as to all aspects of Plaintiffs’ claims, and the Court cannot rule for Defendant without making factual determinations, weighing evidence, and assessing the credibility of the experts. Unlike on a motion for a preliminary injunction, these determinations are impermissible on a motion for summary judgment.

* * * * *

“The political franchise of voting . . . is regarded as a fundamental political right, because [it is] preservative of all other rights.” Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886). The Supreme Court’s “paramount concern has remained an individual and personal right—the right to an equal vote.” Gaffney v. Cummings, 412 U.S. 772, 781 (1973) (Brennan, J., concurring). And the

“[p]assage of the Voting Rights Act of 1965 was an important step in the struggle to end discriminatory treatment of minorities who seek to exercise one of the most fundamental rights of [American] citizens: the right to vote.” Bartlett v. Strickland, 556 U.S. 1, 10 (2009).

In the intervening 58 years since the passage of the Voting Rights Act (“VRA”) and 37 years since its most substantive amendment, that law has ensured that minority voters have an equal opportunity to participate in elections and elect candidates of their choice. Specifically, Section 2 was enacted to forbid, in all 50 States, any “standard, practice, or procedure . . . imposed or applied . . . to deny or abridge the right of any citizen of the United States to vote on account of race or color.” Shelby Cnty. v. Holder, 570 U.S. 529, 536 (2013). As Chief Justice Roberts opined a decade ago, “Section 2 applies nationwide [and] is permanent” Id. at 537.

Approximately 17 months ago, the Court presided over a preliminary injunction hearing—coordinated with two related cases ²—where various

² Coakley Pendergrass, et al. v. Brad Raffensperger, et. al., No. 1:21-cv-5339, Doc. Nos. [90]–[95] (N.D. Ga. Feb. 7, 2022) (“Pendergrass”); Annie Lois Grant, et al. v. Brad Raffensperger, et al., No. 1:22-cv-122, Doc. Nos. [84]–[89] (N.D. Ga. Feb. 7, 2022) (“Grant”).

Plaintiffs challenged Georgia's congressional, State Senate, and State House of Representative maps, which had been enacted in 2022 following the 2020 Decennial Census. Doc. Nos. [126]–[131]. During the six-day hearing, the Court heard from various fact and expert witnesses about whether the enacted Georgia maps violated Section 2 of the VRA. After carefully weighing the evidence and determining the credibility of the expert witnesses, the Court denied Plaintiffs' Motion for a Preliminary Injunction in all three cases because it was too close to the scheduled primary elections to implement any changes to Georgia's electoral maps. Alpha Phi Alpha Fraternity, Inc. v. Raffensperger, 587 F. Supp. 3d 1222, 1326–27 (N.D. Ga. 2022). However, the Court also found that Plaintiffs in the coordinated cases had a substantial likelihood of success in proving that Georgia violated Section 2 of the VRA by failing to draw a majority-Black congressional District in the western Atlanta metropolitan area, two additional majority-Black State Senate Districts in the southeastern Atlanta metro area, and two additional majority-Black House Districts in the Atlanta metro area and one in southwestern Georgia. Id. at 1320.

The Court begins this Order with a brief overview of the legal developments since the Court issued its order addressing the preliminary injunction motions.

In January of 2022, minority voters in Alabama challenged Alabama's congressional maps. Singleton v. Merrill, 582 F. Supp. 3d 924 (N.D. Ala. 2022). A three-judge court held a preliminary injunction hearing regarding whether the legislature should have drawn a second majority-minority district in Alabama. Id. The three-judge court ruled that Plaintiffs had a substantial likelihood of success in proving that Alabama's congressional map violated Section 2 of the VRA and issued a preliminary injunction, ordering the legislature to redraw the congressional map with a second majority-Black district. Id. at 1026. Alabama moved for a stay of the injunction. Merrill v. Milligan, 142 S. Ct. 879 (2022).³ The Supreme Court, without opinion, granted the stay. Id. Concurring in the stay, Justice Kavanaugh opined that the three-judge court should have abstained from granting the injunction because it was too close to Alabama's primary election

³ The Allen case was initially filed under the caption Merrill v. Milligan. On January 26, 2023, the State moved to remove the secretary of state (John H. Merrill) from the action and substitute his successor (Wes Allen). See Notification Regarding Substitution of Party Pursuant to S. Ct. R. 35.3, Allen v. Milligan, 143 S. Ct. 1487 (2023), (No. 21-1086).

date. Id. at 879–82. In other words, Alabama would be forced to change its primary election date to effectuate the injunction. Id. at 880–81. And, under Purcell v. Gonzalez, 549 U.S. 1 (2006), federal courts should abstain from making rulings that would force the State to change its election procedures. Id. Specifically, “[l]ate judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others. It is one thing for a State on its own to toy with its election laws close to a State’s elections.” Id. at 881. The Supreme Court also *sua sponte* converted the motion to stay into a writ of certiorari, which it granted and added the case to its October 2022 term. Id. at 879.

Following briefing and oral argument, on June 8, 2023, the Supreme Court ruled on whether Black Alabama voters proved that they had a substantial likelihood of success in showing that Alabama’s congressional map diluted the Black population’s vote in Alabama’s Black belt region. Allen, 143 S. Ct. 1487. A majority of the Court found the State should have drawn a second majority-Black district. Id. Chief Justice Roberts delivered the opinion of the Court, a 5-4 decision, affirming the three-judge court’s order finding that Plaintiffs had a substantial likelihood of success in proving that Alabama’s

current congressional map violated Section 2 of the VRA. Id. at 1504. In the majority opinion, the Chief Justice left the Thornburg v. Gingles, 478 U.S. 30 (1986) test virtually untouched:

Gingles has governed our Voting Rights Act jurisprudence since it was decided 37 years ago. Congress has never disturbed our understanding of § 2 as Gingles construed it. And we have applied Gingles in one § 2 case after another, to different kinds of electoral systems and to different jurisdictions in States all over the country.

Id. Thus, when asked to create a new, race-neutral test for deciding whether an electoral map violates Section 2 of the VRA, the majority of the Justices declined to do so. Id. at 1510–12. The plurality opinion⁴ states that “Alabama’s [race-neutral] approach fares poorly” when “operat[ing] in practice” “which further counsels against [] adopting it.” Id. at 1510. Specifically, the plurality notes that “Section 2 itself ‘demands consideration of race.’ The question whether

⁴ “When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds.” Marks v. United States, 430 U.S. 188, 193 (1977) (cleaned up). But see Horton v. Zant, 941 F.2d 1449, 1464 n.32 (11th Cir. 1991) (“[P]lurality opinions are not binding on [the Eleventh Circuit]; however, they are persuasive authority.”). Part III-B-1 of Allen is not the Court’s holding; rather it is the Court’s reasoning for rejecting a part of Alabama’s proposed test. Thus, the Allen majority’s holding is binding.

additional majority-*minority* districts can be drawn, after all, involves a ‘quintessentially race-conscious calculations.’” Id. (emphasis in original) (citing Abbott v. Perez, 585 U.S. at ---, 138 S. Ct. 2305, 2315 (2018); De Grandy, 512 U.S. at 1020). Thus, a race-neutral approach for determining a Section 2 violation is not consistent with the text of the statute. Second, the majority declined to add a “condition [that] . . . would . . . requir[e] that plaintiffs demonstrate, at the totality of the circumstances stage, that the State’s enacted plan contains fewer majority-minority districts than the race-neutral benchmark.” Id. at 1512. Finally, the majority declined to require Plaintiffs to prove that “race-neutral alternatives” to the State’s enacted plan “c[ould] be explained *only* by race” because it conflicted with the “precedents and the legislative compromise struck in the 1982 amendments[, which] clearly rejected treating discriminatory intent as a requirement for liability under § 2.” Id. at 1514.

Justice Kavanaugh’s concurrence likewise rejected Alabama’s attempt to create a new Section 2 vote dilution test. He reasoned that under the doctrine of statutory *stare decisis*, “‘the Court has ordinarily left the updating or correction of erroneous statutory precedents to the legislative process.’” Id. at 1517 (Kavanaugh, J., concurring) (quoting Ramos v. Louisiana, 140 S. Ct. 1390, 1413

(2020)). He also rejected that the Gingles test requires that the number of majority-minority⁵ districts be proportional to the minority population because under that formulation, “States would be forced to group together geographically dispersed minority voters into unusually shaped districts,” which is not the test.⁶ Id. at 1518. Finally, Justice Kavanaugh refused to address the constitutional question of whether Section 2 should continue to extend into the future because it was not raised before the Court.⁷ Id. at 1519.

⁵ The Court takes judicial notice that the parties in Grant, Doc. No. [192], ¶ 58 agree that “[m]ap-drawers distinguish ‘majority-minority’ from ‘majority-Black.’ Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single race category constitute a majority of a district.” The Court clarifies that as a legal term of art, majority-minority districts and opportunity districts can refer to districts where a single-minority group makes up the majority of a particular district. See Allen, 148 S. Ct. at 1506–1514 (using the term majority-minority districts to describe districts where the Black population, alone, exceeded 50% of the proposed district); Abbott, 138 S. Ct. at 2315 (“[i]n a series of cases tracing back to Gingles, we have interpreted this standard to mean that, under certain circumstance, States must draw ‘opportunity’ districts in which minority groups form ‘effective majorit[ies].’”) (cleaned up). Thus, when the Court uses the term majority-minority districts it encompasses majority-Black districts.

⁶ Justice Kavanaugh also rejected Alabama’s suggestion for reliance on a race-blind computer simulation to prove a Section 2 violation because intentional discrimination is not the test under the VRA. Allen, 142 S. Ct. at 1518.

⁷ Justice Kavanaugh made this point in response to Justice Thomas’s dissent. Allen, 143 S. Ct. 1519. Justice Thomas wrote that “the amended § 2 lacks any such salutary limiting principles; it is unbounded in time, place, and subject matter, and its

In summary, the majority of the Supreme Court Justices held that Section 2 jurisprudence, in its current formulation, continues to be the law. And all five Justices in the majority rejected Alabama's request to create a new vote dilution test.

With this history in mind, the Court now enters the following Order on Defendant's Motion for Summary Judgment (Doc. No. [230]).⁸

districting-related commands have no nexus to any likely constitutional wrongs Such a statute 'cannot be considered remedial, preventative legislation,' and the race-based redistricting it would command cannot be upheld under the Constitution." *Id.* at 1544 (Thomas, J. dissenting) (citing *City of Boerne v. Flores*, 521 U.S. 507, 532 (1997)).

⁸ Following *Allen*, the Supreme Court summarily dismissed another Section 2 redistricting case, *Ardoin v. Robinson*, No. 22-30333, as a writ of certiorari improvidently granted. Doc. No. [264], 8. Plaintiffs argue that the dismissal supported Plaintiffs' supplemental response. *Id.* at 3. Defendant argues that the dismissal offers no precedential value. Doc. No. [267]. The Court takes judicial notice that the Supreme Court dismissed *Ardoin* as improvidently granted. The Court also finds that the dismissal has no precedential value and neither supports nor undermines Plaintiffs' position.

I. BACKGROUND⁹

On December 30, 2021, Plaintiffs Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric Woods, Katie Bailey Glenn, Phil Brown, and Janice Stewart filed the instant Section 2 of the VRA claim against Defendant. Doc. No. [1].¹⁰ Plaintiffs seek injunctive relief against the enacted legislative plans (SB 1EX and HB 1EX, collectively “Enacted Plans”). Doc. No. [141], ¶¶ 3, 58. As stated above, the Court held a preliminary injunction hearing on Plaintiffs’ initial Complaint. Doc. Nos. [126]–[131]. The Court ultimately denied Plaintiffs’ motion because, in light of the upcoming primaries,

⁹ The Court derives the following facts from the Parties’ submissions (Doc. Nos. [230-1]; [231]; [245]; [246]; [252]; [253]) and the Record. Pursuant to Local Rule 56.1(B), when a fact is undisputed, the Court includes the fact. For the disputed facts, the Court reviews the Record to determine if a dispute exists and, if so, whether the dispute is material. If the dispute is not material, the Court cites the fact and the opposing party’s response. Where the dispute is material and the opposing party’s response reflects the Record more accurately, the Court modifies the proposed fact and cites the Record. The Court also rules on objections to proposed facts and excludes immaterial facts, those stated as an issue or legal conclusion, those not supported by a citation to evidence, or those that the Record citation fails to support. Finally, where appropriate, the Court includes facts drawn from its review of the Record.

To the extent that any party has filed specific objections to the facts cited in this Order, the Court has overruled said objection by the inclusion of the fact in this Order (or otherwise specified the purpose for which the Court considered the fact).

¹⁰ Plaintiffs amended their Complaint following the Court’s Preliminary Injunction Order. Doc. No. [141].

the balance of harms and public interest weighed in favor of denying the preliminary injunction. Alpha Phi Alpha, 587 F. Supp. 3d at 1324–27. Nevertheless, the Court also found that the Plaintiffs were likely to succeed on the merits of their claim regarding the creation of an additional House district in southwestern Georgia. Id. at 1294–1302.¹¹

In 2020, the United States Census Bureau conducted the Decennial Census. The 2020 Census results were released in September 2021. Doc. No. [246], ¶ 1. The Census data reflected that Georgia’s Black population¹² increased by 484,048 between 2010 and 2020, and the share of the state-wide Black population increased from 31.53% to 33.03%. Doc. No. [231-1] (“Cooper Rep.”), ¶ 41, fig. 2. Between 2000 and 2020, the any-part Black population in the metro Atlanta

¹¹ As noted in its Preliminary Injunction Order, the Court did not offer any ruling on Plaintiffs’ challenged metro Atlanta Senate and House districts because the Court found that the Grant Plaintiffs were likely to succeed on their challenged districts in similar areas of the State. Alpha Phi Alpha, 587 F. Supp. 3d at 1267–68.

¹² The Court uses the any-part Black or any-part Black voting age population (“APBVAP”) for purposes of determining numerosity. “[I]t is proper to look at *all* individuals who identify themselves as [B]lack” in their census responses, even if they “self-identify as both [B]lack and a member of another minority group,” because the inquiry involved “an examination of only one minority group’s effective exercise of the electoral franchise.” Georgia v. Ashcroft, 539 U.S. 461, 473 n.1 (2003), superseded by statute in other part, Ala. Legis. Black Caucus v. Alabama, 575 U.S. 254, 276–77 (2015).

region increased by 938,006 from 1,248,809 to 2,186,815, an increase of more than 75%. Doc. No. [246] ¶ 32.¹³

The Enacted Plans were passed by the House Legislative and Congressional Reapportionment Committee along racial and party lines. Id. at ¶¶ 9, 10. Two weeks later, they were passed by the General Assembly, largely on

¹³ Defendant objected to this fact stating that “[t]he fact does not comply with LR 56.1(B)(1) because it is not separately numbered.” Doc. No. [253], ¶ 11. Local Rule 56.1(B)(1) provides:

A movant for summary judgment shall include with the motion and brief a separate, concise, numbered statement of the material facts to which the movant contends there is no genuine issue to be tried. Each material fact must be numbered separately and supported by a citation to evidence proving such fact. The Court will not consider any fact: (a) not supported by a citation to evidence (including page or paragraph number); (b) supported by a citation to a pleading rather than to evidence; (c) stated as an issue or legal conclusion; or (d) set out only in the brief and not in the movant’s statement of undisputed facts.

LR 56.1(B)(1),(3) NDGa. For purposes of this case, under the Court’s inherent authority, all objections to Plaintiff’s Statement of Material Facts on the basis that the factual assertions were not separately numbered are overruled. The Court has reviewed all objections and finds that Plaintiffs have followed the spirit, if not the letter, of the Local Rule in all instances.

Defendant also objected on the basis that the level of growth is immaterial. The Court overrules the objection. The Court finds that the location of the Black population and its growth is relevant to totality of the circumstances inquiry.

party lines. Id. at ¶ 11. On December 30, 2021, Governor Kemp signed Sthe Enacted Plans into law. Id. at ¶ 12.

Plaintiffs have submitted illustrative State Senate and House of Representative plans (the “Illustrative Plans”) to the Court that create three additional majority-Black Senate districts – one in the eastern Black Belt and two in south metro Atlanta (“Proposed Senate Districts”). Id. at ¶ 204. Plaintiffs also proposed five additional majority-Black House Districts – two in south metro Atlanta, one in the eastern Black Belt, one in the western Black Belt, and one in metro Macon (“Proposed House Districts”). Id.¹⁴

The core of the instant Motion for Summary Judgment is whether the Record contains sufficient evidence to show that the Enacted Plans diluted the strength of Black voters in the Proposed Districts in violation of Section 2. The Illustrative Plans purport to show that additional majority-Black districts could have been drawn in the above-listed areas. Id. Defendant, in essence, argues that the Illustrative Plans are not sufficiently compact to support a Section 2 violation. Doc. No. [230-1], 16–18.

¹⁴ The Proposed Senate Districts and Proposed House Districts are collectively referred to as the “Proposed Districts.”

Plaintiffs have also submitted evidence of racial polarization in voting. It is undisputed that “[i]n the seven areas of Georgia that Plaintiffs’ expert, Dr. Handley, analyzed, she found that, in statewide elections, ‘the average percentage of Black vote for the 16 Black-preferred candidates is 96.1%.’” Doc. No. [246], ¶ 166. And, “[i]n [the] 54 state legislative[] [districts] that Dr. Handley analyzed, over 90% of Black voters supported their Black candidates.” Id. ¶ 168. Meanwhile, “[i]n the seven areas of Georgia that Dr. Handley analyzed, she found that, in statewide elections, the average percentage of White vote for the[] 16 Black-preferred candidates . . . is 11.2%.” Id. ¶ 167. (internal citations omitted). Additionally, Senator Kennedy, the Chairman of the Senate Committee on Reapportionment and Redistricting, stated that “we do have racially polarized voting in Georgia.” Id. ¶ 174. Defendant does not contest the veracity of Dr. Handley’s findings; rather, he argues that this evidence can be equally attributable to partisan preferences, which is not actionable under Section 2. Doc. No. [230-1], 18–32.

The Court held a hearing on the Motions (and the motions in the related cases) on May 18, 2023. Doc. No. [257]. The Parties each submitted supplemental briefing following the Supreme Court’s opinion in Allen. Doc. Nos. [262], [263].

After having the benefit of full briefing and argument on these motions, the Court now resolves Defendant's Motion.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56(a) provides "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." A factual dispute is genuine if the evidence allows a reasonable jury to find for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is "material" if it is "a legal element of the claim under the applicable substantive law which might affect the outcome of the case." Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997).

The moving party bears the initial burden of showing the court, by reference to materials in the record, that there is no genuine dispute as to any material fact that should be decided at trial. Hickson Corp. v. N. Crossarm Co., 357 F.3d 1256, 1260 (11th Cir. 2004) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The moving party meets its burden merely by "'showing' – that is, pointing out to the district court – that there is an absence of evidence to support [an essential element of] the nonmoving party's case." Celotex Corp., 477 U.S.

at 325. In determining whether the moving party has met this burden, the district court must view the evidence and all factual inferences in the light most favorable to the non-moving party. Johnson v. Clifton, 74 F.3d 1087, 1090 (11th Cir. 1996). Once the moving party has adequately supported its motion, the non-movant then has the burden of showing that summary judgment is improper by showing specific facts of a genuine dispute. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The court should resolve all reasonable doubts in the nonmovant's favor. Fitzpatrick v. City of Atlanta, 2 F.3d 1112, 1115 (11th Cir. 1993). In addition, the court must "avoid weighing conflicting evidence or making credibility determinations." Stewart v. Booker T. Washington Ins., 232 F.3d 844, 848 (11th Cir. 2000). When the record could not lead a rational trier of fact to find for the non-moving party, there is no genuine dispute for trial. Fitzpatrick, 2 F.3d at 1115 (citations omitted).

III. ANALYSIS

The Court finds that Defendant has not shown that he is entitled to judgment as a matter of law as it relates to the three Gingles preconditions.¹⁵

Section 2 of the VRA provides:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided, That*

¹⁵ While the Court denies Defendant's Motion for Summary Judgment, the Parties may still stipulate to the numerous undisputed facts for purposes of trial. Cf. also Fed. R. Civ. P. 65(a)(2) ("[E]vidence that is received on the [preliminary injunction] motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.").

nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

52 U.S.C. § 10301(a)–(b).

“Voting rights cases are inherently fact intensive[.]” Nipper v. Smith,

39 F.3d 1494, 1498 (11th Cir. 1994). This is especially true in:

[S]ection 2 vote dilution claims alleging that, due to the operation of a challenged voting scheme, minority voters are denied an equal opportunity to participate in the political process and to elect representatives of their choice. In such cases, courts must conduct a “searching practical evaluation of the ‘past and present reality’” of the electoral system’s operation.

Id. (quoting Gingles, 478 U.S. at 45). “[B]ecause a claim of voting dilution must be evaluated with a functional, rather than a formalistic, view of the political process, the Supreme Court has emphasized the importance of “‘an intensely local appraisal of the design and impact’ of the electoral structure, practice, or procedure at issue.” Id. (quoting Gingles, 478 U.S. at 79); see also Rogers v. Lodge, 458 U.S. at 613, 621 (1982). It is this intensely local appraisal and the fact-intensive nature of vote dilution cases that lead the Court to conclude that this case must proceed to trial.

In order to prevail on a Section 2 claim, Plaintiffs must satisfy three “preconditions.” Gingles, 478 U.S. at 50. First, the “minority group must be sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district” Wisc. Legis. v. Wisc. Elections Comm’n, 595 U.S. ---, 142 S. Ct. 1245, 1248 (2022) (*per curiam*) (citing Gingles, 478 U.S. at 50–51).¹⁶ “Second, the minority group must be able to show that it is politically cohesive.” Gingles, 478 U.S. at 51. And third, “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . to defeat the minority’s preferred candidate.” Id. Finally, a plaintiff who demonstrates the three preconditions must also show, under the “totality of circumstances,” that the political process is not “equally open” to minority voters (using the Senate Factors). Id. at 45–46; see also id. at 36–38 (identifying several

¹⁶ In supplemental briefing, Defendant “agree[s] with how Justice Alito proposes to address [racial predominance].” Doc. No. [263], 11. That is, Defendant argues that a “plaintiff must ‘show at the outset that such a[n additional majority-minority] district can be created without making race the predominant factor in its creation.’” Id. at 11 (alteration in original) (quoting Allen, 143 S. Ct. at 1551 (Alito, J., dissenting)). To the extent that Defendant argues that Plaintiffs have to show, as part of the first Gingles precondition, that race did not predominate the drawing of the Illustrative Plans, the Court agrees. The Court, however, declines to adopt the test as defined in Justice Alito’s dissent *in toto*.

factors relevant to the totality of circumstances inquiry, including “the extent of any history of official discrimination in the state . . . that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process”).

A. First Gingles Precondition

Under the first Gingles precondition, Plaintiffs must prove that the minority group exceeds 50% in the challenged area and that the minority group is sufficiently compact to draw a reasonably configured district. Wisc. Legis., 142 S. Ct. at 1248. “A district will be reasonably configured . . . if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 143 S. Ct. at 1503 (citing Ala. Legis. Black Caucus, 575 U.S. at 272). To determine whether Plaintiffs have met the numerosity and compactness requirements, the Court must evaluate the specific challenged district and not the state as a whole. Cf. Ala. Legis. Black Caucus, 575 U.S. at 268 (“[T]he District

Court's analysis of racial gerrymandering of the State, [under [the Equal Protection Clause], 'as a whole' was legally erroneous."').¹⁷

1. Racial Predominance

First, the Court rejects Defendant's argument that Plaintiffs' expert, Mr. Cooper's use of racial shading alone is fatal to Plaintiffs' claim. Defendant argues that the Legislature could not have used racial shading when it drew the Enacted Plans; therefore, Plaintiffs are also precluded from using racial shading when drawing Illustrative Plans. Doc. No. [230-1], 16–17. Defendant also argues that race *per se* predominates if an expert uses racial shading. See Doc. No. [263], 7 ("If the Legislature had used racial shading, did not use political data, and drew without reviewing any public comments, it would be accused of racial gerrymandering."').¹⁸

¹⁷ Although Alabama Legislative Black Caucus concerned constitutional redistricting challenges, the Supreme Court applied its analysis to a Section 2 challenge in Allen. Allen, 143 S. Ct. at 1503, 1519.

¹⁸ Whether Defendant is accused of racial gerrymandering or if the Enacted Plans is, in fact, gerrymandered, constitute two different inquiries. The Supreme Court acknowledged that a State's awareness of race when it draws its districts is not *per se* racial gerrymandering. "[W]e have assumed that compliance with the VRA may justify the consideration of race in a way that would not otherwise be allowed . . . complying with the VRA is a compelling state interest, and that a State's consideration of race in

Precedent directs this Court to evaluate whether race impermissibly *predominated* the drawing of the Illustrative Plans or whether the Illustrative Plans are simply race-conscious. “The contention that mapmakers must be entirely ‘blind’ to race has no footing in our § 2 case law. The line that we have long drawn is between consciousness and predominance.” Allen, 143 S. Ct. at 1512 (plurality). Defendant’s argument, however, conflicts with this existing precedent. See Davis v. Chiles, 139 F.3d 1414, 1425–26 (11th Cir. 1998) (finding clear error in the district court’s finding of racial predominance based on an expert’s testimony that he was asked to draw additional majority-minority districts in an area with a high concentration of Black citizens).

The Court finds that it would need to make both fact and credibility determinations before it can decide whether race predominated the creation of the Proposed Districts. In this regard, Mr. Cooper testified that race did not predominate when he drew the Proposed Districts. Mr. Cooper testified that, at

making a districting decision is narrowly tailored and thus satisfies strict scrutiny.” Abbott v. Perez, 585 U.S.---, 138 S. Ct. 2305, 2315 (2018). “[T]he legislature always is *aware* of race when it draws district lines That sort of race consciousness does not lead inevitably to impermissible race discrimination.” Shaw v. Reno, 509 U.S. 630, 646 (1993). Thus, because the State is not prohibited from reviewing racial demographics and considering race when it draws its legislative maps, neither is Plaintiffs’ expert.

times, he “utilize[d] little dots to show where the precincts are that are say 30 percent or over Black.” Doc. No. [221] (“Cooper Dep. Tr.”), Tr. 60:15–18. Mr. Cooper also testified that he complied with traditional redistricting principles when he drew the Illustrative Plans. *Id.* 47:10–15. His expert report states that “[t]he illustrative plans comply with traditional redistricting principles, including population equality, compactness, contiguity, respect for communities of interest, and the non-dilution of minority voting strength.” Cooper Rep., ¶ 10. Additionally, it is undisputed that Mr. Cooper considered the same guidelines that the Georgia House Legislative and Congressional Reapportionment Committee used. Doc. No. [246], ¶ 76.

There is Record evidence that Mr. Cooper was both aware of race when he drew the Illustrative Plans and that he took additional factors into consideration when drawing them. As the Eleventh Circuit stated in Davis:

precedent[] *require[s]* plaintiffs to show that it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate. To penalize Davis, as the district court has done, for attempting to make the very showing [required] . . . would be to make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action.

139 F.3d at 1425. Thus, Mr. Cooper’s awareness of race, in conjunction with his evaluation of traditional redistricting principles, is consistent with Eleventh Circuit precedent.¹⁹

Mr. Cooper’s awareness of race is distinguishable from Miller v. Johnson, 515 U.S. 900, 919 (1995), where the Supreme Court analyzed congressional districts in which there was “powerful evidence” that “every [objective districting] factor that could realistically be subordinated to racial tinkering in fact suffered that fate.” (alteration in original) (quoting Johnson v. Miller, 864 F. Supp. 1354, 1384 (S.D. Ga. 1994)). In Miller, there was evidence that under the former preclearance regime, the DOJ rejected Georgia’s congressional plan because there were not enough majority-minority districts. Miller, 515 U.S. at 906–07. During the preclearance process, a DOJ line attorney testified that he

¹⁹ Plaintiffs contend:

the record on which the Supreme Court premised its holding, in [Allen] was similar to the record here. There, as here plaintiffs’ illustrative maps included plans drawn by Mr. Cooper There, as here, Mr. Cooper’s plans meet or beat the enacted plans with respect to objective metrics There, as here, plaintiffs were able to point to factors in addition to race that supported the illustrative plans.

Doc. No. [262], 9–10. These determinations require weighing and evaluating facts in a manner inappropriate for summary judgment.

took “[a] map of the State of Georgia shaded for race, shaded by minority concentration, and overlaid the districts that were drawn by the State of Georgia and [saw] how well those lines adequately reflected black voting strength.” Id. at 925 (quoting Johnson, 864 F. Supp. at 1362 n.4) (cleaned up). Georgia’s representatives testified that they redrew the offending district to comply with DOJ’s preclearance determination. Miller, 515 U.S. at 924–25. The Supreme Court found a Fourteenth Amendment violation and expressly rejected DOJ’s “maximization policy” that was the basis for drawing the districts in Miller. Id. at 926–27.

Having the benefit of a fully developed trial record, factual findings, and credibility determinations, the Supreme Court found that race predominated the drawing of the district in Miller. At the present stage of this case, Record evidence indicates that Mr. Cooper had access to and was aware of racial demographics, but Mr. Cooper also testified that race did not predominate the drawing of the Proposed Districts and that he considered traditional redistricting principles. Because being aware of racial demographics is not *per se* impermissible, and Mr. Cooper testified to complying with traditional redistricting principles when drawing the Proposed Districts, any determination that race predominated turns

on Mr. Cooper's credibility. Davis, 139 F.3d at 1425. Because the Court is evaluating a motion for summary judgment where such credibility determinations are inappropriate, the Court cannot grant Defendant's Motion.

2. *Compactness*²⁰

Second, there is Record evidence about the compactness of the minority population in the Proposed Districts. "Under § 2 . . . the compactness inquiry considers 'the compactness of the minority population, not . . . the compactness of the contested district.'" League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 408 (2006) ("LULAC") (quoting Bush v. Vera, 517 U.S. 952, 997 (1996)). A district that "reaches out to grab small and apparently isolated minority communities" is not reasonably compact. Id. (quoting Vera, 517 U.S. at 979).

Defendant argues that "Plaintiffs have presented no evidence of the geographic compactness of the Black community in the proposed new districts aside from the fact that they are drawn." Doc. No. [230-1], 17. The Court

²⁰ In order to satisfy the first Gingles precondition, a plaintiff has to prove both that the minority population exceeds 50% in the affected area and that the minority population is compact. Wisc. Legis., 142 S. Ct. at 1248. Defendant has not challenged the numerosity requirement; rather, his arguments all relate to the compactness of the Proposed Districts. Doc. No. [230-1], 16-18. Therefore, the Court will evaluate only the Proposed Districts' compactness.

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

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No. 23-13916
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In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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No. 23-13921
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In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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disagrees. As discussed below, there is Record evidence that the APBVAP in the Proposed Districts is comparatively as compact as the Enacted Plans. The relevant factors for compactness under the first Gingles precondition include population equality, contiguity, empirical compactness scores of the Illustrative District, the eyeball test for irregularities and contiguity, respect for political subdivisions, and uniting communities of interest. See Reynolds, 377 U.S. at 598 (population equality); LULAC, 548 U.S. at 433 (communities of interest); Vera, 517 U.S. at 959–60 (contiguity, eyeball test); Cooper v. Harris, 581 U.S. 285, 291, 312 (2017) (political subdivisions, partisan advantage, empirical compactness measures).

a) Objective compactness metrics

There is evidence in the Record the Illustrative Senate Districts have a maximum population deviation of 1%, and the Illustrative House Districts have a maximum population deviation of 1.5%. Doc. No. [246], ¶ 83.²¹ Defendant does

²¹ Defendant substantively objected to this statement of fact because “Mr. Cooper testified that the population deviations he used on the House plan was [sic] higher than that of the enacted plan.” Doc. No. [253], ¶ 83. Upon review of the citation to the Record, Mr. Cooper’s deposition testimony does not contradict the statement that he limited population deviation to 1.5% for the Illustrative House Districts; rather, it simply states

not argue that Mr. Cooper's Illustrative Plans fail to comply with the contiguity requirement. Finally, Mr. Cooper's Report details the comparative compactness scores²² between the Enacted Plans' districts and the Proposed Districts.²³

that the Illustrative Plan has a "slightly higher" population deviation than the Enacted House Plan. Cooper Dep. Tr. 200:7-11. Throughout his deposition, Mr. Cooper testified that he used a population deviation cap of 1.5% for the House plan. See id. 62:2-7; 73:1-4. Accordingly, the Court overrules the objection to the statement that all Illustrative House Districts have a maximum population deviation of 1.5%.

²² Mr. Cooper utilized the Reock test and Polsby-Popper test to assess the numerical compactness of his districts. "The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact." Alpha Phi Alpha, 587 F. Supp. 3d at 1275 n.24. "The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi\text{Area}/(\text{Perimeter}^2)$. The measure is always between 0 and 1, with 1 being the most compact." Id. at n.26.

²³ Enacted SD-17 has a Reock score of 0.35 and a Polsby-Popper score of 0.17; Illustrative SD-17 has a Reock score of 0.37 and a Polsby-Popper score of 0.17; Enacted SD-23 has a Reock score of 0.37 and a Polsby-Popper score of 0.16; Illustrative SD-23 has a Reock score of 0.37 and a Polsby-Popper score of 0.16; Enacted SD-28 has a Reock score of 0.45 and a Polsby-Popper score of 0.25; Illustrative SD-28 has a Reock score of 0.37 and a Polsby-Popper score of 0.18; Enacted HD-74 has a Reock score of 0.50 and a Polsby-Popper score of 0.25; Illustrative HD-74 has a Reock score of 0.63 and a Polsby-Popper score of 0.36; Enacted HD-117 has a Reock score of 0.41 and a Polsby-Popper score of 0.28; Illustrative HD-117 has a Reock score of 0.41 and a Polsby-Popper score of 0.26; Enacted HD-133 has a Reock score of 0.55 and a Polsby-Popper score of 0.42; Illustrative HD-133 has a Reock score of 0.26 and a Polsby-Popper score of 0.20; Enacted HD-145 has a Reock score of 0.38 and a Polsby-Popper score of 0.19; Illustrative HD-145 has a Reock score of 0.25 and a

Therefore, the Court finds that there is evidence in the Record about the compactness of the Proposed Districts. A determination on whether the Proposed Districts are, in fact, compact cannot be decided as a matter of law; it is a question of fact that the Court must determine after a trial.

Despite this evidence, Defendant advances arguments challenging the relative compactness of Mr. Cooper's Proposed Districts in comparison to the Enacted Plans. Doc. No. [263], 8-11. Defendant argues that "Mr. Cooper's illustrative plans[,] in this case[,] are thus categorically different than the plans in Allen. They split more counties, have higher deviations, and have features that are unexplainable on grounds other than race." Id. at 10. The Court acknowledges that the Illustrative Plans differ from those in Allen. However, precedent makes clear that questions about redistricting under Section 2 are "'intensely local appraisal[s] of the design and impact' of the contested electoral mechanisms." Gingles, 478 U.S. at 79 (quoting Rogers, 458 U.S. at 621-22). The three-judge court in Allen concluded that the proposed district satisfied the first

Polsby-Popper score of 0.22; Enacted HD-171 has a Reock score of 0.35 and a Polsby-Popper score of 0.37; Illustrative HD-171 has a Reock score of 0.28 and a Polsby-Popper score of 0.20. Doc. Nos. [231-3], 6-7, 20-21; [231-4], 154-58, 163-67.

Gingles precondition after it evaluated facts and made credibility determinations. Allen, 143 S. Ct. at 1504. At this stage, the Court cannot make a finding of fact that the Proposed Districts are not compact.

b) Eyeball test

The eyeball test is commonly utilized to determine if a district is compact or not. See Allen, 143 S. Ct. at 1528 n.10 (quoting Singleton, 582 F. Supp. 3d at 1011) (crediting the district court's findings that the illustrative maps were compact because they did not contain "tentacles, appendages, bizarre shapes or any other obvious irregularities"). The use of any "eyeball test" to assess irregularities, however, is necessarily a matter for the factfinder. See Ala. State Conf. of NAACP v. Alabama, 612 F Supp. 3d 1232, 1266 (M.D. Ala. 2020); Comm. for a Fair and Balanced Map v. Ill. State Bd. of Elections, 835 F. Supp. 2d 563, 570 (N.D. Ill. 2011). Thus, questions of fact remain that cannot be resolved on summary judgment.

c) Respect for political subdivisions

There is a material dispute of fact as to whether Mr. Cooper respected existing political subdivisions. Plaintiffs assert, and Defendant disputes, that "[i]n drawing the Illustrative Plans, Mr. Cooper 'made every effort to avoid

splitting' counties and voting districts." Doc. No. [246], ¶ 78; Doc. No. [253], ¶ 78. Mr. Cooper's Report states that the Illustrative Senate Plan contained 57 total County splits and 38 VTD²⁴ splits compared to the Enacted Plan, which had 65 total County splits and 86 VTD splits. Cooper Rep., 53, fig. 21. Mr. Cooper's Report also states that the total number of county and VTD splits is identical between the Illustrative House and Enacted House Plans. *Id.* at 86, fig. 37. The Court finds that the determination of whether Mr. Cooper respected political subdivisions goes both to disputes of fact and a credibility, which cannot be made on summary judgment stage.

d) Communities of interest

Defendant also argues that Mr. Cooper could identify practically nothing beyond race of the voters in a number of his districts that united them" Doc. No. [230-1], 18. Defendant disputes that "[w]ith respect to maintaining communities of interest, Mr. Cooper in drawing the Illustrative Plans took into account 'transportation corridors,' 'maintaining existing jurisdictional boundaries like counties and precincts,' 'municipalities,' 'core-based statistical

²⁴ "'VTD' is a Census Bureau term meaning 'voting tabulation district.' VTDs generally correspond to precincts." Cooper Rep., ¶ 11 n.4.

areas,’ ‘regional commissions,’ ‘socioeconomic connections or commonalities,’ and ‘historical or cultural connections.’” Doc. No. [246], ¶ 86.

The case law is not clear about what constitutes a community of interest. In LULAC, the Supreme Court noted, “[w]hile no precise rule has emerged governing § 2 compactness, the ‘inquiry should take into account traditional redistricting principles such as maintaining communities of interest and traditional boundaries.’” LULAC, 548 U.S. at 433 (quoting Abrams v. Johnson, 521 U.S. 74, 92 (1992)). The Court went on to reason that “in some cases members of a racial group in different areas—for example, rural and urban communities—could share similar interests and therefore form a compact district if the areas are in reasonably close proximity.” Id. at 435 (citing Abrams, 521 U.S. at 111–12 (Breyer, J., dissenting)). However, race being the only uniting factor between Latino communities that are 300 miles apart, without more, was not a sufficient compactness finding under Section 2. Id. “The mathematical possibility of a racial bloc does not make a district compact.” Id.²⁵

²⁵ Factors that have been considered by Courts in the past include: socio-economic status, education, employment and health. LULAC, 548 U.S. at 433 (quoting the district court’s decision). Other considerations may include shared media sources, public transportation infrastructure, schools, and places of worship. Vera, 514 U.S. at 964.

Although a definitive test has not emerged, it is abundantly clear that the determinations about communities of interest are questions of fact. Most recently, in Allen, the Court credited the district court's factual finding that Alabama's Black Belt could be a community of interest. Allen, 143 S. Ct. at 1505 (quoting Singleton, 582 F. Supp. 3d at 1015) ("The District Court understandably found [State witness's testimony about a community of interest] insufficient to sustain Alabama's 'overdrawn argument that there can be no legitimate reason to split' the Gulf Coast region."). Conversely, the Court in LULAC emphasized that the district court needed and failed to make a factual finding about the compactness of the challenged district. LULAC, 548 U.S. at 433–35. Without the benefit of trial evidence or the ability to weigh the Record evidence, the Court clearly cannot heed the Supreme Court's guidance in making these necessary factual determinations.

3. *Proposed Remedy*

Finally, Defendant argues that he is entitled to summary judgment because the Illustrative Plans cannot be ordered as remedies. Doc. No. [230-1], 17. "In short, if a plaintiff cannot show that the plan used to demonstrate the first prong can also be a proper remedy, then the plaintiff has not shown compliance with

the first prong of Gingles.” Id. In his reply brief, Defendant clarified that “Plaintiffs cannot point to evidence that justifies Mr. Cooper’s racial focus and racial splits in the creation of those plans.” Doc. No. [252], 6. For these arguments, in particular, Defendant relies on the Eleventh Circuit’s Nipper decision.

In Nipper, the Eleventh Circuit held that “the first threshold factor of Gingles [] require[s] that there must be a remedy within the confines of the state’s judicial model that does not undermine the administration of justice.” 39 F.3d at 1531 (plurality opinion). The Eleventh Circuit later clarified that “[t]his requirement simply serves ‘to establish that the minority has the potential to elect a representative of its own choice from some single-member district.’” Burton v. City of Belle Glade, 178 F.3d 1175, 1199 (11th Cir. 1999) (quoting Nipper, 39 F.3d at 1530). Additionally, “[i]f a minority cannot establish that an alternate election scheme exists that would provide better access to the political process, then the challenged voting practice is not responsible for the claimed injury.” Id.; see also Brooks v. Miller, 158 F.3d 1230, 1239 (11th Cir. 1998) (“[I]f the plaintiffs in a § 2 case cannot show the existence of an adequate alternative electoral system under which the minority group’s rights will be protected, then the case ends on the first prerequisite.”).

Under Nipper, the question of remedy relies on whether the alternate scheme is a “workable remedy within the confines of the state’s system of government.” 39 F.3d at 1533. For example, in Wright v. Sumter County Board of Elections and Registration, 979 F.3d 1282, 1304 (11th Cir. 2020), the Eleventh Circuit found that the first Gingles precondition had been met because the special master’s maps showed that at least three majority-black districts could have been drawn in that area; thus, “a meaningful remedy was available.”

As the Court already addressed above, neither Supreme Court nor Eleventh Circuit precedent requires that Plaintiffs’ Illustrative Plans be drawn race-blind or that the Illustrative Plans be race-neutral. See supra, III(A)(1). In fact, the Supreme Court recently rejected Alabama’s argument to do just that. Allen, 143 S. Ct. at 1512 (plurality opinion), 1518 (Kavanaugh, J., concurring). And the Eleventh Circuit has long held that the first Gingles precondition specifically requires that Plaintiffs take race into consideration. Davis, 139 F.3d at 1425–26. As such, the Court rejects Defendant’s argument that the Illustrative Plans do not satisfy Nipper’s remedial requirement because Mr. Cooper considered race when drawing them.

4. *Conclusion*

Summary judgment on the first Gingles precondition is inappropriate because questions of fact remain regarding the compactness of the Proposed Districts. There is Record evidence that Mr. Cooper was aware of race when he drew his Proposed Districts but that he also evaluated traditional districting principles. There is also Record evidence about the comparative compactness scores between the Illustrative Plans and the Enacted Plans. Finally, Mr. Cooper testified that he attempted to respect communities of interest when he drew his Illustrative Plans. This evidence is sufficient to create genuine issues of material fact regarding whether Plaintiffs have satisfied the first Gingles precondition.²⁶ Accordingly, Defendant's Motion for Summary Judgment as to the first Gingles precondition is denied.

²⁶ Defendant also argues that the mapping experts in the case *sub judice* and Grant drew their legislative districts in different areas, which shows that Plaintiffs failed to meet their burden under the first Gingles precondition. Doc. No. [230-1], 14. Although the Court held a coordinated preliminary injunction hearing for Alpha Phi Alpha and Grant, and will conduct a coordinated trial with these two cases, these two cases function independently of one another. Meaning that Plaintiffs in both Alpha Phi Alpha and Grant have independent burdens of proof for each of the Gingles preconditions and on the totality of the circumstances (Senate Factors). Accordingly, the Court finds that the fact that the two map experts drew their proposed districts in different places is not fatal to Plaintiffs' claims in either Alpha Phi Alpha or Grant.

B. Second and Third Gingles Preconditions

Likewise, the Court denies Defendant’s Motion for Summary Judgment as to the second and third Gingles preconditions. The second Gingles precondition requires the Plaintiffs to show that “the minority group . . . is politically cohesive.” Gingles, 478 U.S. at 51. The third Gingles precondition requires the Plaintiffs to show that “the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances . . . usually to defeat the minority’s preferred candidate.” Id.

Defendant argues that there is not sufficient Record evidence of “legally significant racially polarized voting.” Doc. No. [230-1], 18. First, Defendant makes a purely legal argument that Plaintiffs, at the Gingles preconditions phase, must prove that political cohesion and racial bloc voting exist because of race and are not equally attributable to partisan preferences. Id. at 19–29. Second, Defendant argues that the evidence in the Record evidence highlights partisan differences among voters and not racial bloc voting. Id. at 30–32.

1. *Required Showing at the Second and Third Gingles Preconditions*

As the Court ruled in its Preliminary Injunction Order, the second and third Gingles preconditions require only the Plaintiffs show that majority-voter

political cohesion and racial bloc voting exists, not the reason for its existence. Alpha Phi Alpha, 587 F. Supp. 3d at 1303. (“The Court concludes as a matter of law that, to satisfy the second Gingles precondition, Plaintiffs need not prove that causes of racial polarization, just its existence.”); id. at 1312 (“[T]he third precondition involves the same evaluation as to the voting preferences of the majority groups as the second precondition does for the majority group . . .”).

Defendant still advances purely legal arguments that Plaintiffs must prove that race, not partisanship, explains racial bloc voting and minority voter political cohesion under the second and third Giungles preconditions. Doc. No. [230-1], 19–30. First, Defendant argues that precedent requires the Court to determine whether race is the cause of the vote dilution. Id. at 22–27. Second, Defendant argues that failing to show that race and partisanship caused racial bloc voting makes Section 2 not congruent and proportionate to the Fifteenth Amendment (*i.e.*, the constitutional authority supporting Section 2 of the VRA). Id. at 27–29. Third, Defendant argues that Plaintiffs must show the racial group’s voting patterns in relation to the race of the *candidate*. Doc. Nos. [260] (“Hearing Tr.”) Tr. 87:25–88:7; [263], 19–20. Finally, Defendant argues that the holdings in Mobile v. Bolden, 446 U.S. 55 (1980) and Whitcomb v. Chavis,

403 U.S. 124 (1971) require the Court to evaluate the causes of the racial polarization at the precondition phase of the trial. Doc. No. [263], 13–19.

a) **Cause of race-based voting at the second and third *Gingles* preconditions**

As for the first argument – that “th[e] Court should require proof of racial bloc voting as part of the third Gingles factor” (Doc. No. [230-1], 27) – Defendant argues that the Court should be able to decide this at the Gingles preconditions phase, rather than at the totality of the circumstances (*i.e.*, Senate Factors) phase, because “the analysis is ultimately the same.” Id. The Court disagrees. Precedent establishes that evaluating the reasons behind racial bloc voting and minority political cohesion is inappropriate at the Gingles preconditions phase.

The Gingles plurality concluded, “the reasons [B]lack and white voters vote differently have no relevance to the central inquiry of § 2. By contrast, the correlation between race of voter and the selection of certain candidates is crucial to the inquiry.” Gingles, 478 U.S. at 63. Only three other Justices joined this portion of Justice Brennan’s opinion. However, four other Justices likewise found that the reasons for minority political cohesion and racial bloc voting are not relevant in establishing the Gingles preconditions. Justice O’Connor wrote:

[i]nsofar as statistical evidence of divergent racial voting patterns is admitted solely to establish that the minority group is politically cohesive and to assess its prospects for electoral success, I agree that defendants cannot rebut this showing by offering evidence that the divergent racial voting patterns may be explained in part by causes other than race, such as an underlying divergence in the interests of minority and white voters.

Gingles, 478 U.S. at 100 (O'Connor, J., concurring). Justice White was the only Justice to suggest that the Court should consider the candidate's race in addition to the voter's race at the Gingles precondition phase. Id. at 83 (White, J., concurring).

Although only a plurality of the Justices signed onto Justice Brennan's analysis regarding proof of racial bloc voting and minority voter cohesion, all but one Justice agreed that the reasons that Black voters and white voters vote differently are irrelevant to proving the existence of the second and third Gingles preconditions. Thus, the second and third Gingles preconditions can be established by the mere existence of minority group political cohesion and majority voter racial bloc voting. See Chisom v. Roemer, 501 U.S. 380, 404 (1991) ("Congress made clear that a violation of § 2 could be established by proof of discriminatory results alone.").

Most recently, the Supreme Court confirmed that the Section 2 analysis is an effects test. “[F]or the last four decades, this Court and the lower federal courts have repeatedly applied the effects test of § 2 as interpreted in Gingles and, under certain circumstances, have authorized race-based redistricting as a remedy for state districting maps that violate § 2.” Allen, 143 S. Ct. at 1516. Although Justice Brennan’s language regarding the “effects test” in Gingles, is a part of the plurality, the Supreme Court, in Allen, made clear that Section 2 requires Plaintiffs to prove only the effects of racially polarized voting and minority voter political cohesion at the Gingles preconditions phase and not its causes. Id.

Eleventh Circuit precedent also supports the conclusion that Plaintiffs are not required to prove that race caused racial bloc voting or minority voter cohesion to satisfy the second and third Gingles preconditions. Judge Tjoflat’s plurality opinion in Nipper explained:

Proof of the second and third Gingles factors—demonstrating racially polarized bloc voting that enables the white majority usually to defeat the minority’s preferred candidate—is circumstantial evidence of racial bias operating through the electoral system to deny minority voters equal access to the political process.

39 F.3d at 1254 (plurality opinion). Nipper, at the Gingles preconditions, did not require the plaintiffs to prove that race was the cause of the second and third

Gingles preconditions or disprove tother race-neutral reasons to account for the polarization. Rather, Judge Tjoflat went on to opine that “[t]he defendant may rebut the plaintiff’s evidence by demonstrating the absence of racial bias in the voting community; for example, by showing that the community’s voting patterns can be best explained by other, non-racial circumstances.” Id.

Following Nipper, the Eleventh Circuit clarified the appropriate test for finding a Section 2 violation. First, the plaintiff:

must, at a minimum, establish the three now-familiar Gingles factors Proof of these three factors does not end the inquiry, however This is because it is entirely possible that bloc voting (as defined by Gingles) could exist, but that such bloc voting would not result in a diminution of minority opportunity to participate in the political process and elect representatives of the minority group’s choice To aid courts in investigating a plaintiff’s section 2 claims, the Gingles court identified other factors that may, in the “totality of the circumstances,” support a claim of racial vote dilution.

Solomon v. Liberty Cnty. Comm’rs, 221 F.3d 1218, 1225 (11th Cir. 2000). Thus, it is firmly established in both Supreme Court and Eleventh Circuit precedent that

Plaintiffs do not have to prove the causes of polarized voting at the preconditions phase of a Section 2 claim.²⁷

In summary, eight Supreme Court Justices agreed that the second and third Gingles preconditions do not require Plaintiffs to prove that race is the cause of the minority group's political cohesion or racial bloc voting. In Allen, the Supreme Court confirmed that Section 2 is an effects test. Allen, 143 S. Ct. at 1516–17. Following Gingles, the Eleventh Circuit in both Nipper and again in Solomon confirmed that the question of potential reasons for vote dilution is relevant to the totality of the circumstances phase of the case, not in regard to the Gingles preconditions.²⁸

²⁷ Defendant also argues that the Eleventh Circuit in Greater Birmingham Ministries v. Secretary of State for State of Alabama, 992 F.3d 1299, 1329–30 (11th Cir. 2021) created a causation requirement as a part of the second and third Gingles preconditions. Doc. No. [230-1], 22. The quoted portion of Greater Birmingham discusses causation, however, the language is found in the totality of the circumstances analysis and discussion of the ultimate burden of proof, not in the preconditions portion of the opinion. 992 F.3d at 1329–30 (noting plaintiffs “ma[d]e no mention of the three ‘necessary preconditions’ and they ‘ma[d]e no attempt to articulate the existence of . . . ‘minority cohesion or bloc voting, and majority bloc voting.’”) Id. at 1332. Accordingly, the Court finds that Greater Birmingham is not instructive as to Plaintiffs’ burden for establishing the Gingles preconditions.

²⁸ The Court further rejects Defendant’s efforts to distinguish the aforementioned binding authority with citations to non-binding cases. Defendant first cites Vecinos De

To be clear, Defendant's partisanship argument may be relevant to whether the political process is equally open to minority voters, but it is not dispositive. At no point do Plaintiffs have the *burden* of proving the causes behind a lack of equal opportunity to participate in the political process. Allen,

Barrio Uno v. City of Holyoke, 72 F.3d 973, 983 (1st Cir. 1995). Doc. No. [230-1], 26. In Uno, however, the First Circuit, likewise, did not require plaintiffs to disprove partisanship as a part of the Gingles preconditions. Uno, 72 F.3d at 983. It held that "the second and third preconditions are designed to assay whether racial cleavages in voting patterns exist and, if so, whether those cleavages are deep enough to defeat minority-preferred candidates time and again." Id. Once these preconditions are proven, they "give rise to an inference that racial bias is operating through the medium of the targeted electoral structure to impair minority political opportunities." Id.

Defendant also cites to a non-binding Fifth Circuit case. Doc. No. [230-1], 25-26 (citing League of United Latin American Citizens v. Clements, 999 F.2d 831, 855 (5th Cir. 1993)). In Clements, the Fifth Circuit took an opposite approach, finding it "difficult to see how the record in this case could possibly support a finding of liability" when "Plaintiffs [had] not even attempted to establish proof of racial bloc voting by demonstrating that race, not . . . partisan affiliation, is the predominant determinant of political preference." Clements, 999 F.2d at 855 (quotations omitted). The Fourth Circuit has rejected the Fifth Circuit's approach. United States v. Charleston Cnty., 365 F.3d 341, 347-48 (4th Cir. 2004)("[T]he approach most faithful to the Supreme Court's case law 'is one that treats causation as irrelevant in the inquiry into the three Gingles preconditions, but relevant in the totality of circumstances inquiry.'" (quoting Lewis v. Alamance Cnty., 99 F.3d 600, 615-16 n.12 (4th Cir. 1996))).

Given the Court's interpretation of the Supreme Court's statements on the matter and the Eleventh Circuit's binding precedent, the Court agrees with the Fourth Circuit. Thus, the Court reserves the question of whether partisanship or race is the driving force behind the differences in racial voting patterns for the totality of the circumstances inquiry, not at the analysis of the Gingles preconditions.

143 S. Ct. at 1507 (“[W]e have reiterated that § 2 turns on the presence of discriminatory effects, not discriminatory intent.”); see also id. (“[T]he Gingles test helps determine whether th[e] possibility . . . that the State’s map has a disparate effect on account of race . . . is reality by looking to the polarized voting preference and frequency of racially discriminatory actions taken by the State, past and present.”).

b) Congruence and proportionality: Fifteenth Amendment

Second, Defendant argues that “[i]f Section 2 were interpreted in a way that [P]laintiffs can establish racial bloc voting merely by showing the minority and majority vote differently, it would not fit within th[e] constitutional bounds . . . of the Fifteenth Amendment.” Doc. No. [230-1], 28. Section 2 of the VRA provides:

No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color

52 U.S.C. § 10301(a).

“[U]nder the analysis set forth by the statutory text and embraced by the Supreme Court in Chisom and [the Eleventh Circuit] in Johnson, [courts] must consider whether the challenged law results in a denial or abridgment of the right to vote on account of race or color.” Greater Birmingham, 992 F.3d at 1329 (citing Chisom, 501 U.S. at 403–04; Johnson v. Governor of Fla., 405 F.3d 1214, 1227 (11th Cir. 2005)). The Court’s “analysis turns on whether, based on the totality of the circumstances, the challenged law violates Section 2(a) because it deprives minority voters of an equal opportunity to participate in the electoral process *and* to elect representatives of their choice.” Id.

For this inquiry, the Court must “ask whether the totality of facts . . . showed that the new scheme would deny minority voters equal political opportunity.” De Grandy, 512 U.S. at 1013–14. And according to the Eleventh Circuit, “[t]o be actionable, a deprivation of the minority group’s right to equal participation in the political process must be on account of a classification, decision, or practice that depends on race or color, not on account of some other racially neutral cause.” Solomon, 221 F.3d at 1225 (quoting Nipper, 39 F.3d at 1515 (Tjoflat, C.J., plurality)).

Thus, the Court finds that the question of whether the racial bloc voting is on account of race or on account of race-neutral reasons—*i.e.*, partisanship—is relevant at the totality of the circumstances phase of the inquiry. The current formulation of the Gingles test is congruent with and proportional to the Fifteenth Amendment.²⁹ Consistent with the Fifteenth Amendment, the Court must determine, at the totality of the circumstances phases, whether the past and present realities result in a lack of an equal opportunity for minorities to participate in the electoral process on account of race. And to be successful on their Section 2 claim, Plaintiffs bear the ultimate burden of proving that they satisfied the three Gingles preconditions *and* that, under the totality of circumstances, the Enacted Plans have the effect of abridging minority voters' equal opportunity to vote on account of race.

c) Race of the candidate

Third, at the hearing on the Motion for Summary Judgment and in his supplemental briefing, Defendant advanced the argument that, as part of the

²⁹ “The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” U.S. Const. amend. XV.

second and third Gingles preconditions, Plaintiffs must show that the race of the candidate changed voters' behavior. Doc. No. [263], 19–20; Hearing Tr. 87:25–88:7 (“I think that the inference [of] . . . Gingles 2 and 3 . . . only arises once you’ve met the burden, once you’ve come forward with the evidence. And the submission we’re looking at here is, we have no evidence that voter behavior changes in the slightest based on the race of the candidates.”).

The Court finds that an inquiry into voter preferences as it relates to the race of the candidate is not necessary to prove the second and third Gingles preconditions. The Supreme Court in De Grandy expressly disclaimed Defendant’s proposed test:

The assumption that majority-minority districts elect only minority representatives, or that majority-white districts elect only white representatives, is false as an empirical matter. And on a more fundamental level, the assumption reflects the demeaning notion that members of the defined racial groups ascribe to certain minority views that must be different from those of other citizens.

512 U.S. at 1027. And, again in LULAC, the Supreme Court affirmed a finding that Texas’s Congressional District 23 violated Section 2, even though Texas intentionally created a district that would elect a Latino representative:

To begin the Gingles analysis, it is evident that the second and third Gingles preconditions – cohesion

among the minority group and bloc voting among the majority population—are present in District 23. The District Court found “racially polarized voting” in south and west Texas, and indeed “throughout the State.” The polarization in District 23 was especially severe: 92% of Latinos voted against Bonilla in 2002, while 88% of non-Latinos voted for him. Furthermore, the projected results in new District 23 show that the Anglo citizen voting-age majority will often, if not always, prevent Latinos from electing the candidate of their choice in the district. For all these reasons, appellants demonstrated sufficient minority cohesion and majority bloc voting to meet the second and third Gingles requirements.

LULAC, 548 U.S. at 427 (plurality opinion) (citations omitted).³⁰ In LULAC, the plurality found that it was “evident” the plaintiffs successfully proved the second and third Gingles preconditions because 92% of Latinx voters voted against Bonilla, even though Congressman Bonilla is Latino. Session v. Perry, 298 F. Supp. 2d 451, 488 (E.D. Tex. 2004). If plaintiffs were required to prove that white voters did not vote for Latinx candidates and that Latinx voters voted for Latinx candidates, then the second and third Gingles preconditions would not

³⁰ The Court notes that only two Justices—Justice Kennedy and Justice Breyer—joined this portion of the LULAC opinion. However, none of the concurrences or dissents discuss the second or third Gingles preconditions. See generally, LULAC, 548 U.S. 399.

have been “evidently” met in LULAC. In fact, the plaintiffs in LULAC would not have been able to prove the second and third Gingles preconditions.

Similarly, the Eleventh Circuit has concluded that it is not clear error to give greater weight to elections involving black candidates but cautioned, “[w]e do not mean to imply that district courts *should* give elections involving [B]lack candidates more weight; rather, we merely note that in light of existing case law district courts may do so without committing clear error.” Johnson v. Hamrick, 196 F.3d 1216, 1221–22 (11th Cir. 1999). In fact, the Eleventh Circuit went on to clarify “[w]e point out, however, that this Court ‘will not automatically assume that the [B]lack community can only be satisfied by [B]lack candidates.’” Id. at 1222 n.6 (quoting Askew v. City of Rome, 127 F.3d 1355, 1378 (11th Cir. 1997)).

Accordingly, the Court rejects Defendant’s arguments that the second and third Gingles preconditions require Plaintiffs to produce evidence that voter preferences changed based upon the race of the candidate. As the Supreme Court noted, that assumption is false as an empirical matter. And, as the Eleventh Circuit noted, courts cannot automatically assume that the Black community, as a whole, will be satisfied with any Black candidate. Thus, the

Court finds that the requirement urged by Defendant is incorrect as a matter of law.

d) Precedential arguments following *Allen*

Finally, Defendant argues that the Allen majority's treatment of Bolden requires that the Court determine the causes of racial polarization. Doc. No. [263], 13–19. Defendant begins this argument by stating, “[t]he majority opinion does not provide much direct guidance for lower courts on plaintiff’s evidentiary burden in satisfying the third Gingles precondition because that precondition was not squarely at issue in Allen.” Id. at 11. Defendant goes on to point out that “the Supreme Court did not offer any additional clarity on [the third Gingles precondition] because there was ‘no reason to disturb the District Court’s careful factual findings, which are subject to clear error review *and have gone unchallenged by Alabama in any event.*’” Id. at 17 (citing Allen, 143 S. Ct. at 1506). Despite these caveats, Defendant also argues that the majority opinion reaffirmed the causation test from Bolden.

The majority opinion, in its historical background section, discusses the 115 years of history between the passage of the Fifteenth Amendment and the 1982 amendments to the Voting Rights Act. Allen, 143 S. Ct. at 1498–1501. The

majority's treatment of Bolden can be described only as a summation of the holding, the resulting backlash, the congressional debates, and the ultimate passage of the 1982 amendments to the VRA. Id. At no other point in the majority opinion does Chief Justice Roberts discuss the viability of any precedent that came out of Bolden.³¹ In fact, the Gingles plurality expressly rejected the test that Defendant is proposing:

Finally, we reject the suggestion that racially polarized voting refers only to white bloc voting which is caused by white voters' *racial hostility* toward black candidates. To accept this theory would frustrate the goals Congress sought to achieve by repudiating the intent test of Mobile v. Bolden . . . and would prevent minority voters who have clearly been denied an opportunity to elect representatives of their choice from establishing a critical element of a vote dilution claim.

Gingles, 478 U.S. at 70–71 (citation omitted).

³¹ Bolden was overruled when Congress passed the 1982 Amendments to the VRA. See Gingles, 478 U.S. at 35 ("The amendment was largely a response to this Court's plurality opinion in [Bolden] . . . Congress substantially revised § 2 to make clear that a violation could be proved by showing discriminatory effect alone and to establish as the relevant legal standard the 'results test' . . .").

The Court finds reading the majority opinion's citation to Bolden as a reversion to the pre-Gingles frameworks a bridge too far.³² The Court understands that Defendant disagrees with the Court's reading of the effects test outlined by the plurality in Gingles; however, as the case law stands today and as noted in detail above, the Court finds that Plaintiffs do not have to prove that race is the cause of majority-bloc voting at the preconditions phase. As Defendant noted, Allen did not disturb the case law regarding the third Gingles

³² Defendant argues that Allen also restores the precedent from Whitcomb. Doc. No. [263], 13–16. On an initial note, neither the Allen majority, nor any of the concurrences or dissents, cite to or mention Whitcomb. Second, the sentence cited by Defendant, “[t]he third precondition, focused on racially polarized voting, ‘establish[es] that the challenged districting thwarts a distinctive minority vote at least plausibly on account of race’” does not create a causation requirement. Doc. No. [263], 16 (citing Allen, 143 S. Ct. at 1507). The majority opinion defines:

‘on account of race or color’ to mean ‘with respect to’ race or color, and not to connote any required purpose of racial discrimination.’ . . . A district is not equally open, in other words, when minority voters face—unlike their majority peers—bloc voting along racial lines, arising against the backdrop of substantial racial discrimination within the State, that renders a minority vote unequal to a vote by a nonminority voter.

Allen, 143 S. Ct. at 1507. The Court understands this to mean that at the preconditions phase, Plaintiffs have to prove the existence of racial bloc voting and at the totality of the circumstances phase, Plaintiffs have to show both past and present racial discrimination in Georgia that results in the voting process not being equally open to minority voters.

precondition. Rather, at the preconditions phase, Plaintiffs need only prove the existence of polarized voting by minority voters and bloc voting by majority voters, and then at the totality of the circumstances phase, the Court may evaluate the causes.

* * * * *

In summary, the Court finds that as a matter of law, to satisfy the second and third Gingles preconditions, Plaintiffs have to show (1) the existence of minority voter political cohesion and (2) that the majority votes as a bloc and usually defeats the minority voters' candidate of choice. As a part of these preconditions, Plaintiffs do not have to prove that race is the cause of voting differences between minority and majority voting blocs, nor must Plaintiffs disprove that other race-neutral reasons, such as partisanship, cause or are equally plausible explanations of racial bloc voting. The Court rejects Defendant's arguments to the contrary.

2. *Record Evidence of Racial Bloc Voting*

Turning to the Record evidence, the Court finds that there is sufficient Record evidence of both minority voter political cohesion and majority racial bloc voting to defeat Defendant's Motion for Summary Judgment.

Defendant argues that “the only thing Plaintiffs’ expert has shown in her data is that Black Georgians vote cohesively for Democrats.” Doc. No. [230-1], 31. And, “Plaintiffs’ evidence of racial polarization is, in reality, nothing more than evidence of partisan polarization where a majority of voters support one party and a minority of voters support another party.” *Id.* Finally, “all the Court has before it is evidence establishing that party, rather than race, explains the ‘diverge[nt]’ voting patterns at issue . . . Plaintiffs’ failure to offer any other evidence ends this case.” *Id.* at 32 (alteration in original). As stated above, Plaintiffs do not have to prove the causes of racial bloc voting to satisfy the second and third Gingles preconditions.

A defendant is entitled to summary judgment when it “shows that there is no genuine dispute as a material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The defendant can meet this burden in one of two ways: (1) no disagreement about a material fact or (2) “pointing out to the district court—that there is an absence of evidence to support [an essential element of] the [plaintiffs’] case.” Celotex Corp., 477 U.S. at 325.

The Court finds that there is sufficient evidence in the Record from which a factfinder could determine that the minority population is politically cohesive.

Defendant admitted for purposes of the Summary Judgment Motion that “[i]n the seven areas of Georgia that Plaintiffs’ expert, Dr. Handley, analyzed, she found that, in statewide elections, ‘the average percentage of Black vote for the 16 Black-preferred candidates is 96.1%.’” Doc. No. [253], ¶ 166. Defendant did not dispute the substance of Plaintiffs’ statement that “[i]n the 54 state legislative[] [districts] that Dr. Handley analyzed, over 90% of Black voters supported their . . . Black candidates.” *Id.* ¶ 168. Defendant admits that his expert “stated that in all general elections examined by Dr. Handley, Black voter support for a candidate ‘exceeded 90 percent.’” *Id.* ¶ 169. And “Dr. Alford acknowledged ‘extremely cohesive Black support’ for their preferred candidates in [general elections].” *Id.* ¶ 171. Accordingly, the Court finds that the testimony of both Plaintiffs’ expert and Defendant’s expert provide sufficient evidence that Black voters are politically cohesive to defeat Defendant’s Motion for Summary Judgment as to the second Gingles precondition.

Similarly, the Court finds that there is sufficient Record evidence from which a factfinder could determine that the white majority sufficiently votes as a bloc to defeat the minority voters’ candidate of choice. Defendant admitted that “[i]n the seven areas of Georgia that Dr. Handley analyzed, she found that, in

statewide elections, ‘the average percentage of White vote for the[] 16 Black-preferred candidates . . . is 11.2%.’” Id. ¶ 167. Defendant did not substantively object to the statement that Black preferred candidates “received, ‘on average, 10.1% of the White vote.’” Id. ¶ 168. Defendant’s expert testified “that Black and White voters are ‘supporting different candidates,’ that ‘voting is polarized,’ and that ‘[t]his is what polarization looks like when, you know, 90 percent of . . . one group goes one way and 90 percent goes the other.’” Id. ¶ 173 (alteration in original). In addition, Senator Kennedy stated that “we do have racially polarized voting in Georgia.” Id. ¶ 174.

The Court finds that the expert testimony, coupled with Senator Kennedy’s statement, provide sufficient Record evidence from which a factfinder could determine that white voters typically vote as a bloc to defeat the Black preferred candidate. Accordingly, the Court finds that this evidence is sufficient to defeat Defendant’s Motion for Summary Judgment as to the second and third Gingles precondition.

3. *Temporal Limitations*

Defendant argues that there are potential temporal limitations to the longevity of Section 2. Doc. No. [263], 19–21. Defendant’s argument that the

current trend on Section 2 cases transitioning away from preferences based on the race of the candidate is undercut by Gingles. Id. As the Court noted above, eight of the nine Justices agreed when the test was created that the race of the candidate was not relevant at the Gingles preconditions phase of the inquiry. See supra Section III(B)(1)(c). Additionally, the Eleventh Circuit and Supreme Court's more recent jurisprudence has expressly rejected a reliance on the race of the candidate as dispositive when evaluating a potential Section 2 violation. See id. Thus, the Court finds this temporal argument unavailing.

Defendant also argues that "Justice Kavanaugh's concurring opinion – the *fifth* vote – makes abundantly clear that the constitutionality of the law is not at all settled into the future." Doc. No. [263], 20. In Allen, Justice Kavanaugh opined:

Justice [Thomas] notes, however, that even if Congress in 1982 could constitutionally authorize race-based redistricting under § 2 for some period of time, the authority to conduct race-based redistricting cannot extend indefinitely into the future But Alabama did not raise that temporal argument in this Court, and therefore I would not consider it at this time.

143 S. Ct. at 1519. The Court finds this argument also unavailing. As the precedent currently stands, in June of 2023, five Justices agreed that the Gingles framework remains and affirmed the Allen three-judge court's decision, finding

that Alabama violated Section 2 of the VRA. Although the two dissenting opinions raised arguments about the constitutionality of the Gingles framework, none of them stated that Section 2 of the Voting Rights Act should be deemed unconstitutional. See generally Allen, 143 S. Ct. at 1519–48 (Thomas, J., dissenting); id. at 1548–57 (Alito, J., dissenting). In accordance with the majority opinion, the Court rejects Defendant’s temporal argument. The Court finds that Plaintiffs may move forward with their Section 2 claims.

4. Conclusion

To summarize the foregoing analysis on the second and third Gingles preconditions in this case: the Court finds that, under current jurisprudence, the preconditions require Plaintiffs to show (1) political cohesion amongst minority voters, and (2) that the white majority typically votes as a bloc to defeat the Black preferred candidate. The second and third Gingles preconditions do not require Plaintiffs to establish that race is the cause of bloc voting or disprove that race-neutral factors caused the bloc voting.

The Court also finds that Plaintiffs pointed to sufficient evidence in the Record of the existence of both minority voter cohesion and racial bloc voting to defeat Defendant’s Motion for Summary Judgment as to the second and third

Gingles preconditions. Accordingly, Defendant's Motion for Summary Judgment on the second and third Gingles preconditions is denied.³³

* * * * *

The Court **DENIES** Defendant's Motion for Summary Judgment. Section 2 challenges to legislative maps require "'an intensely local appraisal of the design and impact' of the electoral structure, practice, or procedure at issue." Nipper, 39 F.3d at 1498 (quoting Gingles, 478 U.S. at 79; Rogers, 458 U.S. at 621). The Court cannot conduct this analysis on a motion for summary judgment. Accordingly, the Court denies Defendant's Motion for Summary Judgment as to all three Gingles preconditions.

³³ Defendant's supplemental brief discusses the totality of the circumstances. Doc. No. [263], 21-22. Unlike in Pendergrass, Doc. Nos. [173]; [175], and Grant, Doc. Nos. [189]; [190], the Alpha Phi Alpha Plaintiffs did not move for summary judgment on their claims. Additionally, Defendant did not move for summary judgment in this case on the totality of the circumstances (*i.e.*, Senate Factors). Defendant's supplemental brief in this case is similar to those filed in Grant and Pendergrass. Compare Doc. No. [263] with Pendergrass, Doc. No. [214], Grant, Doc. No. [228]. Thus, the Court assumes that this portion of the supplemental brief is a vestige of the briefs in those cases. Because the Parties did not fully brief the issue of the totality of the circumstances or provide factual assertions on the issue in their statements of fact, the Court will not address the Senate Factors here.

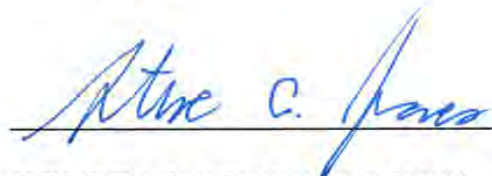
Although the Court does not engage in an analysis of the Senate Factors in this Order, the Court does discuss them in detail in the Court's Order on the Motions for Summary Judgment in Pendergrass.

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendant's Motion for Summary Judgment. Doc. No. [230]. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to Defendant. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial.

Accordingly, the case will proceed to a coordinated trial with Coakley Pendergrass, et al. v. Brad Raffensperger, et al., No. 1:21-cv-5339-SCJ, and Annie Lois Grant, et al. v. Brad Raffensperger, et al., No. 1:22-cv-122-SCJ. The Second Amended Scheduling Order shall govern the forthcoming proceedings. Doc. No. [261].

IT IS SO ORDERED this 17th day of July, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

APA Doc. 341

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

ALPHA PHI ALPHA FRATERNITY
INC., *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION

FILE NO. 1:21-CV-05337-SCJ

DEFENDANT'S NOTICE OF APPEAL

Notice is hereby given that, pursuant to 28 U.S.C. §§ 1291 and 1292, Defendant Secretary of State Brad Raffensperger hereby appeals to the U.S. Court of Appeals for the Eleventh Circuit in the above-captioned case from the final judgment entered in this case and from the Court's Opinion and Memorandum of Decision entered after trial on October 26, 2023 [Doc. 333], the Court's Order denying Defendant's Motion for Summary Judgment [Doc. 268], and the Court's Order denying Defendant's Motion to Dismiss [Doc. 65].

Respectfully submitted this 22nd day of November, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Notice of Appeal has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

B

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:21-cv-05339-SCJ**

Pendergrass et al v. Raffensperger et al - **Restricted Filer Robert Allensworth, see Order #244**

Assigned to: Judge Steve C. Jones

Case in other court: USCA - 11th Circuit, 23-13916-AA

USCA- 11th Circuit, 24-10231-A

Cause: 52:10301 Denial or abridgement of right to vote on account of race or color

Date Filed: 12/30/2021

Date Terminated: 10/26/2023

Jury Demand: None

Nature of Suit: 441 Civil Rights: Voting

Jurisdiction: Federal Question

Date Filed	#	Docket Text
12/30/2021	1	COMPLAINT filed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. (Filing fee \$402, receipt number AGANDC-11487645) (Attachments: # 1 Civil Cover Sheet)(jra) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 01/03/2022)
12/30/2021	2	Certificate of Interested Persons by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (jra) (Entered: 01/03/2022)
01/03/2022	3	Electronic Summons Issued as to Brad Raffensperger. (adg) (Entered: 01/03/2022)
01/03/2022	4	Electronic Summons Issued as to Rebecca N. Sullivan. (adg) (Entered: 01/03/2022)
01/03/2022	5	Electronic Summons Issued as to Sara Tindall Ghazal. (adg) (Entered: 01/03/2022)
01/03/2022	6	Electronic Summons Issued as to Matthew Mashburn. (adg) (Entered: 01/03/2022)
01/03/2022	7	Electronic Summons Issued as to Anh Le. (adg) (Entered: 01/03/2022)
01/04/2022	8	APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493029).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/04/2022)
01/04/2022	9	APPLICATION for Admission of Jonathan P. Hawley Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493112).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/04/2022)
01/04/2022	10	APPLICATION for Admission of Christina A. Ford Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493151).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/04/2022)
01/04/2022	11	APPLICATION for Admission of Abha Khanna Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493294).by Ojuan Glaze, Elliott Hennington, Triana Arnold

		James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/04/2022)
01/04/2022	12	NOTICE of Appearance by Bryan P. Tyson on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (Tyson, Bryan) (Entered: 01/04/2022)
01/05/2022	13	APPLICATION for Admission of Daniel C. Osher Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11496288).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/05/2022)
01/05/2022	14	APPLICATION for Admission of Graham W. White Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11496315).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/05/2022)
01/06/2022		APPROVAL by Clerks Office re: 8 APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493029).. Attorney Kevin J. Hamilton added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/06/2022)
01/06/2022		APPROVAL by Clerks Office re: 9 APPLICATION for Admission of Jonathan P. Hawley Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493112).. Attorney Jonathan Patrick Hawley added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/06/2022)
01/06/2022		APPROVAL by Clerks Office re: 10 APPLICATION for Admission of Christina A. Ford Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493151).. Attorney Christina Ashley Ford added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/06/2022)
01/06/2022		APPROVAL by Clerks Office re: 11 APPLICATION for Admission of Abha Khanna Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11493294).. Attorney Abha Khanna added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/06/2022)
01/06/2022		NOTICE OF VIDEO PROCEEDING: RULE 16 CONFERENCE set for 1/12/2022 at 01:30 PM in No Courtroom before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg. Connection Instructions: Topic: Rule 16 Conference: 1:21-cv-05337-SCJ; 1:21-cv-05338-SCJ-SDG-ELB; and 1:21-cv-05339-SCJ Please click the link below to join the webinar: https://ganduscourts.zoomgov.com/j/1605120572 Passcode: 851671 Or One tap mobile : US: +16692545252,,1605120572#,,,,*851671# or +16468287666,,1605120572#,,,,*851671# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666 or +1 551 285 1373 or +1 669 216 1590 Webinar ID: 160 512 0572 Passcode: 851671 International numbers available: https://ganduscourts.zoomgov.com/u/abdGvu42dG Or an H.323/SIP room system: H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East) Meeting ID: 160 512 0572 Passcode: 851671 SIP: 1605120572@sip.zoomgov.com Passcode: 851671 You must follow the instructions of the Court for remote proceedings available here . The procedure for filing documentary exhibits admitted during the proceeding is available here . <i>Photographing, recording, or broadcasting of any judicial proceedings, including proceedings held by video teleconferencing or telephone conferencing, is strictly and absolutely prohibited.</i> (pdw) (Entered: 01/06/2022)

01/06/2022	<u>15</u>	ORDER setting Rule 16 Conference for 1/12/2022 at 01:30 PM via Zoom (connection instructions to follow by separate notice.) The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their positions with respect to the issues (set forth herein.) Signed by Judge Steve C. Jones on 01/06/2022. (pdw) (Entered: 01/06/2022)
01/07/2022	<u>16</u>	AFFIDAVIT of Service for Summons in a Civil Action , as to Brad Raffensperger. (Sparks, Adam) (Entered: 01/07/2022)
01/07/2022	<u>17</u>	Return of Service Executed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. Anh Le served on 1/6/2022, answer due 1/27/2022. (Sparks, Adam) (Entered: 01/07/2022)
01/07/2022	<u>18</u>	Return of Service Executed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. Matthew Mashburn served on 1/6/2022, answer due 1/27/2022. (Sparks, Adam) (Entered: 01/07/2022)
01/07/2022	<u>19</u>	Return of Service Executed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. Rebecca N. Sullivan served on 1/4/2022, answer due 1/25/2022. (Sparks, Adam) (Entered: 01/07/2022)
01/07/2022		Per <u>16</u> : Return of Service Executed Brad Raffensperger served on 1/4/2022, answer due 1/25/2022. (ddm) (Entered: 01/07/2022)
01/07/2022	<u>20</u>	NOTICE of Appearance by Bryan Francis Jacoutot on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (Jacoutot, Bryan) (Entered: 01/07/2022)
01/07/2022	<u>21</u>	NOTICE of Appearance by Loree Anne Paradise on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (Paradise, Loree Anne) (Entered: 01/07/2022)
01/07/2022	<u>22</u>	NOTICE of Appearance by Frank B. Strickland on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (Strickland, Frank) (Entered: 01/07/2022)
01/10/2022		APPROVAL by Clerks Office re: <u>13</u> APPLICATION for Admission of Daniel C. Osher Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11496288).. Attorney Daniel C Osher added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/10/2022)
01/10/2022		APPROVAL by Clerks Office re: <u>14</u> APPLICATION for Admission of Graham W. White Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11496315).. Attorney Graham W. White added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (gas) (Entered: 01/10/2022)
01/10/2022	<u>23</u>	Return of Service Executed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. Sara Tindall Ghazal served on 1/7/2022, answer due 1/28/2022. (Sparks, Adam) (Entered: 01/10/2022)
01/10/2022	<u>24</u>	ORDER granting <u>8</u> Application for Admission Pro Hac Vice of Kevin J. Hamilton. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)

01/10/2022	<u>25</u>	ORDER granting <u>9</u> Application for Admission Pro Hac Vice of Jonathan P. Hawley. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)
01/10/2022	<u>26</u>	ORDER granting <u>10</u> Application for Admission Pro Hac Vice of Christina A. Ford. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)
01/10/2022	<u>27</u>	ORDER granting <u>11</u> Application for Admission Pro Hac Vice of Abha Khanna. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)
01/10/2022	<u>28</u>	ORDER granting <u>13</u> Application for Admission Pro Hac Vice of Daniel C. Osher. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)
01/10/2022	<u>29</u>	ORDER granting <u>14</u> Application for Admission Pro Hac Vice of Graham W. White. Signed by Judge Steve C. Jones on 1/10/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/10/2022)
01/10/2022		DOCKET ORDER AMENDING <u>15</u> Order setting Rule 16 Conference for 1/12/2022 at 01:30 PM via Zoom (connection instructions to remain as previously noticed). The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their positions with respect to the issues set forth in the Courts prior order at Doc. No. <u>15</u> after conferring with the parties in 1:21-cv-05337-SCJ; 1:21-cv-05338-ELB-SCJ-SDG; and 1:22-cv-00090-ELB-SCJ-SDG. Signed by Judge Steve C. Jones on 1/10/2022. (pdw) (Entered: 01/10/2022)
01/11/2022	<u>30</u>	STATUS REPORT by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Lewis, Joyce) (Entered: 01/11/2022)
01/11/2022	<u>31</u>	STATUS REPORT by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan. (Attachments: # <u>1</u> Exhibit A - 2022 Election Calendar, # <u>2</u> Exhibit B - Letter from B. Evans regarding redistricting)(Tyson, Bryan) Modified on 1/11/2022 to remove duplicate text (ddm). (Entered: 01/11/2022)
01/12/2022	<u>32</u>	MOTION for Preliminary Injunction with Brief In Support by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # <u>1</u> Brief in Support of Plaintiffs' Motion for Preliminary Injunction, # <u>2</u> Text of Proposed Order Granting Plaintiffs' Motion for Preliminary Injunction)(Sparks, Adam) (Entered: 01/12/2022)
01/12/2022	<u>33</u>	ORDER setting motion(s) and briefing schedule: Defendants shall file their motion to dismiss, if any, by no later than 5:00 PM EST on January 14,2022.Plaintiffs shall file their response, if any, by no later than 5:00 PM on January 18, 2022. Defendants shall file their reply/ if any, by no later than 5:00 PM on January 20, 2022. Signed by Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)

01/12/2022	34	AFFIDAVIT re 32 MOTION for Preliminary Injunction <i>Declaration of Kevin J. Hamilton</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 1 - Expert Report of William S. Cooper, # 2 Exhibit 2 - Expert Report of Dr. Maxwell Palmer, # 3 Exhibit 3 - Expert Report of Dr. Orville Vernon Burton, # 4 Exhibit 4 - Expert Report of Dr. Loren Collingwood, # 5 Exhibit 5 - Declaration of Coakley Pendergrass, # 6 Exhibit 6 - Declaration of Triana Arnold James, # 7 Exhibit 7 - Declaration of Elliott Hennington, # 8 Exhibit 8 - Declaration of Robert Richards, # 9 Exhibit 9 - Declaration of Jens Rueckert, # 10 Exhibit 10 - Declaration of Ojuan Glaze, # 11 Exhibit 11 - U.S. News & World Report Article (11/19/21), # 12 Exhibit 12 - AJC Article (11/22/21), # 13 Exhibit 13 - Albany Herald Article (11/9/21), # 14 Exhibit 14 - GPB Article (11/22/21), # 15 Exhibit 15 - AJC Article (12/30/21), # 16 Exhibit 16 - SOS Webpage - Qualifying Information, # 17 Exhibit 17 - House LCRC Guidelines, # 18 Exhibit 18 - Dunne Letter (03/20/92), # 19 Exhibit 19 - Reynolds Letter (02/11/82), # 20 Exhibit 20 - AJC Article (09/30/16), # 21 Exhibit 21 - CNN Article (05/02/17), # 22 Exhibit 22 - Appen Media Group Article (03/15/17), # 23 Exhibit 23 - AJC Article (04/15/17), # 24 Exhibit 24 - AJC Article (01/16/17), # 25 Exhibit 25 - Washington Post Article (11/05/18), # 26 Exhibit 26 - Slate Article (11/06/18), # 27 Exhibit 27 - USA Today Article (05/10/18), # 28 Exhibit 28 - Salon Article (01/04/21), # 29 Exhibit 29 - ABC News Article (07/28/20), # 30 Exhibit 30 - CNN Article (10/17/20), # 31 Exhibit 31 - AJC Article 10/26/21), # 32 Exhibit 32 - 2021-2022 GLBC Members Webpage, # 33 Exhibit 33 - Governing Article (01/13/21), # 34 Exhibit 34 - NCSL Article (12/01/20), # 35 Exhibit 35 - NGA - Former GA Governors, # 36 Exhibit 36 - AJC Article (12/01/20), # 37 Exhibit 37 - U.S. Senate Webpage - Georgia Senators, # 38 Exhibit 38 - WUGA Article (11/19/21), # 39 Exhibit 39 - House Study Committee on Maternal Mortality Final Report, # 40 Exhibit 40 - AJC Article (12/01/21), # 41 Exhibit 41 - AJC Article (12/06/21), # 42 Exhibit 42 - AP Article (11/20/21), # 43 Exhibit 43 - 2022 State Elections & Voter Registration Calendar)(Sparks, Adam) (Entered: 01/12/2022)
01/12/2022	35	ORDER setting motion(s) and briefing schedule: Plaintiffs shall file their amended motion for a preliminary injunction, if any, by no later than 2:00 PM EST on January 13,2022. Defendant shall file their response, if any, by no later than 5:00 PM EST on January 18, 2022. Plaintiffs shall file their reply, if any, by no later than 5:00 PM EST on January 20, 2022. Signed Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)
01/12/2022	64	Minute Entry for proceedings held before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg: Rule 16 conference held via Zoom in Alpha Phi Alpha v. Raffensperger, 1:21-cv-5337-SCJ; Georgia State Conference of the NAACP et al v. State of Georgia, 1:21-cv-05338-SCJ-SDG-ELB; Pendergrass v. Raffensperger, 1:21-CV-5339-SCJ; Common Cause et al v. Raffensperger, 1:22-cv-00090-SCJ-SDG-ELB; Grant v. Raffensperger, 1:22-CV-0122-SCJ (Court Reporter Viola Zbrowski)(pdw) (Entered: 02/07/2022)
01/13/2022	36	(FILED IN ERROR) NOTICE of Appearance by Charlene S McGowan on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (McGowan, Charlene) Modified on 1/13/2022 to note pleading was filed in wrong case and attorney has been notified (ddm). (Entered: 01/13/2022)
01/13/2022	37	NOTICE of Appearance by Charlene S McGowan on behalf of Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan (McGowan, Charlene) (Entered: 01/13/2022)
01/14/2022	38	MOTION to Dismiss <i>Plaintiffs' Complaint</i> with Brief In Support by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan. (Attachments: # 1

		Brief in Support of Defendants' Motion to Dismiss)(Tyson, Bryan) (Entered: 01/14/2022)
01/18/2022	39	RESPONSE in Opposition re 38 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 1 - Dwight v. Kemp Joint Statement (09/12/18))(Sparks, Adam) (Entered: 01/18/2022)
01/18/2022	40	RESPONSE in Opposition re 32 MOTION for Preliminary Injunction filed by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan. (Attachments: # 1 Exhibit A - Dec. of John Morgan, # 2 Exhibit B - Dec. of Michael Barnes)(Tyson, Bryan) (Entered: 01/18/2022)
01/19/2022	41	COORDINATED ORDER advising that for any and every case in which the Court does not grant the motion to dismiss and does not thereafter grant a request for interlocutory appeal or a request to stay, the Court will hold a coordinated, in-person preliminary injunction hearing regarding the pending motions for preliminary injunction in those cases. If any preliminary injunction hearing occurs, the parties collectively will have up to six (6) days to present evidence and arguments. The presenting parties may choose not to use all six days. If any preliminary injunction hearing occurs, it will take place in the Richard B. Russell Federal Building and United States Courthouse (courtroom to be determined) and begin at 9:00 A.M. (EST) on MONDAY, FEBRUARY 7, 2022. If the parties opt to use all six days, the hearing will take place each following business day from 9:00 A.M. to 5:00 P.M. until the overall conclusion of the hearing at 5:00 P.M. on MONDAY, FEBRUARY 14, 2022. The parties shall file with the Court a consolidated presentation schedule by no later than 5:00 P.M. (EST) on WEDNESDAY, JANUARY 26, 2022. If any preliminary injunction hearing occurs, the parties in cases with still-pending motions for preliminary injunction shall file proposed findings of fact and conclusions of law by no later than 5:00 P.M. (EST) on MONDAY, FEBRUARY 21, 2022. The proposed findings of fact and conclusions of law shall be specific to each case and motion. Signed by Judge Steve C. Jones on 1/19/2022. (ddm) (Entered: 01/19/2022)
01/19/2022	42	Unopposed MOTION for Leave to File Excess Pages by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 01/19/2022)
01/19/2022	43	ORDER granting 42 Motion for Leave to File Excess Pages. Plaintiffs may file an additional five pages, for a total of 20 pages, in their forthcoming reply in support of their motion for preliminary injunction. Signed by Judge Steve C. Jones on 01/19/2022. (rsg) (Entered: 01/19/2022)
01/20/2022	44	REPLY to Response to Motion re 38 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan. (Tyson, Bryan) (Entered: 01/20/2022)
01/20/2022	45	REPLY to Response to Motion re 32 MOTION for Preliminary Injunction filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 01/20/2022)
01/20/2022	46	<i>Second Declaration of Kevin J. Hamilton</i> in Support of 32 Plaintiffs' Motion for Preliminary Injunction filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 1 - Suppl. Expert Report of William S. Cooper, # 2 Exhibit 2 - Suppl. Expert Report of Dr. Orville Vernon Burton)(Sparks, Adam) Modified on 1/21/2022 to edit docket entry (ddm). (Entered: 01/20/2022)
01/25/2022	47	NOTICE Of Filing of Supplemental Authority by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 39 Response in

		Opposition to Motion, <u>2</u> MOTION for Preliminary Injunction (Attachments: # <u>1</u> Exhibit 1 - Caster v. Merrill Order (01/26/22))(Sparks, Adam) (Entered: 01/25/2022)
01/26/2022	<u>48</u>	NOTICE Of Filing PARTIES CONSOLIDATED PRESENTATION SCHEDULE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re <u>41</u> Order,,,,,, Set Submission Deadline,,,,,, Set Deadlines/Hearings,,,,,, (Lewis, Joyce) (Entered: 01/26/2022)
01/28/2022	<u>49</u>	ORDER advising that on January 7, 2022, Mr. Edward Lindsey was appointed to replace Rebecca Sullivan on the State Election Board and directing the Clerk update the docket and case-style to this regard. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)
01/28/2022	<u>50</u>	ORDER denying <u>38</u> Defendants' Motion to Dismiss Plaintiffs' Complaint. Defendants' request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is denied. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)
01/28/2022	<u>51</u>	COORDINATED ORDER issued for purposes of perfecting the record as to the February 7-14, 2022 coordinated in-person hearing on the Motion for Preliminary Injunction. See Order for specifics on pre-hearing deadlines, stipulations, hearing schedule and covid-19 mitigation protocols. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)
01/31/2022	<u>52</u>	NOTICE Of Filing Defendants' Lists of Witnesses and Exhibits by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger, Rebecca N. Sullivan re <u>51</u> Order, (Attachments: # <u>1</u> Exhibit 7, # <u>2</u> Exhibit 9, # <u>3</u> Exhibit 10, # <u>4</u> Exhibit 11, # <u>5</u> Exhibit 12, # <u>6</u> Exhibit 13, # <u>7</u> Exhibit 14 Part 1, # <u>8</u> Exhibit 14 Part 2, # <u>9</u> Exhibit 15, # <u>10</u> Exhibit 16, # <u>11</u> Exhibit 17, # <u>12</u> Exhibit 18, # <u>13</u> Exhibit 19, # <u>14</u> Exhibit 20, # <u>15</u> Exhibit 21, # <u>16</u> Exhibit 22, # <u>17</u> Exhibit 23, # <u>18</u> Exhibit 24, # <u>19</u> Exhibit 25, # <u>20</u> Exhibit 26, # <u>21</u> Exhibit 27, # <u>22</u> Exhibit 28, # <u>23</u> Exhibit 29, # <u>24</u> Exhibit 30, # <u>25</u> Exhibit 31, # <u>26</u> Exhibit 32, # <u>27</u> Exhibit 33, # <u>28</u> Exhibit 34, # <u>29</u> Exhibit 35, # <u>30</u> Exhibit 36, # <u>31</u> Exhibit 37)(Tyson, Bryan) (Entered: 01/31/2022)
01/31/2022	<u>53</u>	Witness List by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Lewis, Joyce) (Entered: 01/31/2022)
02/01/2022	<u>54</u>	RESPONSE to <u>47</u> <i>Plaintiffs' Notice of Supplemental Authority</i> filed by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # <u>1</u> Exhibit A - Amicus Brief Joined by Georgia in Merrill v. Milligan) (Tyson, Bryan) Modified on 2/1/2022 to edit docket text (ddm). (Entered: 02/01/2022)
02/02/2022	<u>55</u>	NOTICE Of Filing Defendants' Objections to Plaintiffs' Witnesses and Exhibits by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re <u>51</u> Order, (Tyson, Bryan) (Entered: 02/02/2022)
02/02/2022	<u>56</u>	NOTICE Of Filing <i>Plaintiffs' Objections to Defendants' Lists of Witnesses and Exhibits</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Lewis, Joyce) Modified on 2/3/2022 to edit docket text (ddm). (Entered: 02/02/2022)
02/03/2022	<u>57</u>	ORDER ALLOWING AUDIO/VISUAL EQUIPMENT IN THE COURTROOM on 2/04/2022 - 2/14/2022 at 9:00 AM: Graham W. White, Michael B. Jones, Kevin J. Hamilton, Abha Khanna Adam M. Sparks, Joyce Gist Lewis, and Jonathan. P. Hawley, and their accompanying staff, Patricia Marino, Benjamin Winstead and Patina Clarke. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022		Submission of <u>32</u> MOTION for Preliminary Injunction , to District Judge Steve C. Jones. (pdw) (Entered: 02/03/2022)

02/03/2022		DOCKET ORDER AMENDMENT to 57 Order Allowing Audio/Visual Equipment in the Courtroom: the parties will NOT be permitted to bring additional tables into the Courtroom. Entered by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022	58	ORDER directing Defendants to file on the docket expert reports by Lynn Bailey, Gina Wright, and Dr. John Alford by no later than 12:00 p.m. (EST) on Friday, February 4, 2022. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/03/2022	59	COORDINATED ORDER regarding Defendants' Objections to Plaintiffs' witnesses and exhibits 55 . The Court declines to rule on these objections prior to the preliminary injunction hearing. The Court instructs Defendants to raise their objections to a specific exhibit when Plaintiffs move to introduce the exhibit into evidence. At that time, the Court will rule on the Defendants' objection to that particular exhibit. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) Modified on 2/3/2022 to edit docket text (ddm). (Entered: 02/03/2022)
02/04/2022	60	Expert Report of John R. Alford, Ph.D. by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	61	Expert Report of Lynn Bailey by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	62	Expert Report of Gina Wright by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022		COURT'S NOTICE REGARDING THE PRELIMINARY INJUNCTION HEARING SCHEDULED TO COMMENCE ON FEBRUARY 7, 2022 AT 9:00 AM IN COURTROOM 1907: As part of the Court's COVID-19 safety protocols, a maximum of 24 non-party observers will be permitted to attend. A maximum of 7 members of press will be permitted to sit in the jury box; however, entrance to and egress from the jury box will be limited to prior to start of court and during breaks only. COURTROOM 2105 WILL BE USED FOR OVERFLOW SEATING, WITH A LIVE AUDIO STREAM PROVIDED. (pdw) (Entered: 02/04/2022)
02/04/2022	63	STIPULATION re 51 Order, <i>Joint Stipulated Facts for Preliminary Injunction Proceedings</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 02/04/2022)
02/07/2022	65	ORDER - In light of the Supreme Court's decision this Court hereby ORDERS the parties to arrive to court tomorrow morning prepared to discuss whether this Court should continue to hold the current hearing regarding Plaintiffs' motions for preliminary injunctions. Signed by Judge Steve C. Jones on 2/7/2022. (pdw) (Entered: 02/07/2022)
02/07/2022	90	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing held on 7/2022 re 32 MOTION for Preliminary Injunction. Preliminary Injunction hearing began. Opening statements heard. Pendergrass/Grant plaintiffs' exhibits 1-26, 38-40, 53, 55-58, 60, 62, 66 admitted. Alpha plaintiffs' exhibits A1-A18, A22, A37, A46-A49 admitted. Pendergrass/Grant witness Dr. William Cooper sworn and testified. Dr. William Cooper recalled by Alpha plaintiffs. Alpha plaintiffs' exhibit 47 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/08/2022	91	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/8/2022 re 32 MOTION for Preliminary Injunction . The Court heard argument regarding SCOTUS ruling issued 2/7/2022 in Alabama cases. Court adjourned for three hours to allow counsel time to prepare for presentation of evidence. Defendants witness Mark Barnes sworn and testified. Pendergrass/Grant witness Blakeman Esselstyn

		sworn and testified. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/09/2022	66	RESPONSE re 65 Order, filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 02/09/2022)
02/09/2022	67	AFFIDAVIT re 66 Response (Non-Motion) <i>Declaration of Jonathan P. Hawley</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 1 - B. Esselstyn 2nd Supplemental Expert Report)(Sparks, Adam) (Entered: 02/09/2022)
02/09/2022	68	NOTICE Of Filing Subpoenas to Appear and Testify by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (Attachments: # 1 Exhibit N. Boren Subpoena, # 2 Errata R. Barron Subpoena)(Lewis, Joyce) (Entered: 02/09/2022)
02/09/2022	92	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/9/2022 re 32 MOTION for Preliminary Injunction. Defendants' witness Lynn Bailey sworn and testified. Defendants' exhibits 38 and 7 admitted. Pendergrass/Grant witnesses Richard Barron and Nancy Boren sworn and testified. Pendergrass/Grant exhibit 68 admitted. Alpha Plaintiffs' witness Bishop Jackson sworn and testified. Blakeman Esselstyn recalled by Pendergrass/Grant Plaintiffs. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/10/2022	69	Unopposed MOTION for Judicial Notice by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 1 - 2012 Districting Maps and Data, # 2 Exhibit 2 - 2014 Districting Maps and Data, # 3 Exhibit 3 - 2015 Districting Maps and Data)(Sparks, Adam) (Entered: 02/10/2022)
02/10/2022	70	Consent MOTION for Extension of Time to File Answer re 1 Complaint, by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/10/2022)
02/10/2022	93	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/10/2022 re 32 MOTION for Preliminary Injunction . Pendergrass/Grant witness sworn and testified via Zoom. Pendergrass/Grant witness Dr. Maxwell Palmer sworn and testified. Alpha witness Lisa Handley sworn and testified. Alpha exhibit A52 admitted. Pendergrass/Grant witness Jason Carter sworn and testified. Alpha witness Adrienne Jones sworn and testified. Alpha exhibit A5 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/11/2022		DOCKET ORDER granting 69 Unopposed MOTION for Judicial Notice. Entered by Judge Steve C. Jones on 2/11/2022. (pdw) Modified on 2/11/2022 to edit docket link (ddm). (Entered: 02/11/2022)
02/11/2022	71	ORDER granting the 70 Defendants' Motion to Extend the Time to Answer Plaintiffs' Complaint. Defendants' answers to Plaintiffs' Complaint is due on or before February 25, 2022. Signed by Judge Steve C. Jones on 02/11/2022. (ddm) (Entered: 02/11/2022)
02/11/2022	94	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/11/2022 re 32 MOTION for Preliminary Injunction. Defendants' witness Gina Wright sworn and testified. Defendants' exhibits 1-37, 38, 41 admitted. Pendergrass/Grant exhibits 69 and 70 admitted. Defendants' exhibit 41 admitted. Defendants' witness John Morgan sworn and testified. Defendants' witness John Alford sworn and testified via Zoom. Defendants' exhibit 42 admitted Alpha exhibit 207.6 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)

02/14/2022	72	COORDINATED ORDER directing the parties to file proposed findings of fact and conclusions of law no later than 5:00 P.M. (EST) on FRIDAY, FEBRUARY 18, 2022. Parties are further ORDERED to file their proposed findings of fact and conclusions of law to CM/ECF and e-mail a word copy the Court's Courtroom Deputy (see order for contact information). Signed by Judge Steve C. Jones on 02/14/2022. (ddm) (Entered: 02/15/2022)
02/14/2022	95	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing concluded on 2/14/2022 re 32 MOTION for Preliminary Injunction. Alpha exhibit A53 admitted. John Morgan recalled, testified via Zoom. Defendants' exhibits 43-47 admitted. Pendergrass/Grant exhibits 27-37, 41-54, 59, 61, 63-67 admitted. Alpha exhibits 50 and 51 admitted. Closing arguments heard. The matter was taken under advisement by the Court with ruling to follow. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/15/2022	73	TRANSCRIPT of Preliminary Injunction Hearing held on 2/7/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/15/2022	74	TRANSCRIPT of Preliminary Hearing Injunction held on 2/8/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/15/2022	75	TRANSCRIPT of Preliminary Injunction Hearing held on 2/9/2022, A.M. Session before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/15/2022	76	Notice for Leave of Absence for the following date(s): March 24-25, 2022, April 4-8, 2022, May 23-27, 2022, and July 5-8, 2022, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 02/15/2022)
02/15/2022	77	TRANSCRIPT of Preliminary Injunction Hearing held on 2/10/2022, A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline

		set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/15/2022	78	TRANSCRIPT of Preliminary Injunction Hearing held on 2/11/2022, A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/15/2022	79	TRANSCRIPT of Preliminary Injunction Hearing held on 2/14/2022, Afternoon Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/8/2022. Redacted Transcript Deadline set for 3/18/2022. Release of Transcript Restriction set for 5/16/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/15/2022)
02/16/2022	80	TRANSCRIPT of Proceedings held on February 7, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	81	TRANSCRIPT of Proceedings held on February 8, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	82	TRANSCRIPT of Proceedings held on February 9, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	83	TRANSCRIPT of Proceedings held on February 10, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters .

		Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	84	TRANSCRIPT of Proceedings held on February 11, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	85	TRANSCRIPT of Proceedings held on February 14, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/18/2022	86	NOTICE by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger of <i>Supplemental Authority</i> (Attachments: # 1 Exhibit A - Order in Arkansas State Conf. of the NAACP v. Arkansas Board of Apportionment)(Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	87	Proposed Findings of Fact by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 02/18/2022)
02/18/2022	88	Proposed Findings of Fact by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 02/18/2022)
02/25/2022	89	ANSWER to 1 COMPLAINT by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. Discovery ends on 7/25/2022.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 02/25/2022)
02/28/2022	96	SCHEDULING ORDER. See Order for all specific deadlines. The parties are encouraged to abide by their previously expressed commitments to coordinate with the parties in all of the redistricting cases (currently pending in the Northern District of Georgia) in terms of discovery, so as to limit redundancies and diminish discovery burdens. Except as modified herein, the Federal Rules of Civil Procedure and the Local Rules of this Court, shall govern any remaining deadlines. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
02/28/2022	97	ORDER denying the 32 Motion for Preliminary Injunction. Having determined that a preliminary injunction should not issue, the Court cautions that this is an interim, non-final ruling that should not be viewed as an indication of how the Court will ultimately rule on the merits at trial. Under the specific circumstances of this case, the Court finds that proceeding with the Enacted Maps for the 2022 election cycle is the right decision.

		But it is a difficult decision. And it is a decision the Court did not make lightly. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
03/28/2022	98	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 03/28/2022)
03/28/2022	99	CERTIFICATE OF SERVICE of <i>Plaintiffs' Initial Disclosures</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 03/28/2022)
03/31/2022	100	CERTIFICATE OF SERVICE for <i>Defendants' Initial Disclosures</i> by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/31/2022)
05/12/2022	101	Notice for Leave of Absence for the following date(s): May 23-27, 2022, July 5-8, 2022, September 2-6, 2022, September 16-19, 2022, September 30, 2022, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 05/12/2022)
05/16/2022	102	ORDER advising the parties that the Court declines the parties' request for another scheduling conference. The Court also DENIES Plaintiffs' requests to alter the previously issued scheduling orders. Said scheduling orders remain the Order of the Court. Signed by Judge Steve C. Jones on 05/16/2022. (ddm) (Entered: 05/16/2022)
05/23/2022	103	Request for Leave of Absence for the following date(s): 6/13/22 - 6/24/22; 6/27/22 - 7/1/22; 7/5/22 - 7/15/22, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 05/23/2022)
07/27/2022		ORDER (by docket entry only): The parties are hereby ORDERED to file a joint status report no later than 12:00 PM on August 2, 2022 setting forth the following information: 1.) the current posture of the litigation; and 2.) if the parties will be prepared to proceed to trial either in late April or the month of May, 2023. Entered by Judge Steve C. Jones on 7/27/2022. (pdw) (Entered: 07/27/2022)
08/02/2022	104	STATUS REPORT <i>Joint Status Report</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 08/02/2022)
08/04/2022	105	ORDER advising the parties that, after having read and considered the parties' Joint Status Report in response to the Court's order of July 27, 2022, the Court exercises its discretion to leave the scheduling order (dated February 28, 2022) in place. No changes will be made at this time. Signed by Judge Steve C. Jones on 08/04/2022. (ddm) (Entered: 08/04/2022)
08/04/2022	106	CERTIFICATE OF SERVICE of <i>Discovery</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Lewis, Joyce) (Entered: 08/04/2022)
08/05/2022	107	CERTIFICATE OF SERVICE for <i>Defendants' First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission</i> by Sara Tindall Ghazal, Anh Le, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 08/05/2022)
08/24/2022	108	Joint MOTION for Protective Order by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order [Proposed] Stipulated Protective Order)(Lewis, Joyce) (Entered: 08/24/2022)
08/25/2022	109	STIPULATED PROTECTIVE ORDER. Signed by Judge Steve C. Jones on 08/25/2022. (ddm) (Entered: 08/25/2022)

09/02/2022	<u>110</u>	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) (Entered: 09/02/2022)
09/13/2022	<u>111</u>	MOTION to Withdraw Loree Anne Paradise as Attorneyby Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # <u>1</u> Text of Proposed Order)(Paradise, Loree Anne) (Entered: 09/13/2022)
09/14/2022	<u>112</u>	APPLICATION for Admission of Makeba Rutahindurwa Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12068067).by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/14/2022)
09/15/2022	<u>113</u>	ORDER granting <u>111</u> Motion to Withdraw as Attorney filed by Loree Anne Paradise. Signed by Judge Steve C. Jones on 09/15/2022. (ddm) (Entered: 09/15/2022)
09/16/2022		APPROVAL by Clerks Office re: <u>112</u> APPLICATION for Admission of Makeba Rutahindurwa Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12068067). Attorney Makeba Rutahindurwa added appearing on behalf of Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (pdt). (Entered: 09/16/2022)
09/19/2022	<u>114</u>	ORDER granting <u>112</u> Application for Admission Pro Hac Vice filed by Makeba Rutahindurwa. Signed by Judge Steve C. Jones on 09/19/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(ddm) (Entered: 09/19/2022)
10/07/2022	<u>115</u>	STIPULATION AND ORDER REGARDING DISCOVERY. (See Order for specific deadlines.) Signed by Judge Steve C. Jones on 10/07/2022. (ddm) (Entered: 10/07/2022)
10/17/2022	<u>116</u>	Consent MOTION to Add Party <i>Judge William S. Duffey, Jr. as a Defendant in His Official Capacity</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # <u>1</u> Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 10/17/2022)
10/17/2022	<u>117</u>	ORDER granting <u>116</u> Plaintiffs' Consent Motion to add Judge William S. Duffey, Jr. as a Defendant. Plaintiffs are ORDERED to file their amended complaint within ten days of the entry of this Order. Signed by Judge Steve C. Jones on 10/17/2022. (ddm) (Entered: 10/18/2022)
10/18/2022	<u>118</u>	CERTIFICATE OF SERVICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) (Entered: 10/18/2022)
10/25/2022	<u>119</u>	CERTIFICATE OF SERVICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) (Entered: 10/25/2022)
10/28/2022	<u>120</u>	AMENDED COMPLAINT against All Defendants filed by Robert Richards, Coakley Pendergrass, Ojuan Glaze, Jens Rueckert, Elliott Hennington, Triana Arnold James. (Sparks, Adam) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 10/28/2022)
11/08/2022	<u>121</u>	WAIVER OF SERVICE Returned Executed by Robert Richards, Coakley Pendergrass, Jens Rueckert, Elliott Hennington, Triana Arnold James. William S. Duffey, Jr waiver mailed on 11/3/2022, answer due 1/3/2023. (Sparks, Adam) (Entered: 11/08/2022)

11/14/2022	<u>122</u>	ANSWER to <u>120</u> Amended Complaint by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 11/14/2022)
11/23/2022	<u>123</u>	CERTIFICATE OF SERVICE <i>for Defendants' Objections and Responses to Plaintiffs' First Set of Requests for Admission</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 11/23/2022)
11/29/2022	<u>124</u>	Notice for Leave of Absence for the following date(s): December 30, 2022 - January 5, 2023, February 15-20, 2023, March 22-24, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 11/29/2022)
12/06/2022	<u>125</u>	CERTIFICATE OF SERVICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) (Entered: 12/06/2022)
12/06/2022	<u>126</u>	CERTIFICATE OF SERVICE <i>for State Defendants' Responses to Plaintiffs' Second Set of Discovery Requests</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/06/2022	<u>127</u>	CERTIFICATE OF SERVICE <i>for Defendants' Notices of Deposition of Robert Richards, Ojuan Glaze and Triana Arnold James</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/13/2022	<u>128</u>	CERTIFICATE OF SERVICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) (Entered: 12/13/2022)
12/15/2022	<u>129</u>	Joint MOTION to Amend <u>115</u> Order with Brief In Support by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # <u>1</u> Exhibit 1 - Amended Proposed Stipulation and Order)(Sparks, Adam) (Entered: 12/15/2022)
12/22/2022	<u>130</u>	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 12/22/2022. (ddm) (Entered: 12/22/2022)
01/03/2023	<u>131</u>	CERTIFICATE OF SERVICE <i>for Notices to take the Depositions of Coakley Pendergrass, Jens Rueckert and Elliott Hennington</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 01/03/2023)
01/06/2023	<u>132</u>	MOTION for Leave to Withdraw as Counsel - Graham W. White by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # <u>1</u> Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 01/06/2023)
01/09/2023	<u>133</u>	Notice for Leave of Absence for the following date(s): 4/3/23 - 4/7/23, 5/22/23 - 5/26/23, 10/5/23 - 10/19/23 and 11/9/23 - 11/10/23, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 01/09/2023)
01/19/2023	<u>134</u>	NOTICE of Appearance by Donald P. Boyle, Jr on behalf of William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Boyle, Donald) (Entered: 01/19/2023)

01/24/2023	135	MOTION to Withdraw Kevin J. Hamilton as Attorney by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Hamilton, Kevin) (Entered: 01/24/2023)
01/26/2023	136	NOTICE of Appearance by Diane Festin LaRoss on behalf of William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (LaRoss, Diane) (Entered: 01/26/2023)
01/30/2023		Submission of 132 MOTION for Leave to Withdraw as Counsel - Graham W. White , to District Judge Steve C. Jones. (pdw) (Entered: 01/30/2023)
01/30/2023	137	ORDER granting the 132 Motion to Withdraw as counsel filed by Graham W. White. Signed by Judge Steve C. Jones on 01/30/2023. (ddm) (Entered: 01/30/2023)
01/30/2023		Clerk's Certificate of Mailing to Graham W. White re 137 Order. (ddm) (Entered: 01/30/2023)
01/31/2023	138	CERTIFICATE OF SERVICE <i>for Defendants' expert disclosure of John Morgan's Report</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023	139	CERTIFICATE OF SERVICE <i>for Defendant Secretary of State Brad Raffensperger's Supplemental Objections and Responses to Plaintiffs' First Set of Interrogatories</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
02/01/2023	140	CERTIFICATE OF SERVICE <i>for Defendants' Notice to take the Expert Deposition of William S. Cooper</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/01/2023)
02/06/2023	141	CERTIFICATE OF SERVICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) (Entered: 02/06/2023)
02/06/2023	142	CERTIFICATE OF SERVICE <i>for the Expert Report of John R. Alford, Ph.D.</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/06/2023)
02/13/2023		Submission of 135 MOTION to Withdraw Kevin J. Hamilton as Attorney, to District Judge Steve C. Jones. (pdw) (Entered: 02/13/2023)
02/13/2023	143	ORDER granting the 135 Motion to Withdraw as Attorney filed by Kevin J. Hamilton. Signed by Judge Steve C. Jones on 02/13/2023. (ddm) (Entered: 02/13/2023)
02/15/2023	144	Certification of Consent to Substitution of Counsel. Elizabeth Marie Wilson Vaughan replacing attorney Charlene S McGowan. (Vaughan, Elizabeth) (Entered: 02/15/2023)
02/17/2023	145	Joint MOTION for Extension of Time to Complete Discovery <i>for Limited Purpose of Taking Depositions</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/17/2023)
02/17/2023	146	CERTIFICATE OF SERVICE <i>for Defendants' Notices of Depositions of Drs. Orville Vernon Burton, Maxwell Palmer and Loren Collingwood, Fenika Miller and Representatives Derrick Jackson and Erick Allen</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 02/17/2023)

02/17/2023	147	ORDER granting the parties' 145 Joint Motion to Extend Discovery Deadline for Limited Purpose of Taking Depositions. The discovery deadline is extended through and including March 9, 2023 for the limited purpose of conducting depositions. Signed by Judge Steve C. Jones on 02/17/2023. (ddm) (Entered: 02/17/2023)
02/17/2023	148	CERTIFICATE OF SERVICE of <i>Joint Notices of Deposition</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 02/17/2023)
02/28/2023	149	CERTIFICATE OF SERVICE for <i>Defendants' Amended Notice to take the Expert Deposition of Loren Collingwood, Ph.D. and Defendants' Notices to take the Depositions of Marion Warren and Diane Evans, Ph.D.</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/28/2023)
03/06/2023	150	NOTICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert <i>Plaintiffs' and Defendants' Notice Regarding Alternative Dispute Resolution</i> (Lewis, Joyce) (Entered: 03/06/2023)
03/09/2023	151	(DOCUMENT RESTRICTED PER 198) CERTIFICATE OF SERVICE for <i>Defendants' Notice to take the Expert Deposition of Benjamin Schmeer, Ph.D.</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) Modified on 5/2/2023 (ddm). (Entered: 03/09/2023)
03/10/2023	152	MOTION to Strike 151 Certificate of Service, by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/10/2023)
03/13/2023	153	Consent MOTION for Leave to File Excess Pages by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order Granting Plaintiffs' Consent Motion for Leave to File Excess Pages)(Sparks, Adam) (Entered: 03/13/2023)
03/13/2023	154	ORDER granting 153 Plaintiffs' Consent Motion for Leave to File Excess Pages. Plaintiffs may file an additional fifteen (15) pages, for a total of forty (40) pages, for the brief in support of their forthcoming motion for summary judgment. Signed by Judge Steve C. Jones on 03/13/2023. (ddm) (Entered: 03/14/2023)
03/15/2023	155	Consent MOTION for Leave to File Excess Pages for <i>Summary Judgment Briefing</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order) (Tyson, Bryan) (Entered: 03/15/2023)
03/15/2023	156	ORDER granting the 155 Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 03/15/2023. (ddm) (Entered: 03/16/2023)
03/17/2023	157	DEPOSITION of John B. Morgan taken on 2/13/2023 by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 03/17/2023)
03/17/2023	158	(FILED UNDER SEAL) DEPOSITION of Dr. John Alford taken on 2/23/2023 by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.(Sparks, Adam) Modified on 3/17/2023 (ddm). (Entered: 03/17/2023)
03/17/2023	159	DEPOSITION of Coakley Pendergrass taken on 12.15.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)

03/17/2023	160	DEPOSITION of Triana Arnold James taken on 12.07.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	161	DEPOSITION of Robert Ray Richards taken on 12.05.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	162	DEPOSITION of Jens Rueckert taken on 2.07.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	163	DEPOSITION of Ojuan Glaze taken on 12.14.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	164	DEPOSITION of Elliott Hennington taken on 12.13.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	165	MOTION for Leave to File Matters Under Seal re: 158 Deposition of Dr. John Alford by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order [Proposed] Order, # 2 Exhibit Exhibit - Deposition of Dr. John Alford)(Sparks, Adam) (Entered: 03/17/2023)
03/17/2023	166	ORDER granting 165 Plaintiffs' Motion for Leave to File Matters Under Seal and directing the Clerk to sealed the document appearing at ECF No. 158 on the docket. Signed by Judge Steve C. Jones on 03/17/2023. (ddm) (Entered: 03/17/2023)
03/20/2023	167	DEPOSITION of William S. Cooper taken on 2.14.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of William S. Cooper Deposition, # 2 Supplement Part 3 of William S. Cooper Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	168	DEPOSITION of Maxwell Palmer taken on 2.22.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	169	COORDINATED ORDER in anticipation of the Parties' filing their motions for summary judgment. The Court will hold a hearing on the Parties' motions for summary judgment on May 18, 2023 at 10:00 AM. The Court will hold a pretrial conference on August 15, 2023 at 10:00 AM. The Court specially sets the above-listed Actions for a coordinated trial to begin on September 5, 2023. All proceedings will be in person and held in Courtroom No. 1907, in the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. Unless otherwise notified, all proceedings will begin at 9:00 AM. The Court will not permit counsel to argue or witnesses to offer live testimony via Zoom. The Court will permit a witness to testify via video deposition, per a prior agreement between the Parties. Signed by Judge Steve C. Jones on 03/20/2023.(ddm) (Entered: 03/20/2023)
03/20/2023	170	DEPOSITION of Gina Wright taken on 1.26.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	171	DEPOSITION of John F. Kennedy taken on 1.20.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)

03/20/2023	172	DEPOSITION of Bonnie Rich taken on 1.18.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Bonnie Rich Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	173	MOTION for Summary Judgment with Brief In Support by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Brief Brief in Support of Motion for Summary Judgment, # 2 Statement of Material Facts Statement of Undisputed Material Facts, # 3 Text of Proposed Order [Proposed] Order)(Sparks, Adam) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.-- (Entered: 03/20/2023)
03/20/2023	174	<i>Declaration of Jonathan P. Hawley</i> in support of 173 MOTION for Summary Judgment filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit Ex. 1 - Expert Report of William S. Cooper, # 2 Exhibit Ex. 1 Pt. 2 - Expert Report of William S. Cooper, # 3 Exhibit Ex. 2 - Expert Report of Dr. Maxwell Palmer, # 4 Exhibit Ex. 3 - Supplemental Expert Report of Dr. Maxwell Palmer, # 5 Exhibit Ex. 4 - Expert Report of Dr. Orville Vernon Burton, # 6 Exhibit Ex. 5 - Expert Report of Dr. Loren Collingwood, # 7 Exhibit Ex. 6 - Expert Report of John B. Morgan, # 8 Exhibit Ex. 7 - Expert Report of Dr. John R. Alford, # 9 Exhibit Ex. 8 - Excerpts from John B. Morgan Deposition, # 10 Exhibit Ex. 9 Excerpts from Dr. John R. Alford Deposition, # 11 Exhibit Ex. 10 - 2021-2022 Committee Guidelines, # 12 Exhibit Ex. 11 - 2021-2022 Guidelines for the House Legislative and Congressional Reapportionment Committee, # 13 Exhibit Ex. 12 - 1982.02.11 Letter from Assistant AG W. Reynolds, # 14 Exhibit Ex. 13 - 1992.03.20 Letter from Assistant AG J. Dunne, # 15 Exhibit Ex. 14 - 2016.09.30 AJC Article, # 16 Exhibit Ex. 15 - 2017.05.02 CNN Article, # 17 Exhibit Ex. 16 - 2017.03.15 Appen Media Group Article, # 18 Exhibit Ex. 17 - 2017.04.15 AJC Article, # 19 Exhibit Ex. 18 - 2017.01.16 AJC Article, # 20 Exhibit Ex. 19 - 2018.11.05 Washington Post Article, # 21 Exhibit Ex. 20 - 2018.11.06 Slate Article, # 22 Exhibit Ex. 21 - 2018.05.10 USA Today Article, # 23 Exhibit Ex. 22 - 2021.01.04 Salon Article, # 24 Exhibit Ex. 23 - 2020.07.28 ABC Article, # 25 Exhibit Ex. 24 - 2020.10.17 CNN Article, # 26 Exhibit Ex. 25 - 2021.10.26 AJC Article, # 27 Exhibit Ex. 26 - H. Res. 72, # 28 Exhibit Ex. 27 - H.Res.72 - Removing a Certain Member)(Sparks, Adam) Modified on 3/21/2023 to edit docket text (ddm). (Entered: 03/20/2023)
03/20/2023	175	MOTION for Summary Judgment with Brief In Support by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendants' Motion for Summary Judgment)(Tyson, Bryan) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.- (Entered: 03/20/2023)
03/20/2023	176	Statement of Material Facts re 175 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Report of William Cooper Part 1, # 2 Exhibit A - Report of William Cooper Part 2, # 3 Exhibit B - SEB Responses to Interrogatories, # 4 Exhibit C - Deposition Excerpts from William Cooper, # 5 Exhibit D - Deposition Excerpts from Gina Wright, # 6 Exhibit E - Deposition Excerpts from John Kenney, # 7 Exhibit F - Deposition Excerpts from Bonnie Rich, # 8 Exhibit G - Deposition Excerpts from Triana James, # 9 Exhibit H - Deposition Excerpts from Coakley Pendergrass, # 10 Exhibit I - Deposition Excerpts from Elliott Hennington, # 11 Exhibit J - Deposition Excerpts from Robert Richards, # 12 Exhibit K - Deposition Excerpts from Jens Rueckert, # 13 Exhibit L - Deposition Excerpts from O'Juan Glaze, #

		Exhibit M - Deposition Excerpts from Maxwell Palmer, # 145 Exhibit N - Deposition Excerpts from John Alford)(Tyson, Bryan) (Entered: 03/20/2023)
04/03/2023	177	NOTICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 157 Deposition <i>Signed Errata Sheet to Deposition Transcript of John B. Morgan</i> (Sparks, Adam) (Entered: 04/03/2023)
04/11/2023		Submission of 152 MOTION to Strike 151 Certificate of Service, , to District Judge Steve C. Jones. (pdw) (Entered: 04/11/2023)
04/12/2023	178	Consent MOTION for Leave to File Excess Pages by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 04/12/2023)
04/12/2023	179	ORDER granting 178 Plaintiffs' Consent Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 04/12/2023. (ddm) (Entered: 04/12/2023)
04/17/2023	180	NOTICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 158 Deposition <i>Signed Errata Sheet to Deposition Transcript of Dr. John Alford</i> (Sparks, Adam) (Entered: 04/17/2023)
04/17/2023	181	Consent MOTION for Leave to File Excess Pages by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 04/17/2023)
04/17/2023	182	ORDER granting the 181 Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 04/17/2023. (ddm) (Entered: 04/17/2023)
04/18/2023	183	Notice for Leave of Absence for the following date(s): June 12-15, 2023, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 04/18/2023)
04/19/2023	184	MOTION for Leave to Withdraw Appearance Pro Hac Vice of Daniel C. Osher by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 04/19/2023)
04/19/2023	185	DEPOSITION of Orville Burton, Ph.D. taken on 2.17.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 04/19/2023)
04/19/2023	186	DEPOSITION of Loren Collingwood, Ph.D. taken on 2.28.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 04/19/2023)
04/19/2023	187	RESPONSE in Opposition re 173 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Statement of Material Facts Defendants' Statement of Additional Material Facts, # 2 Exhibit A - Exhibits from Cooper Report, # 3 Exhibit B - Expert Report of L. Collingwood, # 4 Exhibit C - Cooper Deposition Excerpts, # 5 Exhibit D - Palmer Deposition Excerpts, # 6 Exhibit E - Alford Deposition Excerpts, # 7 Exhibit F - Burton Deposition Excerpts, # 8 Exhibit G - Collingwood Deposition Excerpts)(Tyson, Bryan) Modified on 4/19/2023 to edit docket text (ddm). (Entered: 04/19/2023)
04/19/2023	188	Response to Statement of Material Facts re 173 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Cooper Deposition Excerpts, # 2 Exhibit B - Burton Deposition Excerpts)(Tyson, Bryan) Modified on 4/19/2023 to edit docket text (ddm). (Entered: 04/19/2023)

04/19/2023	189	RESPONSE in Opposition re 175 MOTION for Summary Judgment filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Statement of Material Facts Plaintiffs' Response to Defendants' Statement of Undisputed Material Facts, # 2 Statement of Material Facts Plaintiffs' Statement of Additional Material Facts)(Sparks, Adam) (Entered: 04/19/2023)
04/19/2023	190	DECLARATION of Jonathan P. Hawley in Opposition of 175 MOTION for Summary Judgment filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit Ex. 1 Expert Report of William S. Cooper, # 2 Exhibit Ex. 1 pt 2 Expert Report of William S. Cooper, # 3 Exhibit Ex. 2 Expert Report of Dr. Maxwell Palmer, # 4 Exhibit Ex. 3 Supplemental Expert Report of Dr. Maxwell Palmer, # 5 Exhibit Ex. 4 Expert Report of Dr. Orville Vernon Burton, # 6 Exhibit Ex. 5 Expert Report of John B. Morgan, # 7 Exhibit Ex. 5 pt 2 Expert Report of John B. Morgan, # 8 Exhibit Ex. 5 pt 3 Expert Report of John B. Morgan, # 9 Exhibit Ex. 5 pt 4 Expert Report of John B. Morgan, # 10 Exhibit Ex. 6 Expert Report of Dr. John R. Alford, # 11 Exhibit Ex. 7 Deposition Excerpts of William S. Cooper, # 12 Exhibit Ex. 8 Deposition Excerpts of Dr. Maxwell Palmer, # 13 Exhibit Ex. 9 Deposition Excerpts of John B. Morgan, # 14 Exhibit Ex. 10 Deposition Excerpts of Dr. John R. Alford, # 15 Exhibit Ex. 11 Deposition Excerpts of Ojuan Glaze)(Sparks, Adam) Modified on 4/20/2023 to edit docket entry (ddm). (Entered: 04/19/2023)
04/20/2023	191	ORDER advising the parties that the Court requests two courtesy copies of the documents filed relating to the parties' summary judgment motions. Counsel shall have said courtesy copies delivered to the Court's Atlanta Chambers, 1967 United States Courthouse, 75 Ted Turner Drive, S.W. by 10 A.M., THURSDAY, MAY 4, 2023. Signed by Judge Steve C. Jones on 04/20/2023. (ddm) (Entered: 04/21/2023)
04/28/2023	192	<i>Plaintiffs' Notice of Corrected Filing</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 190 Affidavit. (Attachments: # 1 Exhibit Corrected Exhibit 5)(Sparks, Adam) Modified on 4/28/2023 to edit docket text (ddm). (Entered: 04/28/2023)
04/28/2023	193	Consent MOTION for Leave to File Excess Pages by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 04/28/2023)
04/28/2023	194	ORDER outlining the schedule for the May 18, 2023 hearing on the Parties' Motions for Summary Judgment. The Court notes that it reserves the right to amend the schedule of the argument. (Please read Order for specific timing of these hearings.) Signed by Judge Steve C. Jones on 04/28/2023. (ddm) (Entered: 05/01/2023)
05/01/2023	195	ORDER granting 193 Plaintiffs' Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 05/01/2023. (ddm) (Entered: 05/01/2023)
05/01/2023	196	Consent MOTION for Leave to File Excess Pages by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 05/01/2023)
05/01/2023	197	ORDER granting 196 Defendants' Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 05/01/2023. (ddm) (Entered: 05/02/2023)
05/02/2023	198	ORDER DENYING Defendants' Motion to Strike (Doc. No. 152). However, the Court, in an effort to perfect the Docket, DIRECTS the Clerk that access to (Doc. No. 151) shall be restricted to Court users. The Clerk shall also modify the CM/ECF docket text to show the document as RESTRICTED. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)

05/02/2023	199	CLARIFICATION ORDER specifying the preferred format for the courtesy copies to be provided to the Court. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/03/2023	200	REPLY BRIEF in support of 173 MOTION for Summary Judgment filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Plaintiffs' Response to Defendants' Statement of Additional Material Facts)(Sparks, Adam) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	201	<i>Second Declaration of Jonathan P. Hawley in Support of</i> 173 MOTION for Summary Judgment filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit 28 - Declaration of Coakley Pendergrass, # 2 Exhibit 29 - Declaration of Triana Arnold James, # 3 Exhibit 30 - Declaration of Elliott Hennington, # 4 Exhibit 31 - Declaration of Robert Richards, # 5 Exhibit 32 - Declaration of Jens Rueckert, # 6 Exhibit 33 - Declaration of Ojuan Glaze, # 7 Exhibit 34 - Deposition Transcript Excerpts of Coakley Pendergrass, # 8 Exhibit 35 - Deposition Transcript Excerpts of Triana Arnold James, # 9 Exhibit 36 - Deposition Transcript Excerpts of Elliott Hennington, # 10 Exhibit 37 - Deposition Transcript Excerpts of Robert Richards, # 11 Exhibit 38 - Deposition Transcript Excerpts of Jens Rueckert, # 12 Exhibit 39 - Deposition Transcript Excerpts of Ojuan Glaze, # 13 Exhibit 40 - Deposition Transcript Excerpts of William S. Cooper, # 14 Exhibit 41 - Deposition Transcript Excerpts of Dr. John R. Alford, # 15 Exhibit 42 - Deposition Transcript Excerpts of Dr. Maxwell Palmer)(Sparks, Adam) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	202	<i>Reply in Support of</i> 175 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 5/4/2023 to edit docket entry (ddm). (Entered: 05/03/2023)
05/03/2023	203	<i>Defendants' Responses and Objections to Plaintiffs' Statement of Additional Material Facts</i> in re 175 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Cooper Deposition Excerpts, # 2 Exhibit B - Alford Deposition Excerpts, # 3 Exhibit C - Expert Report of Maxwell Palmer)(Tyson, Bryan) Modified on 5/4/2023 to edit docket entry (ddm). (Entered: 05/03/2023)
05/08/2023	204	ORDER granting 184 Plaintiffs' Motion for Leave to Withdraw the Appearance Pro Hac Vice of Daniel C. Osher as counsel of record. Signed by Judge Steve C. Jones on 05/08/2023. (ddm) (Entered: 05/08/2023)
05/15/2023	205	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order Exhibit A - Proposed Order)(Sparks, Adam) (Entered: 05/15/2023)
05/15/2023	206	ORDER allowing counsel Abha Khanna, Jonathan P. Hawley, Adam M. Sparks, and Joyce Gist Lewis and accompanying staff to bring electronic equipment into the courthouse in conjunction with a hearing scheduled to begin at 10:00 a.m. on Thursday, May 18, 2023, in Courtroom 1907. Counsel and accompanying staff named herein may also bring this equipment on Wednesday, May 17, 2023, to test prior to the hearing as scheduled with Judge Jones's chambers. Signed by Judge Steve C. Jones on 05/15/2023. (ddm) (Entered: 05/15/2023)
05/16/2023		Submission of 175 MOTION for Summary Judgment , 173 MOTION for Summary Judgment , to District Judge Steve C. Jones. (pdw) (Entered: 05/16/2023)

05/18/2023	207	Minute Entry for proceedings held before Judge Steve C. Jones: Hearing held on the parties' Motions for Summary Judgment 173 175 , together with argument in civil actions 1:21-cv-5337-SCJ and 1:22-cv-122-SCJ. The Court heard oral argument and took the matters under advisement. (Court Reporter Viola Zborowski)(ddm) (Entered: 05/19/2023)
05/19/2023	208	(ORDER VACATED PER 210) AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 05/19/2023. (ddm) Modified on 6/8/2023 (ddm). (Entered: 05/19/2023)
06/01/2023	209	TRANSCRIPT of Proceedings held on 5/18/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/22/2023. Redacted Transcript Deadline set for 7/3/2023. Release of Transcript Restriction set for 8/30/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 06/01/2023)
06/08/2023	210	SECOND AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 06/08/2023. (ddm) (Entered: 06/08/2023)
06/20/2023	211	Notice for Leave of Absence for the following date(s): July 3-7, 2023, August 31-September 2, 2023, September 29, 2023, November 22-27, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 06/20/2023)
06/22/2023	212	<i>Supplemental Brief in Support of Plaintiffs' Motion for Summary Judgment 173</i> filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/22/2023	213	NOTICE Of Filing Exhibit 1 (<i>2023.05.18 Transcript of Summary Judgment Proceedings</i>) to Supplemental Brief 212 filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/22/2023	214	<i>Supplemental Brief Regarding Summary Judgment Briefing Based on Allen v. Milligan 175</i> filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
07/17/2023	215	ORDER denying 173 Motion for Summary Judgment; denying 175 Motion for Summary Judgment. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to either Party. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial. Accordingly, the case will proceed to a coordinated trial with Alpha Phi Alpha Fraternity, Inc., et al. v. Brad Raffensperger, No. 1:21-cv-5339-SCJ and Annie Lois Grant et al. v. Brad Raffensperger et al., No. 1:22-cv-122-SCJ. The Second Amended Scheduling Order shall govern the forthcoming proceedings. Doc. No. 210 . Signed by Judge Steve C. Jones on 7/17/23. (rsg) (Entered: 07/17/2023)
07/21/2023	216	ORDER: Having read and considered Plaintiffs' proposal regarding amending the existing pretrial deadlines and learned of Defendants' agreement thereto, it is hereby ORDERED that exhibit lists and deposition designations shall be exchanged by all Parties and filed with the Court no later than JULY 31, 2023 and objections to the same shall be exchanged

		by all Parties and filed with the Court no later than AUGUST 4, 2023. Except as amended herein, the remainder of the Court's Second Amended Scheduling Order remains in effect, this includes the July 25, 2023 and August 1, 2023 deadlines for filing and responding to motions in limine and Daubert motions. Signed by Judge Steve C. Jones on 07/21/2023. (rsg) (Entered: 07/21/2023)
07/25/2023	217	<i>Joint Pretrial Order</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Modified on 7/26/2023 to edit docket text (ddm). (Entered: 07/25/2023)
07/31/2023	218	NOTICE Of Filing Defendants' Trial Exhibit List and Defendants' Deposition Designations by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Attachments: # 1 Exhibit A - Defendants' Trial Exhibit List, # 2 Exhibit B - Defendants' Deposition Designations) (Tyson, Bryan) (Entered: 07/31/2023)
07/31/2023	219	<i>Plaintiffs' Trial Exhibit List</i> by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.. (Sparks, Adam) Modified on 8/1/2023 to edit docket text (ddm). (Entered: 07/31/2023)
07/31/2023	220	Joint Exhibit List by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert.. (Sparks, Adam) (Entered: 07/31/2023)
07/31/2023	221	NOTICE Of Filing Plaintiffs' Deposition Designations by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (Sparks, Adam) (Entered: 07/31/2023)
08/04/2023	222	NOTICE Of Filing Plaintiffs' Deposition Designations with Responses by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 221 Notice of Filing (Sparks, Adam) (Entered: 08/04/2023)
08/04/2023	223	NOTICE Of Filing Objections to Exhibits and Deposition Designations by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re 216 Scheduling Order,, (Attachments: # 1 Exhibit A - APA Plaintiffs' Exhibit List with Defendant's Objections, # 2 Exhibit B - Grant Plaintiffs' Exhibit List with Defendants' Objections, # 3 Exhibit C - Pendergrass Plaintiffs' Exhibit List with Defendants' Objections, # 4 Exhibit D - Defendant's Deposition Designations and Objections to APA Plaintiffs, # 5 Exhibit E - Defendants' Deposition Designations and Objections to Pendergrass and Grant Plaintiffs)(Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	224	MOTION for Order <i>Taking Judicial Notice</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Census Table 4b CPS 2018, # 2 Exhibit B - Census Table 4b CPS 2020, # 3 Exhibit C - Census Table 4b CPS 2022, # 4 Exhibit D - Members of the Georgia State Senate, # 5 Exhibit E - Members of the Georgia House of Representatives, # 6 Exhibit F - 2022 US Senate Primary Election Results by County, # 7 Exhibit G - 2022 PSC Primary Election Results, # 8 Exhibit H - 2018 District 6 Election Results, # 9 Exhibit I - Biography of Commissioner John King, # 10 Exhibit J - 2022 Commissioner of Insurance Election Results, # 11 Exhibit K - Justice Carla McMillian Biography) (Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	225	NOTICE Of Filing Plaintiffs' Objections to Defendants' Trial Exhibits by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert (Attachments: # 1 Exhibit A - Plaintiffs' Objections to Defendants' Trial Exhibits)(Sparks, Adam) (Entered: 08/04/2023)
08/07/2023	226	---DOCUMENT LODGED---Letter from Robert M. Allensworth. (rsg) Modified on 8/31/2023 (rsg). (Entered: 08/08/2023)

08/09/2023	227	ORDER re 226 Letter. Having reviewed the letter, the Court deems that Mr. Allensworth is commenting publicly on potential remedies. The Court has not made any findings of fact or conclusions of law regarding liability. Accordingly, no action is to be taken on Mr. Allensworth's letter. The Clerk of Court is DIRECTED to TERMINATE Mr. Allensworth as an unknown party. Signed by Judge Steve C. Jones on 08/09/23. (rsg) (Entered: 08/09/2023)
08/09/2023		Clerk's Certificate of Mailing as to Robert M. Allensworth re 227 Order. (rsg) (Entered: 08/09/2023)
08/11/2023	228	RESPONSE re 224 MOTION for Order <i>Taking Judicial Notice Plaintiffs' Partial Opposition to Defendants' Motion for Judicial Notice</i> filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) (Entered: 08/11/2023)
08/14/2023	229	NOTICE by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert <i>Regarding Pretrial Conference Attendance and Unopposed Request for Remote Participation</i> (Sparks, Adam) (Entered: 08/14/2023)
08/14/2023	230	ORDER denying Plaintiffs' requests (Pendergrass Doc. No. 229 ;Grant Doc. No. 241). Signed by Judge Steve C. Jones on 8/14/23. (rsg) (Entered: 08/14/2023)
08/15/2023	231	PRETRIAL ORDER. Signed by Judge Steve C. Jones on 08/15/2023. (rsg) (Entered: 08/15/2023)
08/15/2023	248	Minute Entry for proceedings held before Judge Steve C. Jones: Pretrial Conference held on 8/15/2023. Bench trial to proceed on September 5, 2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/18/2023	232	LOGISTICS ORDER entered in preparation for the trial. The Court ORDERS the Parties to provide the Court with courtesy copies of the deposition transcripts that they intend to introduce into evidence at the Trial. The Court ORDERS these courtesy copies be delivered to the Court no later than THURSDAY, AUGUST 24, 2023. The Court will discuss trial presentation of evidence with the Parties at a conference call to be held on Tuesday, August 22, 2023 at 2:00 P.M. Signed by Judge Steve C. Jones on 08/18/2023. (rsg) (Entered: 08/18/2023)
08/18/2023	233	REPLY BRIEF re 224 MOTION for Order <i>Taking Judicial Notice</i> filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 08/18/2023)
08/22/2023	249	Minute Entry for proceedings held before Judge Steve C. Jones: Telephone Conference held on 8/22/2023 regarding presentation of witness testimony during bench trial beginning 9/05/2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/23/2023	234	ORDER DENYING Defendants' 224 Motion to Take Judicial Notice with regard to the data contained in Census Bureau Table 4b for the 2018, 2020 and 2022 elections. The Court GRANTS the remainder of the Motion. Signed by Judge Steve C. Jones on 08/23/2023. (rsg) (Entered: 08/23/2023)
08/24/2023	235	TRANSCRIPT of Pretrial Proceedings held on 8/15/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/14/2023. Redacted Transcript Deadline set for 9/25/2023. Release of

		Transcript Restriction set for 11/22/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/24/2023)
08/24/2023	236	ORDER perfecting the Record on trial logistics and advising the parties how the presentation of evidence will proceed. The Court notes that at the telephone conference, the Plaintiffs indicated that they would like to come to an agreement on the order in which the Plaintiffs will present their cases-in-chief, i.e., Alpha Phi Alpha first, Pendergrass second, and Grant third, or some other order. For purposes of judicial efficiency and to ensure that all Parties are adequately prepared, the Court requires Plaintiffs to submit a notice of the order in which they will present their cases-in-chief on or before 5:00 PM on SEPTEMBER 1, 2023. The Parties are ordered to comply with this Order when presenting the evidence in the coordinated cases at trial. The Court reserves the right to amend or alter this Order in the future. Signed by Judge Steve C. Jones on 08/24/2023. (rsg) (Entered: 08/24/2023)
08/25/2023	237	ORDER directing Defendants to respond to the Alpha Phi Alpha Plaintiffs' 283 Motion to Take Judicial Notice, Alpha Phi Alpha Doc. No. 283 by 5:00 PM on August 28, 2023. If the Pendergrass or Grant Plaintiffs wish to respond they are also ORDERED to do so by 5:00PM on August 28, 2023. Signed by Judge Steve C. Jones on 08/25/2023. (rsg) (Entered: 08/25/2023)
08/28/2023	238	<i>Defendants' Response in Opposition to APA Plaintiffs' Motion for Judicial Notice</i> filed per 237 Order by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 8/29/2023 to edit docket text (ddm). (Entered: 08/28/2023)
08/28/2023	240	---DOCUMENT LODGED---Letter from Robert M. Allensworth. (rsg) Modified on 8/31/2023 (rsg). (Entered: 08/29/2023)
08/29/2023	239	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 08/29/2023)
08/30/2023	241	ORDER granting Plaintiffs' Use of Electronic Equipment during trial. It is ordered that attending counsel Abha Khanna, Michael B. Jones, Makeba Rutahindurwa, Joyce Gist Lewis, and Adam M. Sparks, and their accompanying staff, Aidan Denver-Moore, Benjamin Winstead, and Patina Clarke may each bring and use electronic equipment in conjunction with a bench trial before Judge Steve C. Jones, scheduled for Tuesday, September 5, 2023 through Monday, September 18, 2023. The above listed counsel and staff may also bring and use this equipment on Friday, September 1, 2023 for the purpose of arranging, installing, and testing said equipment and trial exhibits as scheduled with Judge Jones's chambers. Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/30/2023)
08/30/2023	242	ORDER DENYING Alpha Phi Alpha Plaintiffs' Motion to Take Judicial Notice (Alpha Phi Alpha, Doc. No. 283 in case 1:21-cv-5337). Signed by Judge Steve C. Jones on 08/30/2023. (rsg) (Entered: 08/30/2023)
08/30/2023	243	ORDER resolving the Parties' outstanding objections to the depositions that they wish to introduce into evidence at trial. Signed by Judge Steve C. Jones on 08/30/2023.(ddm) (Entered: 08/31/2023)
08/30/2023	244	ORDER re Mr. Allensworth's 226 240 Letters, it is improper to write letters to the Court for purposes of public comment, the Court finds that in the interest of preserving judicial resources, the appropriate course of action is a standing lodge order for any future filings by Mr. Allensworth. The Court DIRECTS the Clerk to add the language "DOCUMENT LODGED" to the CM/ECF descriptions for Doc. Nos. 226 and 240 and lodge any future

		filings from Mr. Allensworth in a similar manner. Lodged documents will not be considered. Signed by Judge Steve C. Jones on 8/30/23. (rsg) (Entered: 08/31/2023)
08/31/2023		Clerk's Certificate of Mailing as to Robert M. Allensworth re 244 Order. (rsg) (Entered: 08/31/2023)
08/31/2023	245	TRANSCRIPT of Conference Call held on 8/22/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/21/2023. Redacted Transcript Deadline set for 10/2/2023. Release of Transcript Restriction set for 11/29/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/31/2023)
08/31/2023	246	MOTION for Clarification re: 236 Order,,, by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Exhibit Exhibit A - B. Tyson Email, # 2 Text of Proposed Order [Proposed] Order) (Sparks, Adam) (Entered: 08/31/2023)
08/31/2023	247	ORDER issued to Clarify its August 24, 2023 Order (Alpha Phi Alpha Doc. No. 286; Pendergrass Doc. No. 236 ; Grant Doc. No. 248). The August 24, 2023 Orders are amended in so far as to comply with this Order. Signed by Judge Steve C. Jones on 08/31/2023.(rsg) (Entered: 09/01/2023)
09/05/2023	250	Minute Entry for proceedings held before Judge Steve C. Jones: Bench trial began. Opening statements heard. Plaintiffs' case began. Alpha Plaintiffs' (1:21-cv-5337-SCJ) witness William Cooper sworn and testified as expert. Alpha exhibits 1, 327, 53, 54, 325 admitted. Joint Exhibits 1 and 2 admitted. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/06/2023. (Court Reporter Viola Zborowski & Penny Coudriet)(ddm) (Entered: 09/06/2023)
09/05/2023	251	---DOCUMENT LODGED---Letter from Robert M. Allensworth. (rsg) (Entered: 09/06/2023)
09/06/2023	252	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/6/2023. Testimony of expert witness William Cooper concluded. Alpha Plaintiffs' exhibits 328-339 admitted. Alpha Phi Alpha witness Bishop Reginald Jackson sworn and testified. Pendergrass and Grant Plaintiffs' expert witness Dr. Maxwell Palmer sworn and testified. Grant exhibits 2 and 3, and Pendergrass exhibits 2 and 3 admitted. Grant expert witness Blakeman Esselstyn sworn and testified. Grant exhibits 1 and 6 admitted. Defendants' exhibits 89 and 92 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/07/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/07/2023)
09/07/2023	253	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/7/2023. Grant witness Dr. Diane Evans sworn and testified. Grant witness Fenika Miller sworn and testified. Grant and Pendergrass expert witness Dr. Loren Collingwood sworn and testified. Grant exhibit 5 and Pendergrass exhibit 5 admitted. William Cooper recalled by Pendergrass plaintiffs as expert witness. Pendergrass exhibit 1 admitted. Defendants' exhibits 21 and 154 admitted. Alpha Phi Alpha ("APA") expert witness Dr. Lisa Handley sworn and testified. APA exhibits 5 and 10 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/08/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/08/2023)
09/08/2023	254	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/8/2023. Testimony of Alpha Phi Alpha expert witness Dr. Lisa Handley concluded.

		Grant and Pendergrass' witness Jason Carter sworn and testified. Grant and Pendergrass witness Erik Allen sworn and testified. APA witness Dr. Traci Burch sworn and testified as expert. APA exhibit 6 admitted. APA witness Dr. Adrienne Jones sworn and testified as expert. APA exhibits 2, 3, 340, 31, 266 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/11/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/11/2023)
09/11/2023	255	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/11/2023. APA exhibits 31 and 266, and direct and cross testimony of Dr. Adrienne Jones admitted into the Grant and Pendergrass records. Testimony of APA expert witness Dr. Adrienne Jones concluded. Defendants' exhibit 59 admitted. APA witness Sherman Lofton sworn and testified. APA witness Dr. Jason Ward sworn and testified as expert. APA exhibit 4 admitted. Grant and Pendergrass expert witness Dr. Orville Burton sworn and testified. Pendergrass exhibit 4 and Grant exhibit 4 admitted. Pendergrass exhibit 14 and Grant exhibit 15 admitted over objection (these exhibits, as well as testimony of Dr. Burton also admitted as part of the APA record.) Defendants' exhibit 107 admitted. All Plaintiffs rested. Oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). Oral argument heard. Matter taken under advisement. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/12/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/12/2023)
09/11/2023		ORAL MOTION by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). (ddm) (Entered: 09/13/2023)
09/12/2023	256	Notice for Leave of Absence for the following date(s): September 29, 2023, October 12-13, 2023, November 22-27, 2023, December 14-21, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 09/12/2023)
09/12/2023	257	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/12/2023. The Court issued a verbal order denying Defendants' oral motion for Judgment on Partial Findings Pursuant to Fed.R.Civ.P. 52(c) as made on 9/11/2023. Defendants' case began. Witness Gina Wright sworn and testified. Defendants' exhibits 186, 187, 185 admitted. John Morgan sworn and testified as expert witness. Defendants' exhibits 1, 2, 5 admitted in re: APA plaintiffs; exhibits 1, 3, 6 admitted in re: Grant plaintiffs; and exhibits 4 and 7 admitted in re: Pendergrass plaintiffs. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/13/2023)
09/13/2023	258	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/13/2023. Testimony of John Morgan continued and concluded. Dr. John Alford sworn and testified as expert witness for Defendants. Defendants exhibit 8 (exclusive of pages 2-9) and exhibit 97 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/14/2023. Exhibits retained to be forwarded to the Clerks Office. (Court Reporter V. Zborowski and P. Coudriet)(rsg) (Entered: 09/13/2023)
09/14/2023	259	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial concluded on 9/14/2023. Testimony of Dr. John Alford continued and concluded. Ryan Germany sworn and testified. APA cross examination of witness German incorporated into Pendergrass and Grant records. Defendants rested. Renewed oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). The Court issued a verbal order denying Defendants' motion. Closing arguments heard. This matter was taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/15/2023)
09/15/2023	260	Witness List filed by Plaintiffs'(rsg) (Entered: 09/15/2023)
09/15/2023	261	Witness List filed by Defendants. (rsg) (Entered: 09/15/2023)

09/15/2023	262	Exhibit List filed jointly by Plaintiffs and Defendants. (rsg) (Entered: 09/15/2023)
09/15/2023	263	Exhibit List by Alpha Phi Alpha Fraternity, Inc.. (rsg) (Entered: 09/15/2023)
09/15/2023	264	Exhibit List by Coakley Pendergrass. (rsg) (Entered: 09/15/2023)
09/15/2023	265	Exhibit List by Annie Lois Grant. (rsg) (Entered: 09/15/2023)
09/15/2023	266	Exhibit List by Brad Raffensperger. (rsg) (Entered: 09/15/2023)
09/18/2023	267	<i>Plaintiffs' Notice of Submitting Proposed Corrections to Trial Transcript</i> filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Modified on 9/19/2023 to edit docket text (ddm). (Entered: 09/18/2023)
09/25/2023	268	Proposed Findings of Fact by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 09/25/2023)
09/25/2023	269	Proposed Findings of Fact by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Khanna, Abha) (Entered: 09/25/2023)
09/27/2023	270	NOTICE by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger <i>Notice of Resignation of William S. Duffey, Jr.</i> (Tyson, Bryan) (Entered: 09/27/2023)
10/03/2023	271	--- DOCUMENT LODGED ---Letter from Robert M. Allensworth. (rsg) (Entered: 10/04/2023)
10/04/2023	272	ORDER certifying to the United States Attorney General that the constitutionality of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301(b) has been called into question as affirmative defenses in the Pretrial Order. The Attorney General is requested to submit his position as to intervention in reference to this issue no later than 60 DAYS of the date of this Certification Order. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023	273	ORDER directing Defendants to promptly comply with the requirements of compliance with Rule 5.1 (on CM/ECF) on or before Tuesday, October 10, 2023. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023		Clerk's Certificate of Mailing to Honorable Merrick Garland re 272 Order. (rsg) (Entered: 10/04/2023)
10/06/2023	274	MOTION to Withdraw Elizabeth Marie Wilson Vaughan as Attorneyby William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Vaughan, Elizabeth) (Entered: 10/06/2023)
10/10/2023	275	NOTICE by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re 273 Order, Set Submission Deadline of <i>Constitutional Question</i> (Tyson, Bryan) (Entered: 10/10/2023)
10/17/2023	276	ORDER advising that if the Parties have any additional concerns/questions as to the corrected transcripts, they shall notify the court reporters by 5:00 P.M., THURSDAY, OCTOBER 19, 2023. After said deadline, the Court will request that the court reporters finalize the transcripts. Signed by Judge Steve C. Jones on 10/17/2023. (ddm) (Entered: 10/17/2023)
10/18/2023	277	Notice for Leave of Absence for the following date(s): January 9, 2024 - January 19, 2024, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 10/18/2023)

10/25/2023		DOCKET ORDER granting 274 Motion to Withdraw as Attorney. Attorney Elizabeth Marie Wilson Vaughan terminated as counsel for Defendants. Entered by Judge Steve C. Jones on 10/25/2023. (pdw) (Entered: 10/25/2023)
10/25/2023	278	TRANSCRIPT of Bench Trial Proceedings held on 9/5/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	279	TRANSCRIPT of Bench Trial Proceedings held on 9/6/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	280	TRANSCRIPT of Bench Trial Proceedings held on 9/7/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	281	TRANSCRIPT of Bench Trial Proceedings held on 9/8/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4 P.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	282	TRANSCRIPT of Bench Trial Proceedings held on 9/11/23, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	283	TRANSCRIPT of Bench Trial Proceedings held on 9/12/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters

		and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	284	TRANSCRIPT of Bench Trial Proceedings held on 9/13/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 7 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	285	TRANSCRIPT of Bench Trial Proceedings held on 9/14/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 8 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/26/2023	286	OPINION AND MEMORANDUM OF DECISION advising of the Court's findings and conclusions following a non-jury trial and consideration of the evidence. It is ordered that the Pendergrass and Grant Plaintiffs lack standing to bring suit against the members of the State Election Board; thus, Sarah Tindall Ghazal, Janice W. Johnston, Edward Lindsey, and Matthew Mashburn are DISMISSED from this case. Alpha Phi Alpha Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 34, 43, 44, and Enacted House Districts 74 and 78.138 Alpha Phi Alpha Plaintiffs have not met their burden as to the remaining challenged districts. Pendergrass Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plan, SB 2EX, as to the following enacted district/ areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. Grant Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 44, and Enacted House Districts 61, 64, 78, 117, 133, 142, 143, 145, 147, and 149.139 Grant Plaintiffs have not met their burden as to the remaining challenged districts. This Court further concludes that declaratory and permanent injunctive relief are appropriate. The Court, therefore, DECLARES the rights of the parties as follows. SB 2EX violates Section 2 of the Voting Rights Act as to the following districts/areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. SB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 43, and 44. HB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted House Districts 61, 64, 74, 78, 117, 133, 142, 143, 145, 147, and 149. The Court PERMANENTLY ENJOINS Defendant Raffensperger, as well as his agents and successors in office, from using SB

		<p>2 EX, SB 1 EX, and HB 1 EX in any future election. The Court's injunction affords the State a limited opportunity to enact new plans that comply with the Voting Rights Act by DECEMBER 8, 2023. This timeline balances the relevant equities and serves the public interest by providing the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one as the Court will not allow another election cycle on redistricting plans that the Court has determined on a full trial record to be unlawful. The Court is confident that the General Assembly can accomplish its task by DECEMBER 8, 2023: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced nearly 22 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult. The Clerk is DIRECTED to enter judgment in favor of the Alpha Phi Alpha Plaintiffs (in Civil Action No. 1:21-cv-05337), Pendergrass Plaintiffs (in Civil Action No. 1:21-cv-05339), and Grant Plaintiffs (in Civil Action No. 1:22-cv-00122) and against Brad Raffensperger. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. After entry of judgment, the Clerk is DIRECTED to close these three cases. The Court will retain jurisdiction over these matters for oversight and further remedial proceedings, if necessary. The Court reiterates that Georgia has made great strides since 1965 towards equality in voting. However, the evidence before this Court shows that Georgia has not reached the point where the political process has equal openness and equal opportunity for everyone. Accordingly, the Court issues this Order to ensure that Georgia continues to move toward equal openness and equal opportunity for everyone to participate in the electoral system. Signed by Judge Steve C. Jones on 10/26/2023.(ddm) Modified on 10/26/2023 to edit text (ddm). (Entered: 10/26/2023)</p>
10/26/2023	287	<p>CLERK'S JUDGMENT entered in favor of PLAINTIFFS and against remaining Defendants in accordance with this Court's Order of October 26, 2023. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. (ddm)--Please refer to http://www.cal1.uscourts.gov to obtain an appeals jurisdiction checklist-- (Entered: 10/26/2023)</p>
10/26/2023		<p>Civil Case Terminated. (ddm) (Entered: 10/26/2023)</p>
10/30/2023	288	<p>TRANSCRIPT of Proceedings held on 9/5/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)</p>
10/30/2023	289	<p>TRANSCRIPT of Proceedings held on 9/6/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)</p>
10/30/2023	290	<p>TRANSCRIPT of Proceedings held on 9/7/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters.</p>

		Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
10/30/2023	291	TRANSCRIPT of Proceedings held on 9/8/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
10/30/2023	292	TRANSCRIPT of Proceedings held on 9/11/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
10/30/2023	293	TRANSCRIPT of Proceedings held on 9/12/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
10/30/2023	294	TRANSCRIPT of Proceedings held on 9/13/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
10/30/2023	295	TRANSCRIPT of Proceedings held on 9/14/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/20/2023. Redacted Transcript Deadline set for 11/30/2023. Release of Transcript Restriction set for 1/29/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 10/30/2023)
11/03/2023	296	NOTICE by United States of America <i>Notice of Intervention Pursuant to 28 U.S.C. § 2403(a)</i> (Attachments: # 1 Brief)(Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	297	NOTICE of Appearance by Daniel J. Freeman on behalf of United States of America (Freeman, Daniel) (Entered: 11/03/2023)

11/03/2023	298	NOTICE of Appearance by Michael Elliot Stewart on behalf of United States of America (Stewart, Michael) (Entered: 11/03/2023)
11/08/2023	299	Unopposed MOTION for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees with Brief In Support by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 11/08/2023)
11/09/2023	300	ORDER GRANTING 299 Plaintiffs' Unopposed Motion for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees. Plaintiffs shall have until 30 days after the Court receives the Eleventh Circuit's mandate in Defendant's appeal to file a motion for attorneys' fees and expenses and a bill of costs. If Defendant does not appeal, Plaintiffs shall have until 30 days following the expiration of Defendant's time to appeal to file a motion for attorneys' fees and expenses. Signed by Judge Steve C. Jones on 11/09/2023. (ddm) (Entered: 11/09/2023)
11/17/2023	301	<i>Response to United States on Constitutionality of Section 2 of the Voting Rights Act</i> 296 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 11/20/2023 to edit docket text (ddm). (Entered: 11/17/2023)
11/22/2023	302	NOTICE OF APPEAL as to 215 Order on Motion for Summary Judgment,,,,,, 287 Clerk's Judgment, 286 Order,,,,,,,,,,,,, 50 Order on Motion to Dismiss, by Brad Raffensperger. Filing fee \$ 505, receipt number AGANDC-13050596. Transcript Order Form due on 12/6/2023 (Tyson, Bryan) (Entered: 11/22/2023)
11/28/2023	303	ORDER perfecting the trial record in this case and providing the parties with the case name and docket location of the depositions used at trial. Signed by Judge Steve C. Jones on 11/28/2023. (rsg) (Entered: 11/28/2023)
11/28/2023	304	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 302 Notice of Appeal, filed by Brad Raffensperger. (pjm) (Entered: 11/28/2023)
11/28/2023	305	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Judgment, Orders and Docket Sheet to US Court of Appeals re: 302 Notice of Appeal. (pjm) (Entered: 11/28/2023)
11/30/2023	306	USCA Acknowledgment of 302 Notice of Appeal, filed by Brad Raffensperger. Case Appealed to USCA- 11th Circuit. Case Number 23-13916-A. (pjm) (Entered: 11/30/2023)
11/30/2023	310	EXHIBITS (Parties Joint Exhibits 1 and 2) admitted and retained at the 255 Bench Trial - Continued, 257 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 259 Bench Trial - Concluded, 250 Bench Trial - Begun, 253 Bench Trial - Continued, 254 Bench Trial - Continued, 252 Bench Trial - Continued, 258 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Joint Ex. 1, # 2 Joint Ex. 2)(sct) (Entered: 12/07/2023)
11/30/2023	319	EXHIBITS (Defendant's Exhibits: 1-8,21,59,89,92,97,107,154,185-187) admitted and retained at the 255 Bench Trial - Continued, 257 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 250 Bench Trial - Begun, 253 Bench Trial - Continued, 252 Bench Trial - Continued, 258 Bench Trial - Continued, 259 Bench Trial - Concluded, 254 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Deft Ex. 1, # 2 Deft Ex. 2 (pages 1-181), # 3 Deft Ex. 2 (pages 181-220), # 4 Deft Ex. 2 (pages 221-362), # 5 Deft Ex. 3, # 6 Deft Ex. 4, # 7 Deft. Ex 5, # 8 Deft Ex. 6, # 9 Deft Ex. 7, # 10 Deft. Ex 8, # 11 Deft. Ex 21, # 12 Deft Ex. 59, # 13 Deft Ex. 89, # 14 Deft Ex. 92, # 15 Deft Ex. 97, # 16 Deft Ex. 107, # 17 Deft Ex. 154, # 18 Deft Ex. 185, # 19 Deft Ex. 186, # 20 Deft Ex.

		187)(sct) (Additional attachment(s) added on 12/28/2023: # 21 Deft Ex. 3 part 2, # 22 Deft Ex. 3 part 3) (kdw). (Entered: 12/13/2023)
12/04/2023	307	MOTION for Entry of Remedial Scheduling Order 286 Order,,,,,,,,,,,,,,,,,,,,, with Brief In Support by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 12/04/2023)
12/05/2023		DOCKET ORDER re 307 MOTION for Entry of Remedial Scheduling Order filed by Plaintiffs. Defendant is ORDERED to file an expedited response no later than 9:00 AM on 12/06/2023, to include Defendant's proposed schedule. Entered by Judge Steve C. Jones on 12/05/2023. (pdw) (Entered: 12/05/2023)
12/06/2023	308	RESPONSE re 307 MOTION for Entry of Remedial Scheduling Order 286 Order,,,,,,,,,,,,,,,,,,,,, filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/06/2023)
12/06/2023	309	ORDER granting 307 Plaintiffs' Joint Motion for Entry of Remedial Scheduling Order. However, because time is of the essence in this matter, the Court finds it necessary to enter a more compressed schedule than that proposed by either Party. See order for new deadlines. A hearing, set for December 20, 2023, at 9:00 a.m., will be held at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia, in Courtroom 1907. Each set of Plaintiffs will have one hour to present evidence and argument and may proceed in any order they prefer. Defendant will have one hour to present evidence and argument directly following each set of Plaintiffs. To be clear, the presentations will be ordered as follows: One set of Plaintiffs will begin and will have up to one hour to present; Defendant will respond to that presentation and will have up to one hour to do so. The next set of Plaintiffs will make their presentation (up to one hour) and Defendant will then have up to one hour to respond. Finally, the final set of Plaintiffs will present (up to one hour), and Defendant will have up to one hour to respond. Signed by Judge Steve C. Jones on 12/6/2023. (rsg) (Entered: 12/06/2023)
12/06/2023		Set Hearings: Status Conference set for 12/20/2023 at 09:00 AM in ATLA Courtroom 1907 before Judge Steve C. Jones. (rsg) (Entered: 12/06/2023)
12/07/2023	311	NOTICE TO COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held September 5th, 2023 through September 14th, 2023 pursuant to Local Rule 79.1D. Re: 310 Exhibits, (sct) (Entered: 12/07/2023)
12/08/2023	312	NOTICE by Brad Raffensperger <i>of Adoption of Remedial Plans</i> (Tyson, Bryan) (Entered: 12/08/2023)
12/11/2023	313	EXHIBITS (Pendergrass Plaintiff's Exhibits: 1,2,3,4,5,14) admitted and retained at the 255 Bench Trial - Continued, 257 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 250 Bench Trial - Begun, 253 Bench Trial - Continued, 252 Bench Trial - Continued, 258 Bench Trial - Continued, 259 Bench Trial - Concluded, 254 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks.. (Attachments: # 1 Pltf Ex. 1 (pages 1-97), # 2 Pltf Ex. 1 (pages 98-194), # 3 Pltf Ex. 2, # 4 Pltf Ex. 3, # 5 Pltf Ex. 4, # 6 Pltf Ex. 5, # 7 Pltf Ex. 14) (sct) (Entered: 12/11/2023)
12/11/2023	314	NOTICE TO PLAINTIFF'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 313 Exhibits (sct) (Entered: 12/11/2023)
12/11/2023	315	ADMINISTRATIVE ORDER NO. 23-08: IN RE USE OF CELLULAR TELEPHONES AND ELECTRONIC EQUIPMENT ON THE 19TH FLOOR OF THE RICHARD B.

		RUSSELL BUILDING ON DECEMBER 20, 2023. Signed by Judge Timothy C. Batten, Sr. on 12/11/2023.(pdw) (Entered: 12/11/2023)
12/12/2023	316	Appellant's BRIEF by Georgia State Conference of the NAACP, et al.. (Attachments: # 1 Exhibit A Amici Curiae Brief, # 2 Exhibit B Declaration of Dr. Moon Duchin)(Kastorf, Kurt) (Entered: 12/12/2023)
12/12/2023	317	NOTICE Of Filing Plaintiffs Objections To The Georgia Legislatures Remedial Congressional Plan by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 309 Order on Motion for Miscellaneous Relief,,,, 286 Order,,,,,,,,,,,,,, (Attachments: # 1 Exhibit 1 - Remedial Expert Report of Bill Cooper, # 2 Exhibit 2 - Remedial Expert Report of Dr. Maxwell Palmer, # 3 Exhibit 3 - Appendix to Ex. 2, # 4 Exhibit 4 - C.V. for Dr. Palmer, # 5 Exhibit 5 - Remedial Expert Report of Loren Collingwood)(Sparks, Adam) (Entered: 12/12/2023)
12/12/2023	318	NOTICE Of Filing Plaintiffs' Supplemental Exhibits Supporting Their Objections to the Georgia General Assembly's Remedial Congressional Plan by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert re 317 Notice of Filing,, [317-1] <i>Cooper Remedial Report</i> (Attachments: # 1 Exhibit A-1 Population Summary Report for the Illustrative Plan, # 2 Exhibit A-2 Population Summary Report for the 2023 Enacted Plan, # 3 Exhibit A-3 Population Summary Report for the 2021 Enacted Plan, # 4 Exhibit B-1 County level population assignments by district for the Illustrative Plan, # 5 Exhibit B-2 County level population assignments by district for the 2023 Enacted Plan, # 6 Exhibit B-3 County level population assignments by district for the 2021 Enacted Plan, # 7 Exhibit B-4 Table reporting 2020 Census Georgia Population by County Race and Ethnicity, # 8 Exhibit C-1 Core Constituencies Table regarding 2021 Enacted Plan CD 7 and VRA Section 2 violation area, # 9 Exhibit C-2 Core Constituencies Table regarding Illustrative Plan CD 6, 2023 Enacted Plan CD 6, and VRA Section 2 violation area, # 10 Exhibit D-1 Map Packet depicting the Illustrative Plan, # 11 Exhibit D-2 Map packet depicting the 2023 Enacted Plan, # 12 Exhibit D-3 Map packet depicting the 2021 Enacted Plan, # 13 Exhibit E-1 Core Constituencies Table regarding Illustrative Plan core components, # 14 Exhibit E-2 Core Constituencies Table regarding Illustrative Plan core components, # 15 Exhibit F-1 Compactness Report (district-by-district) for Illustrative Plan, # 16 Exhibit F-2 Compactness Report (district-by-district) for 2023 Enacted Plan, # 17 Exhibit F-3 Compactness Report (district-by-district) for 2021 Enacted Plan, # 18 Exhibit G-1 County and VTD split report for the Illustrative Plan, # 19 Exhibit G-2 County and VTD split report for the 2023 Enacted Plan, # 20 Exhibit G-3 County and VTD split report for the 2021 Enacted Plan, # 21 Exhibit H-1 Split report for all municipalities for the Illustrative Plan, # 22 Exhibit H-2 Split report for all municipalities for the 2023 Enacted Plan, # 23 Exhibit H-3 Split report for all municipalities for the 2021 Enacted Plan, # 24 Exhibit I-1 Regional Split Report for the Illustrative Plan, # 25 Exhibit I-2 Regional Split Report for the 2023 Enacted Plan, # 26 Exhibit I-3 Regional Split Report for the 2021 Enacted Plan)(Sparks, Adam) (Entered: 12/12/2023)
12/13/2023	320	NOTICE TO DEFENDANT'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 319 Exhibits. (sct) Modified on 1/18/2024 (mec). (Entered: 12/13/2023)
12/14/2023	321	ORDER GRANTING the Motion for Leave to File Brief as Amici Curiae in Opposition to Defendant's Proposed Remedial Maps. Alpha Doc. No. 353 , Grant Doc. No. 316 , Pendergrass Doc. No. 316 . The Clerk is DIRECTED to refile Alpha Doc. Nos. [353-1], Grant Doc. No. [316-1], and Pendergrass Doc. No. [316-1] as a new docket entry in each case on CM/ECF. Signed by Judge Steve C. Jones on 12/14/2023. (ddm) (Entered: 12/14/2023)

12/14/2023	322	AMICUS CURIAE BRIEF in opposition to Defendants' Proposed Remedial Maps filed by Georgia State Conference of the NAACP, et al. (Attachments: # 1 Declaration of Dr. Moon Duchin)(ddm) (Entered: 12/14/2023)
12/15/2023	323	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 12/15/2023)
12/15/2023	324	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>During Remedial Hearing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 12/15/2023)
12/18/2023	325	ORDER allowing counsel for the Plaintiffs and accompanying staff to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	326	ORDER allowing counsel for the Defendant to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	327	<i>Consolidated Response to Plaintiffs' Objections Regarding Remedial Plans</i> 317 filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of Gina Wright, # 2 Exhibit B - Report of Dr. Michael Barber, # 3 Exhibit C - Senate Committee Hearing (11/29/2023), # 4 Exhibit D - House Committee Hearing (11/29/2023), # 5 Exhibit E - House Committee Hearing (11/29/2023), # 6 Exhibit F - Senate Committee Hearing (12/4/2023), # 7 Exhibit G - Senate Floor Debate (12/1/2023), # 8 Exhibit H - House Floor Debate (12/1/2023), # 9 Exhibit I - House Floor Debate (12/7/2023), # 10 Exhibit J - 2024 State Election Calendar)(Tyson, Bryan) Modified on 12/19/2023 to edit docket text (ddm). (Entered: 12/18/2023)
12/19/2023	328	Plaintiffs' Reply in Support of Objections to Remedial Plans 317 by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. (Sparks, Adam) Modified on 12/20/2023 to edit docket text (ddm). (Entered: 12/19/2023)
12/20/2023	329	Minute Entry for proceedings held before Judge Steve C. Jones: Evidentiary Hearing held on 12/20/2023 pursuant to the Court's Order of 12/06/2023 regarding the remedial phase of these proceedings following the anticipated enactment of remedial state legislative and congressional plans by the Georgia General Assembly. The Court heard oral argument from counsel. Gina Wright called by Defendants, sworn and testified. These matters were taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 12/20/2023)
12/21/2023	330	TRANSCRIPT of Remedial Hearing Proceedings held on 12/20/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1 - A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due 1/11/2024. Redacted Transcript Deadline set for 1/22/2024. Release of Transcript Restriction set for 3/20/2024. (Attachments: # 1 Affidavit Notice of Filing Transcript) (Entered: 12/21/2023)
12/27/2023	331	TRANSCRIPT of Proceedings held on 12/20/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/17/2024. Redacted Transcript Deadline set for 1/29/2024. Release of Transcript Restriction set for 3/26/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 12/27/2023)
12/27/2023	332	Notice for Leave of Absence for the following date(s): 1/9/24 - 1/31/24; 4/1/24 - 4/5/24; 5/20/24 - 5/24/24; 6/3/24 - 6/14/24; 11/14/24 - 11/16/24, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 12/27/2023)
12/28/2023	333	NOTICE TO COURT regarding RECLAMATION AND DISPOSITION OF UNCLAIMED EXHIBITS pursuant to Local Rule 79.1D(2) filed by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. Exhibits to be Retrieved.. (Sparks, Adam) (Entered: 12/28/2023)
12/28/2023	334	ORDER finding that the General Assembly fully complied with this Court's order requiring the creation of a majority-Black congressional district in the region of the State where vote dilution was found. The Court further finds that the elimination of 2021 CD 7 did not violate the October 26, 2023 Order. Finally, the Court declines to adjudicate Plaintiffs' new Section 2 claim based on a coalition of minority voters. Hence, the Court OVERRULES Plaintiffs' objections (Doc. No. 317) and HEREBY APPROVES SB 3EX. Signed by Judge Steve C. Jones on 12/28/2023. (ddm) (Entered: 12/28/2023)
01/16/2024	335	Appeal Remark: Absent objection filed within 14 days of this letter, this appeal will be consolidated by the Clerk with 23-13914 and 23-13921 pursuant to FRAP 3(b)(2) and 11th Cir. R. 12-2 re 302 Notice of Appeal. Case Appealed to USCA - 11th Circuit Case Number 23-13916-AA. (rlh) (Entered: 01/16/2024)
01/22/2024	336	NOTICE OF APPEAL as to 334 Order,, by Ojuan Glaze, Elliott Hennington, Triana Arnold James, Coakley Pendergrass, Robert Richards, Jens Rueckert. Case Appealed to USCA - 11th Circuit. Filing fee \$ 605, receipt number AGANDC-13172486. Transcript Order Form due on 2/5/2024 (Lewis, Joyce) (Entered: 01/22/2024)
01/22/2024	337	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 336 Notice of Appeal, filed by Jens Rueckert, Robert Richards, Ojuan Glaze, Coakley Pendergrass, Triana Arnold James, and Elliott Hennington. (pjm) (Entered: 01/22/2024)
01/22/2024	338	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to USCA - 11th Circuit re: 336 Notice of Appeal. (pjm) (Entered: 01/22/2024)
01/25/2024	339	USCA Acknowledgment of 336 Notice of Appeal, filed by Jens Rueckert, Robert Richards, Ojuan Glaze, Coakley Pendergrass, Triana Arnold James, Elliott Hennington. Case Appealed to USCA- 11th Circuit. Case Number 24-10231-A. (pjm) (Entered: 01/25/2024)
02/05/2024	340	TRANSCRIPT ORDER FORM for proceedings held on 12/20/2023 (Evidentiary Hrg) before Judge Steve C. Jones, re: 336 Notice of Appeal. Court Reporter: Viola Zborowski & Penny Coudriet. (Khanna, Abha) Modified on 2/6/2024 to update text (pjm). (Entered: 02/05/2024)

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Pendergrass Doc. 34-2

EXHIBIT 2

Expert Report of Dr. Maxwell Palmer

Pendergrass v. Raffensperger (N.D. Ga.)

January 3, 2022

A handwritten signature in blue ink that reads "Maxwell Palmer". The signature is written in a cursive style with a long horizontal line extending from the end.

EXPERT REPORT OF MAXWELL PALMER, PH.D.

I, Dr. Maxwell Palmer, declare as follows:

1. My name is Maxwell Palmer. I am currently an Associate Professor of Political Science at Boston University. I joined the faculty at Boston University in 2014, after completing my Ph.D. in Political Science at Harvard University. I was promoted to Associate Professor, with tenure, in 2021. I teach and conduct research on American politics and political methodology.
2. I have published academic work in leading peer-reviewed academic journals, including the *American Political Science Review*, *Journal of Politics*, *Perspectives on Politics*, *British Journal of Political Science*, *Journal of Empirical Legal Studies*, and *Political Science Research and Methods*. My book, *Neighborhood Defenders: Participatory Politics and America's Housing Crisis*, was published by Cambridge University Press in 2019. I have also published academic work in the *Ohio State University Law Review*. My published research uses a variety of analytical approaches, including statistics, geographic analysis, and simulations, and data sources including academic surveys, precinct-level election results, voter registration and vote history files, and census data. My curriculum vitae is attached to this report.
3. I have served as an expert witness or litigation consultant on numerous cases involving voting restrictions. I testified at trial or by deposition in *Bethune Hill v. Virginia* before the U.S. District Court for the Eastern District of Virginia (No. 3:14-cv-00852-REP-AWA-BMK); *Thomas v. Bryant* before the U.S. District Court for the Southern District of Mississippi (No. 3:18-CV-00441-CWR-FKB); *Chestnut v. Merrill* before the U.S. District Court for the Northern District of Alabama (No. 2:18-cv-00907-KOB); *Dwight v. Raffensperger* before the U.S. District Court for the Northern District of Georgia (No. 1:18-cv-2869-RWS); *Bruni v. Hughes* before the U.S. District Court for the Southern District of Texas (No. 5:20-cv-35); and *Texas Alliance for Retired Americans v. Hughes* before the U.S. District Court for the Southern District of Texas (No. 5:20-cv-128). I also served as the independent racially polarized voting analyst for the Virginia Redistricting Commission in 2021. I worked as a data analyst assisting testifying experts in *Perez v. Perry* before the U.S. District Court for the Western District of Texas (No. 5:11-cv-00360-OLG); *LULAC v. Edwards Aquifer Authority* before the U.S. District Court for the Western District of Texas (No. 5:12-cv-00620-OLG); *Harris v. McCrory* before the U. S. District Court for the Middle District of North Carolina (No. 1:13-cv-00949-WO-JEP); *Guy v. Miller* before the U.S. District Court for the District of Nevada (No. 11-OC-00042-1B); *In re Senate Joint Resolution of Legislative Apportionment* before the Florida Supreme Court (Nos. 2012-CA-412, 2012-CA-490); and *Romo v. Detzner* before the Circuit Court of the Second Judicial Circuit in Florida

(No. 2012 CA 412).

4. I am being compensated at a rate of \$350/hour for my work in this case. No part of my compensation is dependent upon the conclusions that I reach or the opinions that I offer.
5. I was retained by the plaintiffs in this litigation to offer an expert opinion on the extent to which voting is racially polarized in Northwest Georgia. I was also asked to evaluate the performance of the Sixth Congressional District in the plaintiffs' illustrative map.
6. I find strong evidence of racially polarized voting across the focus area, which is comprised of the 3rd, 11th, 13th, and 14th Congressional Districts under the 2021 redistricting map. Black and White voters consistently support different candidates. On average, I estimate that 98.5% of Black voters support the same candidate, while only 11.5% of White voters support the Black-preferred candidate. I also find strong evidence of racially polarized voting in each of the four individual congressional districts.
7. Black-preferred candidates are largely unable to win elections in the focus area. Across an analysis of 31 statewide elections from 2012 to 2021, the Black-preferred candidate lost every election in the focus area. When taken on a district-by-district basis, the Black-preferred candidate was defeated in every one of the 31 elections analyzed in the 3rd, 11th, and 14th Congressional Districts. The Black-preferred candidate won a majority of the vote in District 13 in all 31 elections.
8. Under the plaintiffs' illustrative map, I find that Black-preferred candidates are able to win elections in the new 6th Congressional District. Across 31 statewide elections from 2012 to 2021, the Black-preferred candidate won an average of 66.7% of the vote in this illustrative district.

Data Sources and Elections Analyzed

9. For the purpose of my analysis, I examined elections in the 3rd, 11th, 13th, and 14th Congressional Districts, under the plan adopted by the state legislature in 2021. Collectively, I refer to this area as the "focus area." Figure 1 maps the focus area.
10. To analyze racially polarized voting, I relied on precinct-level election results and voter turnout by race, compiled by the state of Georgia. The data includes the racial breakdown of registrants and voters in each precinct, based on registrants' self-identified race when registering to vote. Data for the 2012, 2014, 2016, and 2018 general elections was provided to counsel by the Georgia Secretary of State in a prior case.¹ Data on turnout by race for the 2020 general election and the 2018 and 2021 runoff elections was retrieved from the website of the Georgia Secretary of State.² Precinct-level election

¹*Dwight v. Raffensperger* (No. 1:18-cv-2869-RWS).

²<https://sos.ga.gov/index.php/Elections>

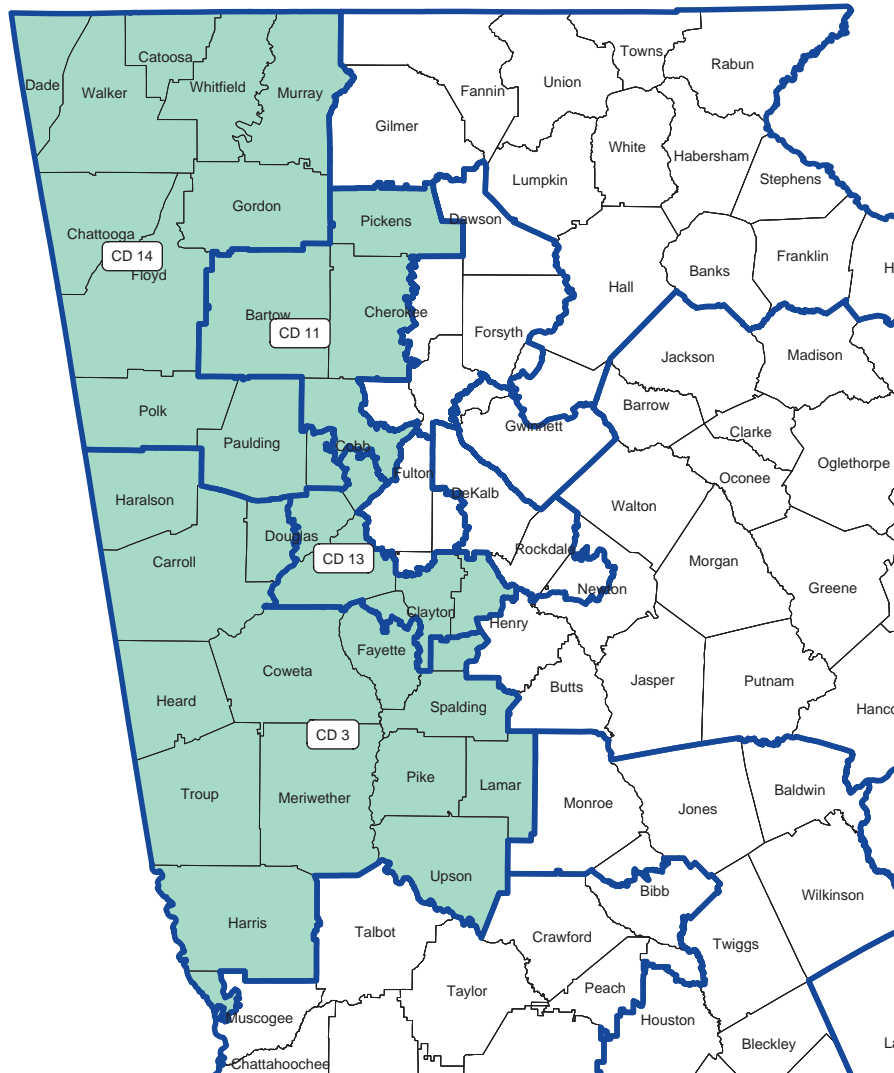


Figure 1: Map of the Focus Area

results for the 2018³, 2020, and 2021⁴ elections was assembled by the Voting and Election Science Team, an academic group that provides precinct-level data for U.S. Elections, based on data from the Secretary of State.

11. The state of Georgia provides six options for race and ethnicity on the voter registration form: Black, White, Hispanic/Latino, Asian/Pacific Islander, American Indian, and Other.⁵ I combined Hispanic/Latino, Asian/Pacific Islander and American Indian into

³Voting and Election Science Team, 2019, “2018 Precinct-Level Election Results”, <https://doi.org/10.7910/DVN/UBKYRU>, Harvard Dataverse, V47; ga_2018.zip.

⁴Voting and Election Science Team, 2020, “2020 Precinct-Level Election Results”, <https://doi.org/10.7910/DVN/K7760H>, Harvard Dataverse, V21; ga_2020.zip. Note that the 2020 election results file includes the 2021 runoff election results as well.

⁵https://sos.ga.gov/admin/files/GA_VR_APP_2019.pdf

the “Other” category.

Racially Polarized Voting Analysis

12. In analyzing racially polarized voting in each election, I used a statistical procedure, ecological inference (EI), that estimates group-level preferences based on aggregate data. I analyzed the results for three racial demographic groups: Non-Hispanic Black, Non-Hispanic White, and Other, based on the voters’ self-identified race in the voter registration database. I excluded third party and write-in candidates, and analyzed votes for the two major-party candidates in each election. The results of this analysis are estimates of the percentage of each group that voted for the candidate from each party in each election. The results include both a mean estimate (the most likely vote share) and a 95% confidence interval.⁶
13. Interpreting the results of the ecological inference models proceeds in two general stages. First, I examined the support for each candidate by each demographic group to determine if members of the group vote cohesively in support of a single candidate in each election. When a significant majority of the group supports a single candidate, I can then identify that candidate as the group’s candidate of choice. If the group’s support is roughly evenly divided between the two candidates, then the group does not cohesively support a single candidate and does not have a clear preference. Second, after identifying the preferred candidate for each group (or the lack of such a candidate), I compared the preferences of White voters to the preferences of Black voters. Evidence of racially polarized voting is found when Black voters and White voters support different candidates.
14. Figure 2 presents the estimates of support for the Black-preferred candidate for Black and White voters for all 31 electoral contests from 2012 to 2020. Here, I present only the estimates and confidence intervals, and exclude individual election labels. Full results for each election are presented in Figure 3 and Table 1. In each panel, the solid dots correspond to an estimate in a particular election, and the gray vertical lines behind each dot are the 95% confidence intervals for the estimate.⁷
15. Examining Figure 2, the estimates for support for Black-preferred candidates by Black voters are all significantly above 50%. Black voters are extremely cohesive, with a clear candidate of choice in all 31 elections. On average, Black voters supported their candidates of choice with 98.5% of the vote.
16. In contrast to Black voters, Figure 2 shows that White voters are highly cohesive in

⁶The 95% confidence interval is a measure of uncertainty in the estimates from the model. For example, the model might estimate that 94% of the members of a group voted for a particular candidate, with a 95% confidence interval of 91-96%. This means that based on the data and the model assumptions, 95% of the simulated estimates for this group fall in the range of 91-96%, with 94% being the average value. Larger confidence intervals reflect a higher degree of uncertainty in the estimates, while smaller confidence intervals reflect less uncertainty.

⁷In some cases the lines for the confidence intervals are not visible behind the dots because they are relatively small.

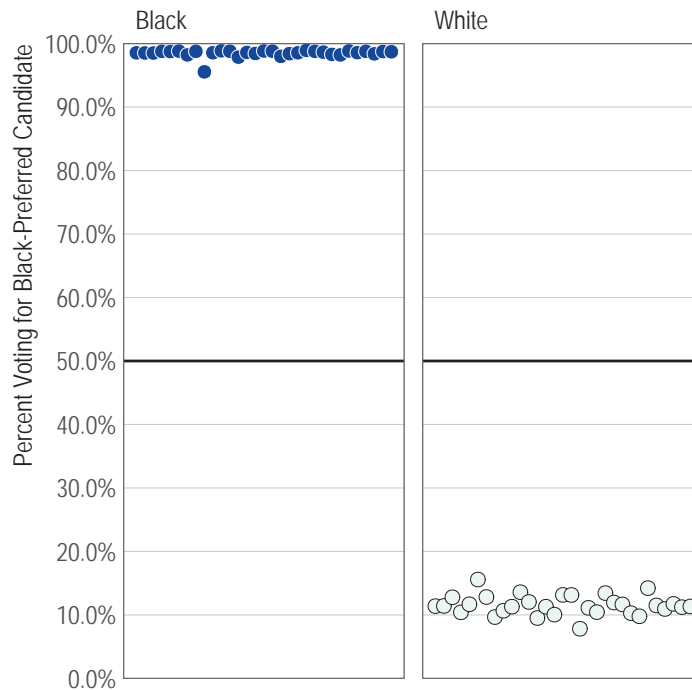


Figure 2: Racially Polarized Voting Estimates by Race — Focus Area

voting in *opposition* to the Black-preferred candidate in every election. On average, White voters supported Black-preferred candidates with 11.5% of the vote, and in no election did this estimate exceed 16%.

17. Figure 3 presents the same results as Figure 2, separated by each electoral contest. The estimated levels of support for the Black-preferred candidate in each election for each group are represented by the colored points, and the horizontal lines indicate the range of the 95% confidence intervals. In every election, Black voters have a clear candidate of choice, and White voters are strongly opposed to this candidate.
18. There is also strong evidence of racially polarized voting in each of the four congressional districts that comprise the focus area. Figure 4 plots the results, and Tables 2–5 present the full results. Black voters are extremely cohesive, with a clear candidate of choice in all 31 elections in each district. On average, Black voters supported their candidates of choice with 97.2% of the vote in CD 3, 96.0% in CD 11, 99.0% in CD 13, and 95.5% in CD 14.
19. In contrast to the Black voters, Figure 4 shows that White voters are highly cohesive in voting in opposition to the Black-preferred candidate in every election in each district. On average, White voters supported Black-preferred candidates with 7.3% of the vote in CD 3, 16.2% in CD 11, 15.2% in CD 13, and 11.3% in CD 14.

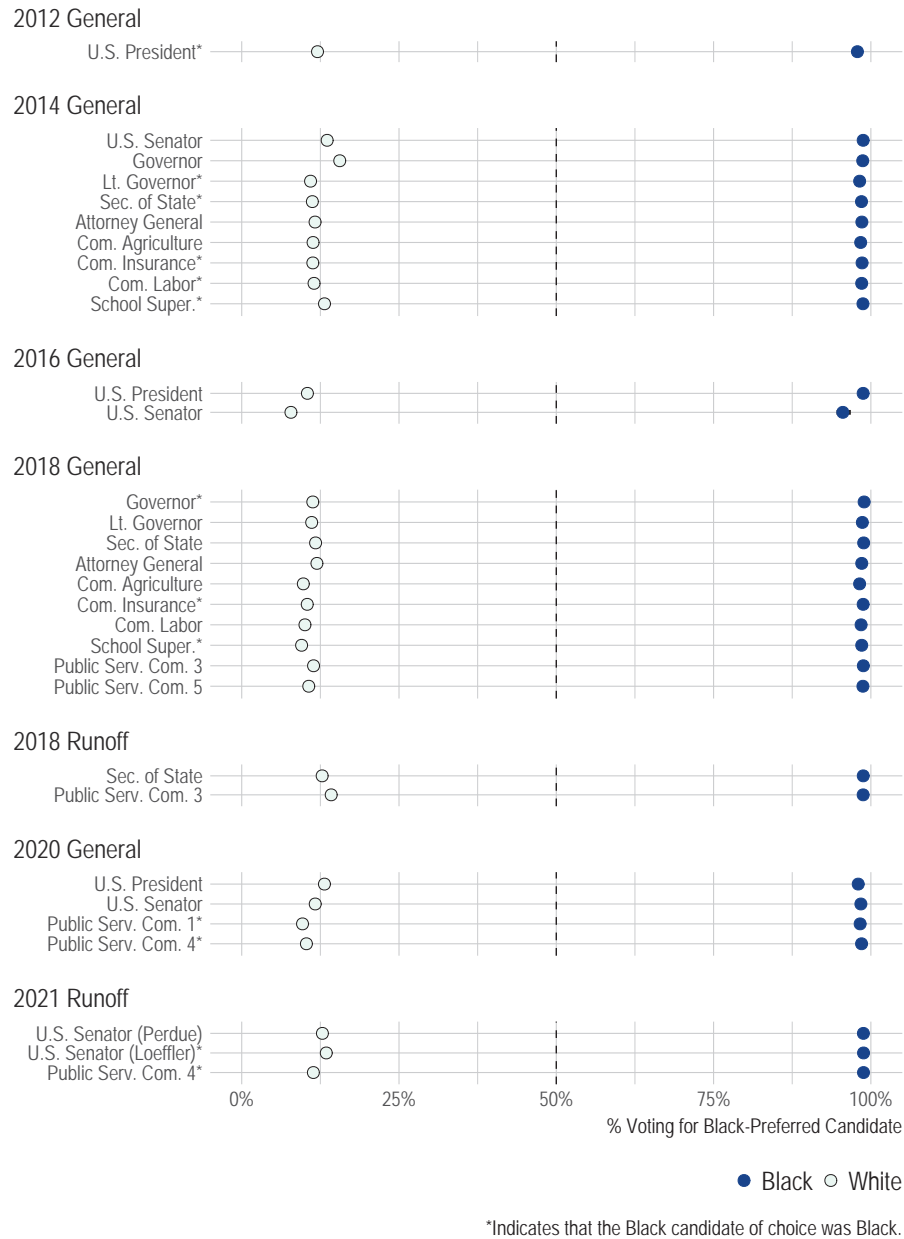


Figure 3: Racially Polarized Voting Estimates by Election — Focus Area

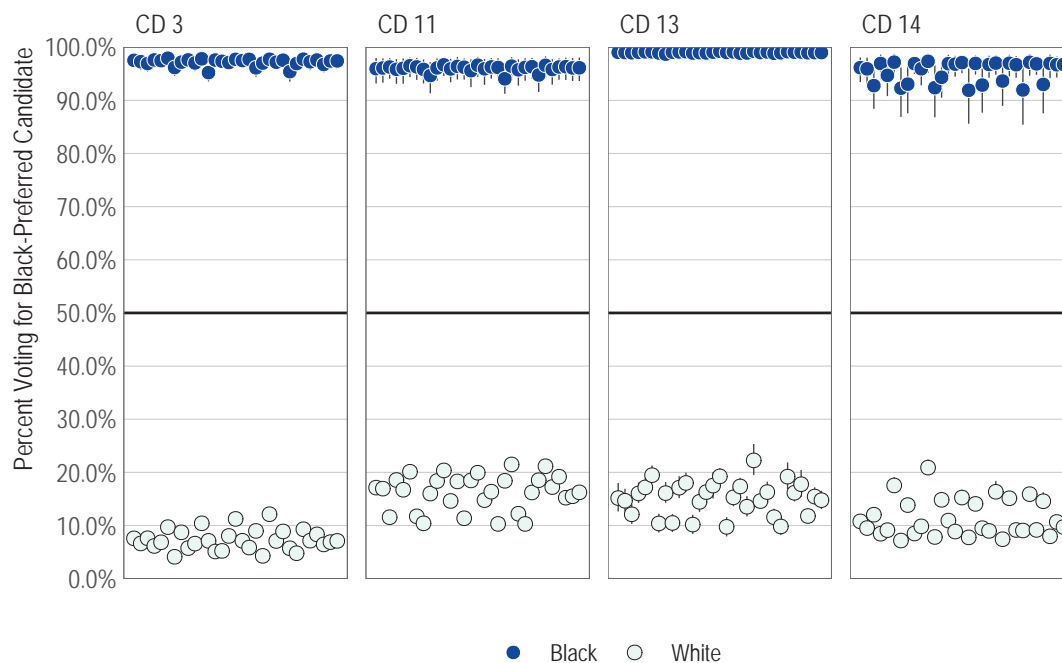


Figure 4: Racially Polarized Voting Estimates by Race — Congressional Districts

Performance of Black-Preferred Candidates in the Focus Area

20. Having identified the Black-preferred candidate in each election, I now turn to their ability to win elections in these districts. Table 6 presents the results of each election in the focus area and each congressional district. For each election, I present the vote share obtained by the Black-preferred candidate.⁸
21. The White-preferred candidate won the majority of the vote in all 31 elections in the focus area. In the 3rd, 11th, and 14th Congressional Districts, the White-preferred candidate received a larger share of vote than the Black-preferred candidate in all 31 elections. In the 13th Congressional District, the Black-preferred candidate won a larger share of the vote in all 31 elections.

Performance of the the Sixth Congressional District in the Illustrative Map

22. I also analyzed the performance of Black-preferred candidates in the new 6th Congressional District proposed in the plaintiffs' illustrative map by calculating the percentage of the vote won by the Black-preferred candidates across the 31 statewide races from 2012 through 2021 examined above.
23. Figure 5 presents the results of this analysis. In the plaintiffs' illustrative 6th Congressional District, the Black-preferred candidate won a larger share of the vote in all 31 statewide elections, with an average of 66.7%. Table 7 provide the full results.

Minority Candidate Performance in the Focus Area

24. I was asked to analyze the extent to which minority candidates have won elections in the focus area. To do so, I calculated the vote share of each minority candidate for statewide office from 2012 to 2021 in the focus area and in each congressional district within the focus area.
25. Table 8 lists the candidates for statewide office. Of the 31 contests analyzed, 13 included a Black candidate running against a White candidate.⁹ Figure 6 plots the vote shares for the Black candidate in each election for the focus area and in each congressional district. The Black candidate was defeated by the White candidate in all 13 elections in the focus area and in the 3rd, 11th, and 14th Congressional Districts. The Black

⁸Winning elections in Georgia requires a majority of the vote rather than a plurality of the vote (the threshold in most of the states). In this table and following sections analyzing election results I present vote shares as percentages of the two-party vote (excluding third party and independent candidates).

⁹All of the minority candidates running for statewide office were Black, and there were no elections (other than the 2020 Special Election for U.S. Senate) with two Black candidates on the ballots for the major parties.

candidate defeated the White candidate in all 13 elections in the 13th Congressional District.

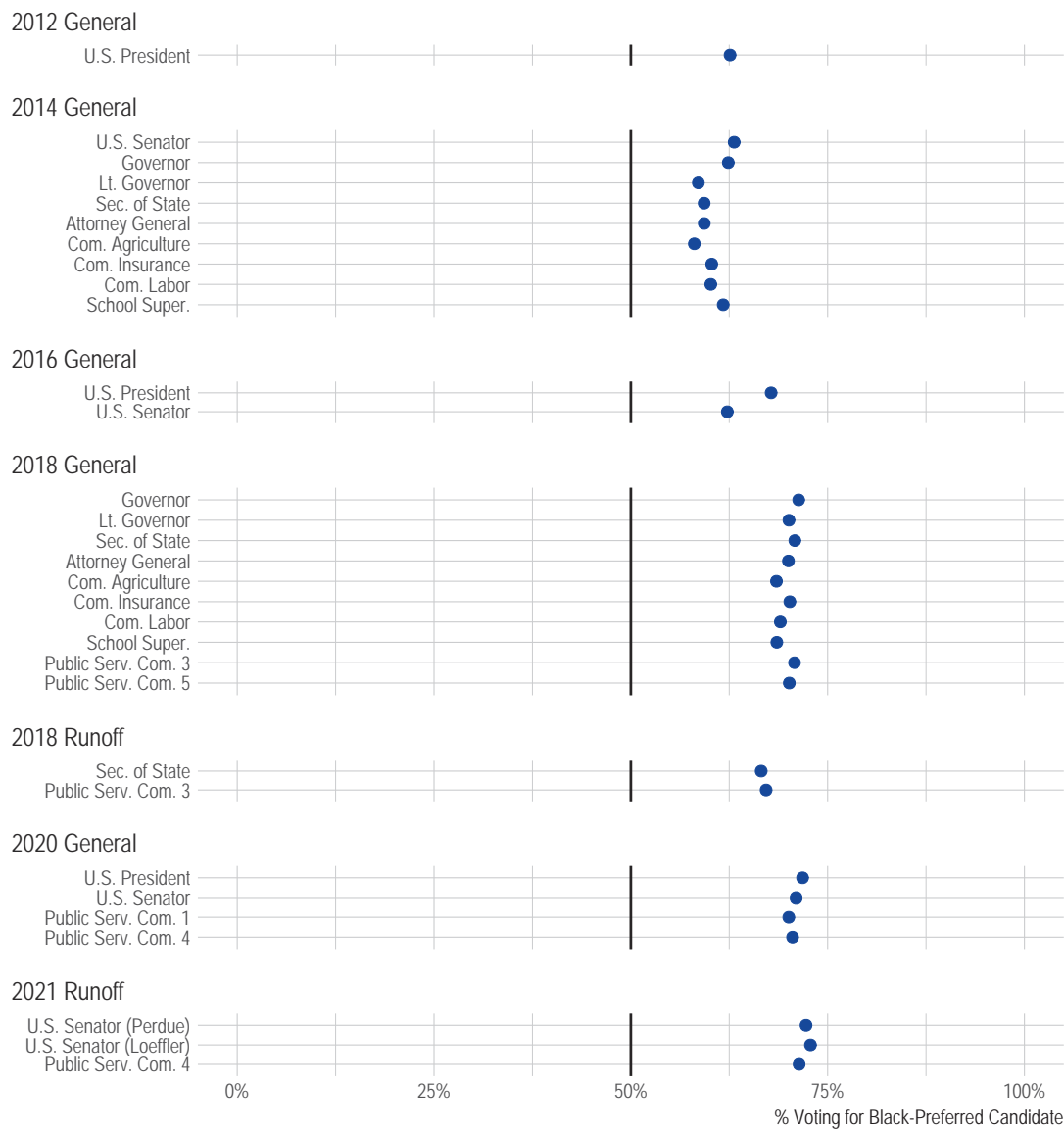


Figure 5: Vote Shares of Black-Preferred Candidates in CD 6 Under the Illustrative Map



Figure 6: Vote Shares of Black Candidates in the Focus Area

Table 1: Ecological Inference Results — Estimated Vote Share of Black-Preferred Candidates
— Focus Area

		Black	White	Other
2012 General	U.S. President*	97.9% (97.4, 98.2)	12.0% (11.8, 12.3)	95.6% (93.9, 96.8)
2014 General	U.S. Senator	98.8% (98.4, 99.0)	13.6% (13.3, 13.9)	94.9% (92.9, 96.5)
	Governor	98.7% (98.4, 99.0)	15.6% (15.1, 16.0)	83.5% (79.9, 87.4)
	Lt. Governor*	98.2% (97.7, 98.6)	10.9% (10.5, 11.4)	68.1% (63.7, 73.0)
	Sec. of State*	98.5% (98.1, 98.9)	11.2% (10.8, 11.7)	74.0% (69.7, 78.0)
	Attorney General	98.6% (98.2, 98.9)	11.7% (11.2, 12.1)	77.2% (73.3, 81.3)
	Com. Agriculture	98.4% (97.9, 98.8)	11.3% (10.8, 11.8)	60.9% (56.6, 65.9)
	Com. Insurance*	98.6% (98.2, 99.0)	11.3% (10.9, 11.7)	77.2% (73.5, 81.3)
	Com. Labor*	98.5% (98.1, 98.9)	11.5% (11.1, 12.0)	78.9% (74.6, 82.8)
	School Super.*	98.7% (98.3, 99.1)	13.2% (12.7, 13.6)	86.2% (82.7, 90.0)
2016 General	U.S. President	98.8% (98.5, 99.0)	10.4% (10.2, 10.7)	96.4% (95.3, 97.3)
	U.S. Senator	95.5% (94.8, 96.6)	7.8% (7.4, 8.4)	90.1% (84.9, 93.3)
2018 General	Governor*	98.9% (98.6, 99.2)	11.3% (11.1, 11.5)	97.0% (96.1, 97.8)
	Lt. Governor	98.6% (98.3, 99.0)	11.1% (10.8, 11.5)	95.1% (93.2, 96.5)
	Sec. of State	98.9% (98.6, 99.1)	11.7% (11.5, 12.0)	95.7% (94.3, 96.9)
	Attorney General	98.6% (98.2, 98.9)	12.0% (11.6, 12.3)	93.5% (91.3, 95.4)
	Com. Agriculture	98.2% (97.7, 98.6)	9.8% (9.4, 10.3)	91.8% (88.6, 94.5)
	Com. Insurance*	98.8% (98.5, 99.1)	10.4% (10.2, 10.7)	95.7% (94.4, 96.8)
	Com. Labor	98.4% (97.9, 98.9)	10.1% (9.7, 10.5)	93.2% (90.2, 95.9)
	School Super.*	98.5% (98.1, 98.9)	9.5% (9.1, 9.9)	91.4% (88.9, 93.7)
	Public Serv. Com. 3	98.8% (98.5, 99.1)	11.4% (11.2, 11.7)	95.8% (94.4, 97.0)
	Public Serv. Com. 5	98.7% (98.4, 99.0)	10.7% (10.4, 11.0)	95.1% (93.4, 96.5)
2018 Runoff	Sec. of State	98.8% (98.4, 99.1)	12.8% (12.5, 13.1)	95.7% (94.1, 97.0)
	Public Serv. Com. 3	98.8% (98.4, 99.1)	14.2% (13.9, 14.5)	95.3% (93.3, 97.1)
2020 General	U.S. President	98.0% (97.5, 98.5)	13.1% (12.7, 13.7)	92.2% (89.4, 94.6)
	U.S. Senator	98.4% (98.0, 98.8)	11.7% (11.3, 12.1)	93.0% (90.7, 94.9)
	Public Serv. Com. 1*	98.3% (97.8, 98.7)	9.7% (9.3, 10.1)	93.7% (91.4, 95.5)
	Public Serv. Com. 4*	98.5% (98.2, 98.8)	10.3% (10.0, 10.6)	94.3% (92.5, 95.8)
2021 Runoff	U.S. Senator (Perdue)	98.8% (98.5, 99.1)	12.8% (12.6, 13.1)	96.8% (95.7, 97.6)
	U.S. Senator (Loeffler)*	98.8% (98.5, 99.1)	13.4% (13.2, 13.7)	97.1% (96.1, 97.9)
	Public Serv. Com. 4*	98.8% (98.5, 99.1)	11.4% (11.2, 11.6)	96.4% (95.3, 97.3)

* Indicates that the Black candidate of choice was Black.

Table 2: Ecological Inference Results — Estimated Vote Share of Black-Preferred Candidates
— CD 3

		Black	White	Other
2012 General	U.S. President*	95.2% (93.6, 96.6)	9.0% (8.4, 9.8)	91.1% (85.0, 95.3)
2014 General	U.S. Senator	97.3% (95.7, 98.4)	11.2% (10.5, 12.2)	87.3% (77.0, 94.0)
	Governor	97.0% (95.5, 98.2)	12.1% (11.2, 13.3)	83.6% (70.5, 92.4)
	Lt. Governor*	96.2% (94.6, 97.5)	6.4% (5.7, 7.4)	84.4% (73.5, 92.1)
	Sec. of State*	96.8% (95.3, 98.0)	7.1% (6.4, 8.0)	85.2% (75.6, 92.4)
	Attorney General	96.9% (95.4, 98.1)	8.0% (7.4, 8.9)	87.9% (79.0, 94.1)
	Com. Agriculture	96.1% (94.4, 97.5)	6.6% (5.7, 8.0)	80.9% (64.6, 91.2)
	Com. Insurance*	97.2% (95.8, 98.3)	7.1% (6.4, 8.0)	87.1% (78.3, 93.4)
	Com. Labor*	97.0% (95.5, 98.2)	7.6% (6.9, 8.6)	84.9% (73.6, 92.1)
	School Super.*	97.1% (95.8, 98.2)	9.7% (8.9, 10.7)	85.4% (75.6, 92.5)
2016 General	U.S. President	97.6% (96.5, 98.5)	7.1% (6.6, 7.7)	93.7% (89.9, 96.5)
	U.S. Senator	95.4% (93.5, 96.9)	4.1% (3.6, 4.8)	91.7% (86.8, 95.0)
2018 General	Governor*	97.9% (96.9, 98.7)	6.6% (6.1, 7.1)	94.4% (91.0, 96.7)
	Lt. Governor	97.6% (96.3, 98.5)	6.1% (5.6, 6.9)	94.5% (90.6, 97.3)
	Sec. of State	97.5% (96.4, 98.4)	7.1% (6.7, 7.6)	95.2% (92.5, 97.2)
	Attorney General	97.4% (96.2, 98.4)	7.6% (7.0, 8.2)	93.9% (90.1, 96.7)
	Com. Agriculture	97.6% (96.5, 98.4)	4.8% (4.4, 5.3)	93.8% (90.6, 96.2)
	Com. Insurance*	97.4% (96.2, 98.4)	5.7% (5.3, 6.3)	94.8% (91.3, 97.0)
	Com. Labor	97.4% (96.1, 98.3)	5.2% (4.8, 5.8)	94.1% (91.0, 96.5)
	School Super.*	97.5% (96.4, 98.3)	4.3% (3.9, 4.7)	95.8% (93.4, 97.5)
	Public Serv. Com. 3	97.5% (96.3, 98.4)	6.8% (6.4, 7.4)	94.5% (91.0, 96.9)
	Public Serv. Com. 5	97.7% (96.7, 98.6)	5.9% (5.4, 6.3)	95.0% (92.3, 97.1)
2018 Runoff	Sec. of State	96.9% (95.4, 98.1)	8.9% (8.3, 9.6)	91.7% (86.2, 95.4)
	Public Serv. Com. 3	97.2% (95.5, 98.4)	10.4% (9.8, 11.2)	90.3% (83.1, 95.0)
2020 General	U.S. President	97.3% (95.7, 98.4)	8.3% (7.8, 9.0)	95.5% (92.5, 97.4)
	U.S. Senator	97.6% (96.4, 98.5)	6.9% (6.5, 7.3)	96.3% (94.3, 97.8)
	Public Serv. Com. 1*	97.8% (96.7, 98.6)	5.1% (4.7, 5.6)	95.8% (93.3, 97.6)
	Public Serv. Com. 4*	97.7% (96.6, 98.6)	5.7% (5.3, 6.2)	96.3% (94.1, 97.9)
2021 Runoff	U.S. Senator (Perdue)	97.6% (96.3, 98.5)	8.7% (8.2, 9.3)	95.3% (92.2, 97.3)
	U.S. Senator (Loeffler)*	97.7% (96.6, 98.6)	9.3% (8.8, 9.9)	94.9% (91.8, 97.0)
	Public Serv. Com. 4*	97.7% (96.6, 98.6)	7.1% (6.7, 7.6)	95.6% (93.0, 97.5)

* Indicates that the Black candidate of choice was Black.

Table 3: Ecological Inference Results — Estimated Vote Share of Black-Preferred Candidates
— CD 11

		Black	White	Other
2012 General	U.S. President*	94.1% (91.2, 96.2)	14.6% (13.9, 15.7)	90.5% (81.7, 95.4)
2014 General	U.S. Senator	95.9% (93.4, 97.8)	16.2% (15.5, 17.0)	90.4% (82.5, 95.7)
	Governor	95.8% (93.2, 97.7)	16.4% (15.7, 17.3)	89.9% (81.0, 95.5)
	Lt. Governor*	96.3% (94.1, 98.0)	10.3% (9.7, 11.1)	91.5% (83.8, 95.9)
	Sec. of State*	96.1% (93.6, 98.0)	11.4% (10.7, 12.2)	91.2% (84.0, 95.8)
	Attorney General	96.7% (94.6, 98.2)	11.6% (10.9, 12.5)	89.9% (80.1, 95.1)
	Com. Agriculture	96.3% (94.1, 97.9)	10.3% (9.7, 11.1)	91.5% (83.9, 95.8)
	Com. Insurance*	96.2% (93.9, 97.9)	11.7% (11.1, 12.4)	92.2% (85.8, 96.1)
	Com. Labor*	96.4% (94.1, 98.1)	12.2% (11.5, 13.1)	89.4% (81.3, 94.6)
	School Super.*	95.8% (93.0, 97.8)	14.8% (14.0, 15.9)	89.9% (78.7, 95.5)
2016 General	U.S. President	96.0% (93.2, 98.0)	16.9% (16.1, 18.1)	92.3% (86.1, 96.1)
	U.S. Senator	96.5% (94.4, 98.1)	10.4% (9.8, 11.2)	94.1% (89.6, 97.1)
2018 General	Governor*	96.6% (94.4, 98.2)	19.2% (18.4, 20.3)	91.8% (86.0, 96.1)
	Lt. Governor	96.1% (93.3, 97.9)	18.3% (17.5, 19.4)	92.7% (86.8, 96.5)
	Sec. of State	95.8% (93.1, 97.8)	18.5% (17.8, 19.5)	94.5% (90.1, 97.4)
	Attorney General	95.9% (92.9, 97.8)	18.6% (17.7, 19.6)	91.8% (86.9, 95.5)
	Com. Agriculture	96.3% (93.8, 98.0)	15.5% (14.8, 16.4)	94.4% (90.5, 97.1)
	Com. Insurance*	96.3% (93.9, 97.9)	17.2% (16.5, 18.2)	92.9% (87.5, 96.3)
	Com. Labor	96.1% (93.6, 98.0)	16.2% (15.5, 17.1)	93.3% (88.6, 96.8)
	School Super.*	96.4% (93.9, 98.2)	15.2% (14.5, 16.2)	93.3% (88.7, 96.8)
	Public Serv. Com. 3	96.3% (93.8, 98.0)	18.5% (17.7, 19.5)	92.8% (87.6, 96.4)
	Public Serv. Com. 5	96.2% (93.7, 97.9)	17.1% (16.4, 18.1)	94.4% (90.0, 97.2)
2018 Runoff	Sec. of State	94.8% (91.6, 97.2)	19.9% (19.0, 21.2)	89.0% (78.7, 95.7)
	Public Serv. Com. 3	94.7% (91.3, 97.2)	21.5% (20.5, 22.9)	88.0% (76.9, 94.9)
2020 General	U.S. President	95.6% (92.5, 97.7)	20.4% (19.6, 21.3)	94.7% (91.5, 97.3)
	U.S. Senator	96.1% (93.7, 97.9)	18.4% (17.7, 19.4)	94.1% (90.2, 96.8)
	Public Serv. Com. 1*	95.8% (92.8, 97.7)	16.0% (15.2, 17.0)	94.7% (90.5, 97.3)
	Public Serv. Com. 4*	96.6% (94.2, 98.3)	16.7% (15.9, 17.8)	94.0% (89.6, 97.0)
2021 Runoff	U.S. Senator (Perdue)	96.3% (94.1, 98.0)	20.1% (19.4, 21.1)	93.5% (89.0, 96.6)
	U.S. Senator (Loeffler)*	96.2% (93.7, 97.9)	21.2% (20.3, 22.3)	93.3% (87.9, 96.5)
	Public Serv. Com. 4*	96.0% (93.1, 97.9)	18.4% (17.6, 19.3)	94.0% (89.5, 96.9)

* Indicates that the Black candidate of choice was Black.

Table 4: Ecological Inference Results — Estimated Vote Share of Black-Preferred Candidates
— CD 13

		Black	White	Other
2012 General	U.S. President*	99.2% (98.9, 99.5)	11.8% (10.8, 12.9)	96.2% (94.3, 97.6)
2014 General	U.S. Senator	99.1% (98.8, 99.4)	14.6% (13.5, 15.9)	94.7% (91.6, 96.8)
	Governor	98.9% (98.5, 99.3)	14.8% (13.1, 16.5)	86.6% (81.6, 91.4)
	Lt. Governor*	98.9% (98.5, 99.3)	9.7% (7.9, 11.6)	68.1% (62.5, 74.3)
	Sec. of State*	99.0% (98.6, 99.3)	9.8% (8.2, 11.5)	75.9% (70.9, 80.9)
	Attorney General	99.0% (98.6, 99.3)	12.1% (10.3, 14.0)	76.5% (71.0, 82.0)
	Com. Agriculture	99.0% (98.6, 99.3)	10.2% (8.4, 12.0)	60.4% (55.1, 65.7)
	Com. Insurance*	98.9% (98.4, 99.2)	10.5% (8.8, 12.2)	80.0% (74.8, 85.3)
	Com. Labor*	99.0% (98.5, 99.3)	10.4% (8.7, 12.2)	81.3% (76.0, 86.7)
	School Super.*	99.1% (98.7, 99.4)	11.6% (10.1, 13.2)	90.6% (86.1, 94.6)
2016 General	U.S. President	99.1% (98.7, 99.4)	15.5% (13.9, 17.2)	92.5% (89.2, 95.6)
	U.S. Senator	98.7% (98.2, 99.1)	15.2% (12.6, 18.0)	63.5% (57.7, 69.0)
2018 General	Governor*	99.1% (98.8, 99.4)	16.3% (15.1, 17.7)	96.7% (95.1, 97.9)
	Lt. Governor	99.2% (98.8, 99.5)	16.1% (14.3, 18.2)	91.0% (87.6, 94.2)
	Sec. of State	99.2% (98.9, 99.5)	16.2% (14.5, 18.1)	93.9% (90.8, 96.4)
	Attorney General	99.1% (98.7, 99.4)	17.1% (15.2, 19.3)	88.1% (84.6, 91.5)
	Com. Agriculture	99.0% (98.5, 99.3)	14.7% (12.7, 16.9)	84.2% (80.7, 87.6)
	Com. Insurance*	99.1% (98.7, 99.4)	15.3% (13.6, 17.2)	93.1% (90.4, 95.5)
	Com. Labor	99.1% (98.7, 99.4)	14.4% (12.6, 16.4)	87.4% (84.2, 90.7)
	School Super.*	99.0% (98.6, 99.4)	13.5% (11.7, 15.5)	86.9% (83.4, 90.3)
	Public Serv. Com. 3	99.2% (98.8, 99.4)	17.2% (15.6, 19.1)	92.7% (89.8, 95.1)
	Public Serv. Com. 5	99.1% (98.7, 99.4)	16.0% (14.2, 18.1)	91.2% (88.1, 94.2)
2018 Runoff	Sec. of State	98.9% (98.5, 99.2)	17.3% (15.9, 19.0)	94.6% (91.8, 96.6)
	Public Serv. Com. 3	99.0% (98.5, 99.3)	19.2% (17.8, 20.8)	94.0% (91.3, 96.2)
2020 General	U.S. President	98.9% (98.4, 99.2)	22.3% (19.5, 25.3)	80.8% (76.9, 84.4)
	U.S. Senator	99.0% (98.6, 99.3)	19.2% (16.9, 21.9)	84.7% (81.3, 87.8)
	Public Serv. Com. 1*	98.9% (98.5, 99.3)	17.5% (15.1, 20.0)	84.8% (81.5, 88.3)
	Public Serv. Com. 4*	98.9% (98.5, 99.3)	17.8% (15.4, 20.4)	87.3% (83.9, 90.4)
2021 Runoff	U.S. Senator (Perdue)	99.1% (98.7, 99.4)	18.0% (16.4, 20.0)	95.0% (92.3, 97.0)
	U.S. Senator (Loeffler)*	99.0% (98.6, 99.3)	19.5% (18.0, 21.3)	95.4% (93.1, 97.0)
	Public Serv. Com. 4*	99.1% (98.7, 99.4)	16.3% (14.7, 18.2)	93.8% (91.5, 95.7)

* Indicates that the Black candidate of choice was Black.

Table 5: Ecological Inference Results — Estimated Vote Share of Black-Preferred Candidates
— CD 14

		Black	White	Other
2012 General	U.S. President*	92.9% (87.7, 96.7)	15.9% (14.8, 17.2)	82.9% (68.0, 93.5)
2014 General	U.S. Senator	94.7% (90.8, 97.7)	16.3% (15.3, 18.4)	82.9% (58.4, 94.3)
	Governor	93.0% (87.6, 96.9)	20.9% (19.4, 22.4)	66.9% (46.1, 85.8)
	Lt. Governor*	92.0% (85.4, 96.6)	14.1% (12.9, 15.3)	73.5% (55.2, 88.1)
	Sec. of State*	93.0% (87.6, 97.0)	14.6% (13.3, 16.3)	73.4% (49.4, 89.5)
	Attorney General	92.4% (86.8, 96.6)	15.3% (13.9, 16.7)	71.2% (52.4, 88.0)
	Com. Agriculture	91.9% (85.6, 96.0)	13.8% (12.5, 15.2)	71.8% (54.2, 88.8)
	Com. Insurance*	93.6% (89.0, 97.1)	14.8% (13.6, 16.3)	72.6% (51.1, 88.5)
	Com. Labor*	92.8% (88.4, 96.4)	15.1% (14.0, 16.3)	76.0% (61.1, 89.8)
	School Super.*	92.3% (86.9, 96.2)	17.5% (16.3, 19.1)	76.1% (58.5, 89.7)
2016 General	U.S. President	96.2% (93.4, 98.1)	8.5% (8.0, 9.2)	94.1% (90.1, 96.9)
	U.S. Senator	94.3% (90.5, 97.0)	7.4% (6.7, 8.3)	90.5% (84.4, 95.1)
2018 General	Governor*	96.9% (94.0, 98.6)	9.1% (8.4, 9.9)	94.3% (90.1, 97.3)
	Lt. Governor	96.7% (94.2, 98.3)	9.1% (8.6, 9.8)	94.8% (91.0, 97.4)
	Sec. of State	97.0% (94.5, 98.6)	9.8% (9.3, 10.6)	94.9% (91.0, 97.4)
	Attorney General	97.3% (95.1, 98.8)	9.7% (9.2, 10.4)	94.0% (89.5, 96.9)
	Com. Agriculture	96.8% (94.2, 98.4)	7.8% (7.3, 8.5)	95.0% (91.1, 97.4)
	Com. Insurance*	96.9% (94.4, 98.6)	9.0% (8.4, 9.7)	93.9% (90.0, 96.8)
	Com. Labor	97.2% (94.7, 98.7)	8.4% (7.9, 9.2)	94.5% (90.4, 97.2)
	School Super.*	97.0% (94.2, 98.6)	8.0% (7.4, 8.7)	93.4% (89.1, 96.3)
	Public Serv. Com. 3	97.2% (94.5, 98.8)	9.5% (8.9, 10.3)	93.4% (89.2, 96.4)
	Public Serv. Com. 5	96.7% (94.3, 98.4)	9.2% (8.5, 10.0)	93.5% (88.9, 96.7)
2018 Runoff	Sec. of State	95.9% (92.6, 98.0)	10.9% (10.1, 12.0)	89.0% (79.5, 95.0)
	Public Serv. Com. 3	95.9% (92.8, 98.0)	12.0% (11.2, 13.2)	88.6% (78.4, 95.3)
2020 General	U.S. President	97.1% (95.1, 98.5)	9.2% (8.6, 9.8)	95.1% (91.8, 97.3)
	U.S. Senator	96.9% (94.9, 98.5)	8.9% (8.3, 9.5)	94.2% (90.5, 96.7)
	Public Serv. Com. 1*	96.9% (95.0, 98.3)	7.2% (6.7, 7.8)	94.8% (92.1, 96.7)
	Public Serv. Com. 4*	97.0% (94.8, 98.5)	7.8% (7.3, 8.3)	95.5% (93.1, 97.2)
2021 Runoff	U.S. Senator (Perdue)	96.8% (94.4, 98.4)	10.7% (10.1, 11.4)	94.6% (91.3, 97.0)
	U.S. Senator (Loeffler)*	96.7% (94.3, 98.3)	10.8% (10.3, 11.4)	95.6% (92.9, 97.7)
	Public Serv. Com. 4*	96.9% (94.8, 98.3)	9.5% (9.0, 10.1)	95.1% (91.9, 97.2)

* Indicates that the Black candidate of choice was Black.

Table 6: Election Results in the Focus Area — Vote Share of Black-Preferred Candidates

		Focus Area	CD 3	CD 11	CD 13	CD 14
2012 General	U.S. President	42.6%	32.2%	32.7%	74.8%	29.8%
2014 General	U.S. Senator	43.5%	32.2%	32.6%	75.8%	30.7%
	Governor	43.9%	32.6%	32.7%	75.0%	33.1%
	Lt. Governor	39.5%	28.1%	28.1%	71.8%	27.8%
	Sec. of State	40.3%	28.8%	28.9%	72.6%	28.4%
	Attorney General	40.8%	29.7%	29.0%	73.3%	28.7%
	Com. Agriculture	39.3%	28.0%	28.1%	71.3%	27.5%
	Com. Insurance	40.8%	29.1%	29.3%	73.3%	28.7%
	Com. Labor	40.9%	29.2%	29.5%	73.3%	29.0%
	School Super.	42.5%	30.9%	31.5%	74.6%	30.9%
2016 General	U.S. President	43.5%	31.6%	36.7%	77.7%	27.8%
	U.S. Senator	40.3%	28.7%	32.2%	73.7%	26.4%
2018 General	Governor	46.5%	32.8%	40.0%	80.9%	30.1%
	Lt. Governor	45.8%	32.3%	39.3%	79.9%	30.1%
	Sec. of State	46.5%	33.1%	39.7%	80.5%	30.7%
	Attorney General	46.3%	33.3%	39.5%	79.8%	30.6%
	Com. Agriculture	44.7%	31.3%	37.6%	78.7%	29.2%
	Com. Insurance	45.8%	32.1%	38.6%	80.2%	30.0%
	Com. Labor	45.1%	31.6%	38.0%	79.2%	29.7%
	School Super.	44.6%	31.1%	37.3%	78.9%	29.1%
	Public Serv. Com. 3	46.4%	32.9%	39.6%	80.6%	30.3%
	Public Serv. Com. 5	45.9%	32.3%	38.8%	80.2%	30.1%
2018 Runoff	Sec. of State	43.2%	30.4%	35.8%	76.9%	28.3%
	Public Serv. Com. 3	44.1%	31.4%	37.0%	77.4%	29.1%
2020 General	U.S. President	46.7%	34.7%	42.3%	80.3%	31.2%
	U.S. Senator	46.1%	33.8%	40.9%	80.4%	30.8%
	Public Serv. Com. 1	45.0%	32.6%	39.2%	80.1%	29.6%
	Public Serv. Com. 4	45.6%	33.1%	39.8%	80.5%	30.2%
2021 Runoff	U.S. Senator (Perdue)	47.8%	35.2%	41.7%	82.2%	32.3%
	U.S. Senator (Loeffler)	48.2%	35.6%	42.4%	82.5%	32.4%
	Public Serv. Com. 4	46.9%	34.1%	40.5%	81.7%	31.5%

Table 7: Vote Share of Black-Preferred Candidates — Illustrative Map

		CD 6
2012 General	U.S. President	62.6%
2014 General	U.S. Senator	63.1%
	Governor	62.4%
	Lt. Governor	58.6%
	Sec. of State	59.3%
	Attorney General	59.3%
	Com. Agriculture	58.1%
	Com. Insurance	60.3%
	Com. Labor	60.2%
	School Super.	61.7%
2016 General	U.S. President	67.8%
	U.S. Senator	62.3%
2018 General	Governor	71.3%
	Lt. Governor	70.1%
	Sec. of State	70.8%
	Attorney General	70.0%
	Com. Agriculture	68.5%
	Com. Insurance	70.2%
	Com. Labor	69.0%
	School Super.	68.5%
	Public Serv. Com. 3	70.8%
	Public Serv. Com. 5	70.1%
2018 Runoff	Sec. of State	66.6%
	Public Serv. Com. 3	67.2%
2020 General	U.S. President	71.8%
	U.S. Senator	71.0%
	Public Serv. Com. 1	70.1%
	Public Serv. Com. 4	70.5%
2021 Runoff	U.S. Senator (Perdue)	72.3%
	U.S. Senator (Loeffler)	72.8%
	Public Serv. Com. 4	71.4%

Table 8: List of Candidates in Statewide Elections, 2012–2021

	U.S. President	Democratic Candidate	Dem. Cand. Race	Republican Candidate	Rep. Cand. Race
2012 General		Barack Obama	Black	Mitt Romney	White
2014 General	U.S. Senator	Michelle Nunn	White	David Perdue	White
	Governor	Jason Carter	White	John Nathan Deal	White
	Lt. Governor	Connie Stokes	Black	L. S. 'Casey' Cagle	White
	Sec. of State	Doreen Carter	Black	Brian Kemp	White
	Attorney General	Gregory Hecht	White	Samuel O lens	White
	Com. Agriculture	Christopher Irvin	White	Gary Black	White
	Com. Insurance	Elizabeth Johnson	Black	Ralph Hudgens	White
	Com. Labor	Robbin Shipp	Black	J. Mark Butler	White
2016 General	School Super.	Valarie Wilson	Black	Richard Woods	White
	U.S. President	Hillary Clinton	White	Donald Trump	White
2018 General	U.S. Senator	Jim Barksdale	White	Johnny Isakson	White
	Governor	Stacey Abrams	Black	Brian Kemp	White
	Lt. Governor	Sarah Riggs Amico	White	Geoff Duncan	White
	Sec. of State	John Barrow	White	Brad Raffensperger	White
	Attorney General	Charlie Bailey	White	Chris Carr	White
	Com. Agriculture	Fred Swann	White	Gary Black	White
	Com. Insurance	Janice Laws	Black	Jim Beck	White
	Com. Labor	Richard Keatley	White	Mark Butler	White
	School Super.	Otha Thornton	Black	Richard Woods	White
	Public Serv. Com. 3	Lindy Miller	White	Chuck Eaton	White
	Public Serv. Com. 5	Dawn Randolph	White	Tricia Pridemore	White
2018 Runoff	Sec. of State	John Barrow	White	Brad Raffensperger	White
	Public Serv. Com. 3	Lindy Miller	White	Chuck Eaton	White
2020 General	U.S. President	Joe Biden	White	Donald Trump	White
	U.S. Senator	Jon Ossoff	White	David Perdue	White
	Public Serv. Com. 1	Robert Bryant	Black	Jason Shaw	White
	Public Serv. Com. 4	Daniel Blackman	Black	Lauren McDonald	White
2021 Runoff	U.S. Senator (Perdue)	Jon Ossoff	White	David Perdue	White
	U.S. Senator (Loeffler)	Raphael Warnock	Black	Kelly Loeffler	White
	Public Serv. Com. 4	Daniel Blackman	Black	Lauren McDonald	White

* Excludes candidates in the 2020 Special Election for U.S. Senate

Maxwell Palmer

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APPOINTMENTS	Boston University , Boston, Massachusetts Associate Professor, Department of Political Science , 2021–Present Director of Advanced Programs, Dept. of Political Science , 2020–Present Civic Tech Fellow, Faculty of Computing & Data Sciences, 2021–Present Faculty Fellow, Initiative on Cities , 2019–Present Affiliations: Hariri Institute for Computing ; Center for Antiracist Research Assistant Professor, Department of Political Science , 2014–2021	
EDUCATION	Harvard University , Cambridge, Massachusetts Ph.D., Political Science, May 2014. A.M., Political Science, May 2012. Bowdoin College , Brunswick, Maine A.B., Mathematics & Government and Legal Studies, May 2008.	
BOOK	<i>Neighborhood Defenders: Participatory Politics and America's Housing Crisis</i> (with Katherine Levine Einstein and David M. Glick). 2019. New York, NY: Cambridge University Press. <ul style="list-style-type: none">– Selected chapters republished in <i>Political Science Quarterly</i>.– Reviewed in <i>Perspectives on Politics</i>, <i>Political Science Quarterly</i>, <i>Economics 21</i>, <i>Public Books</i>, and <i>City Journal</i>.– Covered in Vox's "The Weeds" podcast, CityLab, Slate's "Gabfest," Curbed, Brookings Institution Up Front.	
REFEREED ARTICLES	de Benedictis-Kessner, Justin and Maxwell Palmer. 2021. " Driving Turnout: The Effect of Car Ownership on Electoral Participation. " <i>Political Science Research and Methods</i> . Einstein, Katherine Levine and Maxwell Palmer. 2021. " Land of the Freeholder: How Property Rights Make Voting Rights. " <i>Journal of Historical Political Economy</i> 1(4): 499–530.	

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Ban, Pamela, Maxwell Palmer, and Benjamin Schneer. 2019. "From the Halls of Congress to K Street: Government Experience and its Value for Lobbying." *Legislative Studies Quarterly* 44(4): 713–752.

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– Winner of the **Heinz Eulau Award**, American Political Science Association, 2020.

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sel. 2018. "Do Mayors Run for Higher Office? New Evidence on Progressive
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Government and Significant Legislation, A History of Congress from 1789-2010."
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Edwards, Barry, Michael Crespín, Ryan D. Williamson, and Maxwell Palmer.
2017. "Institutional Control of Redistricting and the Geography of Represen-
tation." *Journal of Politics* 79(2): 722–726.

Palmer, Maxwell. 2016. "Does the Chief Justice Make Partisan Appointments to
Special Courts and Panels?" *Journal of Empirical Legal Studies* 13(1): 153–177.

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PUBLICATIONS

Einstein, Katherine Levine, David M. Glick and Maxwell Palmer. 2020. “Neighborhood Defenders: Participatory Politics and America’s Housing Crisis.” *Political Science Quarterly* 135(2): 281–312.

Ansolabehere, Stephen and Maxwell Palmer. 2016. “A Two Hundred-Year Statistical History of the Gerrymander.” *Ohio State Law Journal* 77(4): 741–762.

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REPORTS

Glick, David M., Katherine Levine Einstein, Maxwell Palmer. 2021. **2021 Menino Survey of Mayors: Building Back Better**. Research Report. Boston University Initiative on Cities.

Glick, David M., Katherine Levine Einstein, Maxwell Palmer, Stacy Fox, Katharine Lusk, Nicholas Henninger, and Songhyun Park. 2021. **2020 Menino Survey of Mayors: Policing and Protests**. Research Report. Boston University Initiative on Cities.

Glick, David M., Katherine Levine Einstein, Maxwell Palmer, and Stacy Fox. 2020. **2020 Menino Survey of Mayors: COVID-19 Recovery and the Future of Cities**. Research Report. Boston University Initiative on Cities.

de Benedictis-Kessner, Justin and Maxwell Palmer. 2020. **Got Wheels? How Having Access to a Car Impacts Voting**. *Democracy Docket*.

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Einstein, Katherine Levine, Maxwell Palmer, David Glick, and Stacy Fox. 2020. *Mayoral Views on Cities' Legislators: How Representative are City Councils?* Research Report. Boston University Initiative on Cities.

Einstein, Katherine Levine and Maxwell Palmer. 2020. "Newton and other communities must reform housing approval process." *The Boston Globe*.

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Palmer, Maxwell, Katherine Levine Einstein, David Glick, and Stacy Fox. 2019. *Mayoral Views on Housing Production: Do Planning Goals Match Reality?* Research Report. Boston University Initiative on Cities.

Wilson, Graham, David Glick, Katherine Levine Einstein, Maxwell Palmer, and Stacy Fox. 2019. *Mayoral Views on Economic Incentives: Valuable Tools or a Bad Use of Resources?*. Research Report. Boston University Initiative on Cities

Einstein, Katherine Levine, David Glick, Maxwell Palmer and Stacy Fox. 2019. "2018 Menino Survey of Mayors." Research Report. Boston University Initiative on Cities.

Einstein, Katherine Levine, Katharine Lusk, David Glick, Maxwell Palmer, Christiana McFarland, Leon Andrews, Aliza Wasserman, and Chelsea Jones. 2018. "Mayoral Views on Racism and Discrimination." National League of Cities and Boston University Initiative on Cities.

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Williamson, Ryan D., Michael Crespín, Maxwell Palmer, and Barry C. Edwards. 2017. "This is how to get rid of gerrymandered districts." *The Washington Post*, Monkey Cage Blog.

Palmer, Maxwell and Benjamin Schneer. 2015. "How and why retired politicians get lucrative appointments on corporate boards." *The Washington Post*, Monkey

Cage Blog.

CURRENT
PROJECTS

“A Partisan Solution to Partisan Gerrymandering: The Define-Combine Procedure” (with Benjamin Schneer and Kevin DeLuca).

– Covered in *Fast Company*

“Descended from Immigrants and Revolutionists: How Family Immigration History Shapes Legislative Behavior in Congress” (with James Feigenbaum and Benjamin Schneer).

“Still Muted: The Limited Participatory Democracy of Zoom Public Meetings” (with Katherine Levine Einstein, David Glick, and Luisa Godinez Puig). Conditionally Accepted, *Urban Affairs Review*.

“Who Represents the Renters?” (with Katherine Levine Einstein and Joseph Ornstein).

“Developing a Pro-Housing Movement? How Public Distrust of Developers Stops New Housing and Fractures Coalitions” (with Katherine Levine Einstein and David Glick).

“The Gender Pay Gap in Congressional Offices” (with Joshua McCrain).

“Racial Disparities in Local Elections” (with Katherine Levine Einstein).

“Renters in an Ownership Society: Property Rights, Voting Rights, and the Making of American Citizenship.” Book Project. With Katherine Levine Einstein.

“Menino Survey of Mayors 2021.” Co-principal investigator with David M. Glick and Katherine Levine Einstein.

GRANTS
AND AWARDS

American Political Science Association, *Heinz Eulau Award*, for the best article published in *Perspectives on Politics* during the previous calendar year, for “Who Participates in Local Government? Evidence from Meeting Minutes.” (with Katherine Levine Einstein and David M. Glick). 2020.

Boston University Initiative on Cities, COVID-19 Research to Action Seed Grant. “How Are Cities Responding to the COVID-19 Housing Crisis?” 2020. \$8,000.

The Rockefeller Foundation, “Menino Survey of Mayors” (Co-principal investigator). 2017. \$325,000.

Hariri Institute for Computing, Boston University. Junior Faculty Fellow. 2017–2020. \$10,000.

The Rockefeller Foundation, “2017 Menino Survey of Mayors” (Co-principal investigator). 2017. \$100,000.

The Center for Finance, Law, and Policy, Boston University, Research Grant for “From the Capitol to the Boardroom: The Returns to Office from Corporate Board Directorships,” 2015.

Senator Charles Sumner Prize, Dept. of Government, Harvard University. 2014.
Awarded to the best dissertation “from the legal, political, historical, economic, social or ethnic approach, dealing with means or measures tending toward the prevention of war and the establishment of universal peace.”

The Center for American Political Studies, Dissertation Research Fellowship on the Study of the American Republic, 2013–2014.

The Tobin Project, Democracy and Markets Graduate Student Fellowship, 2013–2014.

The Dirksen Congressional Center, Congressional Research Award, 2013.

The Institute for Quantitative Social Science, Conference Travel Grant, 2014.

The Center for American Political Studies, Graduate Seed Grant for “Capitol Gains: The Returns to Elected Office from Corporate Board Directorships,” 2014.

The Institute for Quantitative Social Science, Research Grant, 2013.

Bowdoin College: High Honors in Government and Legal Studies; Philo Sherman Bennett Prize for Best Honors Thesis in the Department of Government, 2008.

SELECTED
PRESENTATIONS

“A Partisan Solution to Partisan Gerrymandering: The Define-Combine Procedure.” MIT Election Data and Science Lab, 2020.

“Who Represents the Renters?” Local Political Economy Conference, Washington, D.C., 2019.

“Housing and Climate Politics,” Sustainable Urban Systems Conference, Boston University 2019.

“Redistricting and Gerrymandering,” American Studies Summer Institute, John F. Kennedy Presidential Library and Museum, 2019.

“The Participatory Politics of Housing,” Government Accountability Office Seminar, 2018.

“Descended from Immigrants and Revolutionists: How Immigrant Experience Shapes Immigration Votes in Congress,” Congress and History Conference, Princeton University, 2018.

“Identifying Gerrymanders at the Micro- and Macro-Level,” Hariri Institute for Computing, Boston University, 2018.

“How Institutions Enable NIMBYism and Obstruct Development,” Boston Area Research Initiative Spring Conference, Northeastern University, 2017.

“Congressional Gridlock,” American Studies Summer Institute, John F. Kennedy Presidential Library and Museum, 2016.

“Capitol Gains: The Returns to Elected Office from Corporate Board Directorships,” Microeconomics Seminar, Department of Economics, Boston University, 2015.

“A Two Hundred-Year Statistical History of the Gerrymander,” Congress and History Conference, Vanderbilt University, 2015.

“A New (Old) Standard for Geographic Gerrymandering,” Harvard Ash Center Workshop: How Data is Helping Us Understand Voting Rights After Shelby County, 2015.

“Capitol Gains: The Returns to Elected Office from Corporate Board Directorships,” Boston University Center for Finance, Law, and Policy, 2015.

“Capitol Gains: The Returns to Elected Office from Corporate Board Directorships,” Bowdoin College, 2014.

American Political Science Association: 2013, 2014, 2015, 2016, 2018, 2019, 2020
Midwestern Political Science Association: 2012, 2013, 2014, 2017, 2019
Southern Political Science Association: 2015, 2018
European Political Science Association: 2015

EXPERT
TESTIMONY
AND CONSULTING

Bethune-Hill v. Virginia (3:14-cv-00852-REP-AWA-BMK), U.S. District Court for the Eastern District of Virginia. Prepared expert reports and testified on racial predominance and racially polarized voting in selected districts of the 2011 Virginia House of Delegates map. (2017)

Thomas v. Bryant (3:18-CV-441-CWR-FKB), U.S. District Court for the Southern

District of Mississippi. Prepared expert reports and testified on racially polarized voting in a district of the 2012 Mississippi State Senate map. (2018–2019)

Chestnut v. Merrill (2:18-cv-00907-KOB), U.S. District Court for the Northern District of Alabama. Prepared expert reports and testified on racially polarized voting in selected districts of the 2011 Alabama congressional district map. (2019)

Dwight v. Raffensperger (No. 1:18-cv-2869-RWS), U.S. District Court for the Northern District of Georgia. Prepared expert reports and testified on racially polarized voting in selected districts of the 2011 Georgia congressional district map. (2019)

Bruni, et al. v. Hughs (No. 5:20-cv-35), U.S. District Court for the Southern District of Texas. Prepared expert reports and testified on the use of straight-ticket voting by race and racially polarized voting in Texas. (2020)

Racially Polarized Voting Consultant, Virginia Redistricting Commission, August 2021.

The General Court of the Commonwealth of Massachusetts, Joint Committee on Housing, Hearing on Housing Production Legislation. May 14, 2019. Testified on the role of public meetings in housing production.

TEACHING

Boston University

- *Introduction to American Politics* (PO 111; Fall 2014, Fall 2015, Fall 2016, Fall 2017, Spring 2019, Fall 2019, Fall 2020)
- *Congress and Its Critics* (PO 302; Fall 2014, Spring 2015, Spring 2017, Spring 2019)
- *Data Science for Politics* (PO 399; Spring 2020, Spring 2021, Fall 2021)
- *Formal Political Theory* (PO 501; Spring 2015, Spring 2017, Fall 2019, Fall 2020)
- *American Political Institutions in Transition* (PO 505; Spring 2021, Fall 2021)
- *Prohibition, Regulation, and Bureaucracy* (PO 540; Fall 2015)
- *Political Analysis (Graduate Seminar)* (PO 840; Fall 2016, Fall 2017)
- *Graduate Research Workshop* (PO 903/4; Fall 2019, Spring 2020)

SERVICE

Boston University

- Research Computing Governance Committee, 2021–.
- Initiative on Cities Faculty Advisory Board, 2020–.
- Undergraduate Assessment Working Group, 2020-2021.

- College of Arts and Sciences
 - Search Committee for the Faculty Director of the Initiative on Cities, 2020–2021.
 - General Education Curriculum Committee, 2017–2018.
- Department of Political Science
 - Director of Advanced Programs (Honors & B.A./M.A.). 2020–.
 - Comprehensive Exam Committee, American Politics, 2019.
 - Comprehensive Exam Committee, Political Methodology, 2016, 2017, 2021.
 - Co-organizer, Research in American Politics Workshop, 2016–2018.
 - Political Methodology Search Committee, 2021.
 - American Politics Search Committee, 2017.
 - American Politics Search Committee, 2016.
 - Graduate Program Committee, 2014–2015, 2018–2019, 2020–2021.

Co-organizer, *Boston University Local Political Economy Conference*, August 29, 2018.

Editorial Board Member, *Legislative Studies Quarterly*, 2020–Present

Malcolm Jewell Best Graduate Student Paper Award Committee, Southern Political Science Association, 2019.

Reviewer: *American Journal of Political Science*; *American Political Science Review*; *Journal of Politics*; *Quarterly Journal of Political Science*; *Political Analysis*; *Legislative Studies Quarterly*; *Public Choice*; *Political Science Research and Methods*; *Journal of Law, Economics and Organization*; *Election Law Journal*; *Journal of Empirical Legal Studies*; *Urban Affairs Review*; *Applied Geography*; *PS: Political Science & Politics*; Cambridge University Press; Oxford University Press.

Elected Town Meeting Member, Town of Arlington, Mass., Precinct 2. April 2021–Present.

Arlington Election Reform Committee Member, August 2019–Present.

Coordinator, **Harvard Election Data Archive**, 2011–2014.

OTHER
EXPERIENCE

Charles River Associates, Boston, Massachusetts 2008–2010
Associate, *Energy & Environment Practice*
Economic consulting in the energy sector for electric and gas utilities, private equity,

and electric generation owners. Specialized in Financial Modeling, Resource Planning, Regulatory Support, Price Forecasting, and Policy Analysis.

Updated December 15, 2021

Pendergrass Doc. 50

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

COAKLEY PENDERGRASS et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER et al.,

Defendants.

CIVIL ACTION FILE

No. 1:21-CV-05339-SCJ

ORDER

This matter is before the Court on a Motion to Dismiss filed by Defendants Brad Raffensperger, in his official capacity as Secretary of State of Georgia; and Sara Tindall Ghazal, Anh Le, Edward Lindsey, and Matthew Mashburn, in their official capacities as members of the State Election Board (hereinafter, "Defendants"). Doc. No. [38].¹

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

I. BACKGROUND

Coakley Pendergrass, Triana Arnold James, Elliott Hennington, Robert Richards, Jens Rueckert, and Ojuan Glaze (collectively, “Plaintiffs”) filed their Complaint for Declaratory and Injunctive Relief against Defendants on December 30, 2021. Doc. No. [1]. In their Complaint, Plaintiffs challenge the Georgia Congressional Redistricting Act of 2021 (hereinafter, “S.B. 2EX”), which, *inter alia*, divides Georgia into fourteen congressional districts for the purpose of electing representatives to the Congress of the United States. See S.B. 2EX. Plaintiffs assert the congressional districts violate Section 2 of the Voting Rights Act of 1965 (“VRA”), 52 U.S.C. 10301. Doc. No. [1], 27–28.

On January 14, 2022, Defendants filed a Motion to Dismiss, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), in which they seek the dismissal of all Plaintiffs’ claims against them. Doc. No. [38]. They specifically argue that Plaintiffs failed to request a three-judge court for an action involving “the apportionment of congressional districts or the apportionment of any statewide legislative body,” see 28 U.S.C. § 2284(a), and that this Court, therefore, lacks subject matter jurisdiction over Plaintiffs’ claim. Id. Furthermore, Defendants assert that even if this case is properly before a single-judge court,

Plaintiffs' Complaint fails to state a claim against Defendants for declaratory relief because Congress has not expressed an intent to provide a right of action under Section 2. Id. at 13. Lastly, Defendants request certification of any denial of their motion for immediate review by the Eleventh Circuit Court of Appeals. Id. at 15–17. Plaintiffs subsequently filed a response to the motion, to which Defendants filed a reply. Doc. Nos. [39]; [40]. Plaintiffs have also filed a Notice of Supplemental Authority in Support of Their Opposition to the Motion to Dismiss. Doc. No. [47]. This matter is now ripe for review, and the Court rules as follows.

II. LEGAL STANDARD

A. Motion to Dismiss

Defendants move to dismiss this action for lack of subject matter jurisdiction and failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6).

"Subject matter jurisdiction defines the court's authority to hear a given type of case; it represents the extent to which a court can rule on the conduct of persons or status of things." Carlsbad Tech., Inc. v. HIF Bio, Inc., 556 U.S. 635, 639 (2009) (internal quotations and citations omitted). A party may therefore

challenge the Court's subject matter jurisdiction by filing a motion pursuant to Federal Rule of Civil Procedure 12(b)(1). See Fed. R. Civ. P. 12(b)(1).

A motion to dismiss for lack of subject matter jurisdiction may be either a "facial" or "factual" attack. Morrison v. Amway Corp., 323 F.3d 920, 924 n.5 (11th Cir. 2003) (citation omitted). "Facial attacks challenge subject matter jurisdiction based on the allegations in the complaint, and the district court takes the allegations as true in deciding whether to grant the motion." Id. "Factual attacks challenge subject matter jurisdiction in fact, irrespective of the pleadings." Id. When resolving a factual challenge to subject matter jurisdiction, the Court may consider extrinsic evidence such as testimony and affidavits. Id. In this case, the challenge is based on the allegations of the Complaint, and the Court deems Defendants to have brought a facial attack on subject matter jurisdiction.

"The burden for establishing federal subject matter jurisdiction rests with the party bringing the claim," here Plaintiffs. Sweet Pea Marine, Ltd. v. APJ Marine, Inc., 411 F.3d 1242, 1247 (11th Cir. 2005).

A defendant may also move to dismiss a complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

A complaint has failed to state a claim if the facts as pled, accepted as true, do not state a claim for relief that is plausible on its face. Ashcroft v. Iqbal, 555 U.S. 662, 687 (2009); Twombly, 550 U.S. at 561–62, 570. Labels, conclusions, and formulaic recitations of the elements of the cause of action “will not do.” Twombly, 550 U.S. at 555. To state a plausible claim, a plaintiff need only plead “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678.

B. Interlocutory Appeal

28 U.S.C. § 1292(b) provides that a district court may certify an order for an interlocutory appeal if the following three elements are met: (1) the subject order “involves a controlling question of law”; (2) there must be a “substantial ground for difference of opinion” regarding the controlling question of law; and (3) an immediate appeal from the subject order “may materially advance the ultimate termination of the litigation.” However, “[t]he proper division of labor between the district courts and the court of appeals and the efficiency of judicial resolution of cases are protected by the final judgment rule, and are threatened by too expansive use of the § 1292(b) exception to it.” McFarlin v. Conesco Servs., LLC, 381 F.3d 1251, 1259 (11th Cir. 2004). Therefore, an interlocutory appeal

under 28 U.S.C. § 1292(b) is reserved for “exceptional” cases. Caterpillar, Inc. v. Lewis, 519 U.S. 61, 74 (1996).

III. ANALYSIS

The Court first addresses Defendants’ Motion to Dismiss and then turns to their request for an interlocutory appeal.

A. Defendants’ Motion to Dismiss Is Due to Be Denied

The Court finds that Defendants’ Motion to Dismiss is due to be denied. First, Section 2284 does not require a plaintiff to request a three-judge court to hear purely statutory challenges to the apportionment of congressional districts. Second, Plaintiffs can assert these claims because, for the past forty-five years, the Supreme Court and lower courts have allowed private individuals to assert challenges under Section 2 of the VRA. See Thornburg v. Gingles, 478 U.S. 30 (1986).

1. *Three-Judge Court*

Plaintiffs’ claims are not subject to 28 U.S.C. § 2284 because they do not bring a constitutional challenge to the apportionment of congressional districts. As always, when interpreting a statute, the Court looks first to the statutory text. CSX Corp. v. United States, 18 F. 4th 672, 679 (11th Cir. 2021).

28 U.S.C. § 2284(a) reads: “A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts of the apportionment of any statewide legislative body.”

First, the statute uses the word “shall,” which requires the Court to refer a matter to a three-judge court when Section 2284(a) is triggered. Id. Section 2284(a) is triggered when “an action is filed challenging the constitutionality of the apportionment of congressional districts.” Id. Here, Plaintiffs challenge the apportionment of congressional districts on statutory, not constitutional grounds. Accordingly, the Plaintiffs’ statutory claim does not trigger Section 2284(a).

Defendants, however, argue that Section 2 of the VRA is nearly identical to the Fifteenth Amendment, and a three-judge court is required to hear these challenges because they are “‘constitutional’ in nature.” Doc. No. [38-1], 10-11. The Court does not agree with this reading. If Section 2284 requires a three-judge court to hear statutory challenges to the apportionment of congressional districts, then the word “constitutionality” is mere surplusage. A “cardinal principle of interpretation [is] that courts must give effect, if possible, to every clause and every word of a statute.” Liu v. SEC, --- U.S. ---, 140 S. Ct. 1936, 1948 (2020). “The

Court . . . hesitates to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law.” Maine Comm. Health Options v. United States, — U.S. —, 140 S. Ct. 1308, 1323 (2020) (citations omitted) (internal punctuation omitted). However, “[w]here there are two ways to read the text—either [a word] is surplusage, in which case the text is plain; or [a word] is not surplusage . . . in which case the text is ambiguous—applying the rule against surplusage is, absent other indications, inappropriate.” Laine v. U.S. Trustee, 540 U.S. 526, 536 (2004). Here, Section 2284 as written, is not ambiguous. Reading Section 2284 without the word “constitutionality” does not clarify the statute; rather, its only effect is to increase the statute’s scope. Accordingly, Defendants’ reading of the statute would cause the word “constitutionality” to be surplusage and is not consistent with the plain language of the statute.

Defendants essentially concede this point. When explaining why “constitutionality” applies to challenges to the apportionment of the congressional districts, but not statewide legislative districts, Defendants argue “in such redistricting challenges, the potential for federal disruption of a state’s internal political structure is great For this reason, it makes sense that Congress chose a broader standard for state legislative districting challenges.”

Doc. No. [38-1], 7 (quotations and citations omitted). Defendants also point out that Congress expressly drafted Section 2284 so that the “‘constitutionality’ requirement only applies to challenges to congressional districts.” Doc. No. [38-1], 6. Thus, the plain language of Section 2284(a) dictates that only constitutional, not statutory, challenges to federal districts require a three-judge court.

Second, all courts have read that a challenge to a congressional district requires a three-judge court only when a party brings a constitutional challenge. In Thomas v. Reeves, 961 F.3d 800 (5th Cir. 2020), all eleven judges agree that when a plaintiff challenges the apportionment of a federal map, only constitutional challenges are referred to a three-judge court.² See id. at 803 (Costa, J., concurring) (writing for six judges and finding “the modifier ‘constitutionality of’ should apply to both of the parallel terms that follow it: (1) challenges to ‘the apportionment of congressional districts’ and (2) challenges to ‘the

² In dicta, the Fifth Circuit issued two concurring opinions “to explain . . . [the] plain [language] of the three-judge statute as well as its ancestry.” Thomas, 961 F.3d at 802. One concurrence, joined by six of the judges, stated that the plain language of the statute does not require a three-judge court to hear purely statutory challenges to the apportionment of a statewide legislative body. Id. at 801 (Costa, J., concurring). The second concurrence, joined by five judges, stated that the statute requires a three-judge court to hear statutory challenges to the apportionment of a statewide legislative body. Thomas, 961 F.3d at 827 (Willett, J., concurring) (emphasis in original).

apportionment of any statewide legislative body.’’); *id.* at 811 (Willett, J., concurring) (emphasis in original) (writing for the remaining five judges and finding “only constitutional challenges to *federal* maps require three judges”); *see also Harris v. Ariz. Indep. Redistricting Comm’n*, 578 U.S. 253, 257 (2016) (parenthetically describing Section 2284(a) as “providing for the convention of a [three-judge] court whenever an action is filed challenging the constitutionality of apportionment of legislative districts”); *Singleton v. Merrill*, Case No. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM, 2021 WL 5979497, at *3 (N.D. Ala. Nov. 23, 2021) (“[P]laintiffs intentionally have not asserted a [constitutional] claim that independently supports the jurisdiction of a three-judge panel under Section 2284 . . . to include those plaintiffs in this consolidated action could exceed the limited jurisdiction of this [three-judge] court under that statute.”). Adopting Defendants’ reading of the statute would cause this Court to split from all courts that have interpreted Section 2284’s applicability to challenges to congressional districts. This Court declines to create such a split.

Defendants argue that reading Section 2284 to apply to statutory claims is consistent with Congress’s intent. Doc. No. [44], 4. Defendants state that, until recently, plaintiffs did not bring Section 2 claims without an accompanying

constitutional challenge or a challenge pursuant to Section 5 of the VRA. Id. Prior to 2013, following the decennial census, various states and counties (the “covered jurisdictions”), including Georgia, were required to submit their proposed legislative maps to the U.S. Attorney General before enacting the maps (“preclearance”).³ 52 U.S.C. §§ 10303(a)(1) (“Section 4 of the VRA”); 10304(a). If a party brought a challenge under Section 4 of the VRA, a three-judge court was required to hear the action. 52 U.S.C. §§ 10303(a)(5); 10304(a). However, in 2013, the Supreme Court held that the coverage formula, which determined which states had to undergo preclearance, was unconstitutional. Shelby Cnty., 570 U.S. at 556–57. Accordingly, this is the first decennial census since the passage of the VRA, where Georgia was not required to have its legislative maps pre-cleared.

Because of the recent change in the law, there is no binding authority on whether a plaintiff must request a three-judge court to hear statutory challenges

³ “Section 4 of the [VRA] provides the ‘coverage formula,’ defining the ‘covered jurisdictions’ as States or political subdivisions that maintained tests or devices as prerequisites to voting, and had lower voter turnout, in the 1960s and early 1970s.” Shelby Cnty. v. Holder, 570 U.S. 529, 529 (2013). The covered jurisdictions included: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, four counties in California, five counties in Florida, two counties in Michigan, seven counties in New Hampshire, three counties in New York, thirty-nine counties in North Carolina, and two counties in South Dakota. 28 C.F.R. pt. 51, App. (2012).

to congressional districts. Prior to Shelby County, three-judge courts routinely disbanded once the claim invoking a three-judge panel was terminated. See Rural West Tenn. African-American Affairs Council v. Sunquist, 209 F.3d 835, 838 (6th Cir. 2000) (“Because the amended complaint contained no constitutional claim [and only the Section 2 VRA claim remained], the three-judge panel disbanded itself.”); Bone Shirt v. Hazeltine, 336 F. Sup. 2d 976, 980 (D.S.D. 2004) (a single-judge court decided a challenge to a statewide legislative plan brought pursuant to Section 2 of the VRA after a three-judge court resolved the plaintiffs’ Section 5 claim); Langsdon v. Darnell, 9 F. Supp. 2d 880, 882 n.3 (W.D. Tenn. 1998) (disbanded the three-judge court because the second amended complaint contained no constitutional claims). These cases suggest that three-judge courts are not invoked where a plaintiff challenges the apportionment of a congressional district solely under Section 2 of the VRA.

Additionally, reading Section 2284 to require a three-judge court to hear statutory challenges to congressional districts is contrary to the Supreme Court’s narrow construction of Section 2284. The Supreme Court noted that “congressional enactments providing for the convening of three-judge courts must be strictly construed.” Allen v. State Bd. of Elections, 393 U.S. 544, 561 (1969),

abrogated by Ziglar v. Abbassi, --- U.S. ---, 137 S. Ct. 1843 (2017)⁴ (citing Phillips v. United States, 312 U.S. 246 (1941)). "Congress established the three-judge-court apparatus for one reason: to save state and federal statutes from improvident doom, on constitutional grounds, at the hands of a single federal district judge." Gonzalez v. Automatic Emp. Credit Union, 419 U.S. 90, 97 (1974). Requiring a three-judge court to hear statutory challenges to the apportionment of congressional districts is not a strict construction of the statute; rather, it expands the scope of three-judge courts.

Finally, the Defendants' reading of Section 2284 is also inconsistent with the statute's legislative history. Courts can evaluate legislative history to confirm the plain meaning of a statute and to understand Congress's intent behind the statute.

As for the propriety of using legislative history at all, common sense suggests that inquiry benefits from reviewing additional information rather than ignoring it. As Chief Justice Marshall put it, "[w]here the mind labours to discover the design of the legislature, it seizes every thing from which aid can be derived."

⁴ The Supreme Court noted after discussing Allen that later "the arguments for recognizing implied causes of action for damages began to lose their force." Ziglar, 137 S. Ct. at 1855-86.

Wisconsin Pub. Intervenor v. Mortier, 501 U.S. 597, 612 n.4 (1991) (quoting United States v. Fisher, 2 Cranch 358, 386, 2 L.Ed. 304 (1805)); see also Carr v. U.S., 560 U.S. 438, 457–58 (2010) (evaluating the correspondence between the committee to confirm the plain meaning of the statutory text); United States v. Florida, 938 F.3d 1221, 1245 (11th Cir. 2019) (“[W]e are mindful that courts need not examine legislative history if the meaning of the statute is plain, but it may do so, particularly if a party’s interpretation is based on a misreading or misapplication of legislative history.”); Harris v. Garner, 216 F.3d 970, 977 n.4 (11th Cir. 2000) (“[W]e see no inconsistency in pointing out that both the statutory language and legislative history lead to the same interpretive result.”).

The three-judge-court statute was originally enacted in response to the Supreme Court’s decision in Ex Parte Young, 209 U.S. 123 (1908), and “prohibited a single Federal district court judge from issuing interlocutory injunctions against allegedly unconstitutional State statutes and required that cases seeking such injunctive relief be heard by a district court made up of three judges.” S. Rep. No.

94-204 (1976), 2, reprinted in 1976 U.S.C.C.A.N. 1988.⁵ In response to the growing backlog of cases produced by this statute, Congress amended the law and removed constitutional challenges to State laws generally from the purview of a three-judge court. However, “[t]he bill *preserves* three-judge courts for cases involving congressional reapportionment or the reapportionment of a statewide legislative body.” *Id.* at 9 (emphasis added). Because the original statute only required that three-judge courts hear challenges “upon the grounds of unconstitutionality of such statute” (28 U.S.C. § 2281 (1948), 62 Stat. 968), the amendment “preserved” the requirement that three-judge courts hear constitutional challenges to the apportionment of congressional districts.

⁵ The original statute read:

An interlocutory or permanent injunction restraining the enforcement, operation of execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judges thereof upon the grounds of unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges.

28 U.S.C. § 2281 (1948), 62 Stat. 968

Reading the statute to encompass statutory challenges to reapportionment would be an expansion, not a preservation, of the three-judge court's jurisdiction.

Additionally, the committee specifically notes that three-judge courts can hear claims that are expressly authorized by an act of Congress. "A three-judge court is mandatory without request by anyone in suits under sections 4(a), 5(a), and 10 of the Voting Rights Act of 1965." Id. When Congress amended Section 2284, it was careful to note that three-judge courts have jurisdiction over particular statutory challenges; however, absent from that list are challenges brought pursuant to Section 2 of the VRA. Because Section 2284, as amended, "preserved" the jurisdictional requirements from the original three-judge-court statute, it only applies to constitutional challenges to the apportionment of districts and certain statutory challenges that are expressly authorized by Congress (i.e., sections 4(a), 5(a) and 10 of the VRA). Because Congress did not expressly require three-judge courts to hear Section 2 claims, dismissal for failure to request a three-judge court is improper.

Accordingly, consistent with the plain language, weight of authority, and legislative history, the Court finds that Section 2284 does not require Plaintiffs to

request a three-judge court to hear its purely statutory challenge to apportionment of the congressional districts.⁶

2. *Private Right of Action*

In their Motion, Defendants assert that the Complaint should be dismissed because there is no private right of action conferred by Section 2 of the VRA. Doc. No. [38-1], 12. In support of their motion, Defendants rely upon a recent concurring opinion by Justice Neil Gorsuch in the case of Brnovich v. Democratic National Committee, --- U.S. ---, 141 S. Ct. 2321 (2021), in which he noted that Supreme Court jurisprudence has “assumed – without deciding – that the Voting Rights Act of 1965 furnishes an implied cause of action under” Section 2. Id. at 2350 (Gorsuch, J., concurring). Justice Gorsuch also indicated that “[l]ower courts have treated this as an open question.” Id. Also, in their motion, Defendants examine the statutory language of Section 2 and states that one cannot find any “rights-creating language in Section 2,” as compared to other parts of the VRA. Doc. No. [38-1], 13 (quotations omitted). Defendants further rely upon Supreme

⁶ Because the Court finds that this action should not be heard by a three-judge court, the Court also finds that Defendants’ Motion to Dismiss is due to be denied insofar as it argues that Plaintiffs failed to request a three-judge court pursuant to this District’s Local Rules. See Doc. No. [43-1], 11-12.

Court and Eleventh Circuit precedent, which indicates that courts may not create causes of action where there is no clear and affirmative manifestation of Congress's intent to create one. *Id.* at 13–14; *see also Alexander v. Sandoval*, 532 U.S. 275, 286–87 (2001); *In re Wild*, 994 F.3d 1244, 1255 (11th Cir. 2021) (en banc)).

The Court begins by acknowledging that it is correct that lower courts have treated the question of whether the VRA furnishes an implied right of action under Section 2 as an open question. However, in a recent trend, the lower courts that have answered the open question have all answered the question in the affirmative. *See Singleton v. Merrill*, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 209–10 (N.D. Ala. Jan. 24, 2022), ECF No. 107 (“Holding that Section [2] does not provide a private right of action would work a major upheaval in the law, and we are not prepared to step down that road today.”); *League of United Latin Am. Citizens v. Abbott*, No. EP21CV00259DCGJESJVB, 2021 WL 5762035, at *1 (W.D. Tex. Dec. 3, 2021) (“[I]t would be ambitious indeed for a district court—even a three-judge court—to deny a [Section 2] private right of action in the light of precedent and history.”); *Ga. State Conf. of NAACP v. State*, 269 F. Supp. 3d 1266, 1275 (N.D. Ga. 2017) (“Even though the statute does not explicitly provide a private right of action, it is clear from the text that if the

statute offers a right of action to an individual, then that right must be one that is enforceable against a 'State or political subdivision.' Given that Section 2 contains an implied private right of action . . .") (citations omitted).

While not binding, the Court accepts these holdings as persuasive authority and draws guidance from them. The Court also derives guidance from the Supreme Court's opinion in Morse v. Republican Party of Virginia, 517 U.S. 186, 232 (1996) in which the Court stated: "Although § 2, like § 5, provides no right to sue on its face, 'the existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965.'" Id. (citing S. Rep. No. 97-417, at 30). In their briefing, Defendants appear to characterize the Morse opinion as non-binding dicta because the Court was not addressing an express challenge to private Section 2 enforcement. Doc. No. [44], 2. "Even so, dicta from the Supreme Court is not something to be lightly cast aside." Peterson v. BMI Refractories, 124 F.3d 1386, 1392 n.4 (11th Cir. 1997).

Like the court in Abbott, this Court agrees with the statement that "although the Supreme Court has not addressed an express challenge to private Section 2 enforcement, the Court's precedent permits no other holding." Abbott, 2021 WL 5762035, at *1. This is because there is no reason to ignore or refute the

decades of Section 2 litigation challenging redistricting plans in which courts (including the Supreme Court) have never denied a private plaintiff the ability to bring a Section 2 claim. Id.

As aptly stated by the Abbott court, “[a]bsent contrary direction from a higher court,” this Court declines to “break new ground on this particular issue.” Id.

B. Immediate Appeal of this Court’s Ruling is Not Authorized

Defendants assert that this Court should authorize an immediate appeal if it rules against Defendants on the issues presented in their motion.

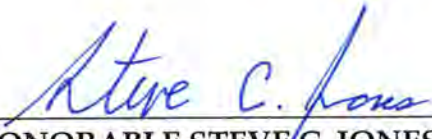
After review, the Court denies Defendants’ request as none of the questions for which Defendants seek certification are issues involving a “controlling question of law as to which there is substantial ground for difference of opinion.” 28 U.S.C. § 1292(b).⁷

⁷ The Court recognizes that in their brief Defendants, quote appellate dissenting opinions concerning the lack of statutory provisions in Sections 2 and 10 of the VRA under which private plaintiffs may sue. See Doc. No. [44], 8-9. However, “no federal court anywhere ever has held that Section [2] does not provide a private right of action.” Singleton, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 230, ECF No. 107. In the absence of such a ruling, the Court does not think that the Section 2/private right of action issue is a question that is appropriate for immediate appeal.

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendants' Motion to Dismiss Plaintiffs' Complaint (Doc. No. [38]). Defendants' request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is **DENIED**.

IT IS SO ORDERED this 27th day of January, 2022.


HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

Pendergrass Doc. 120

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

COAKLEY PENDERGRASS; TRIANA
ARNOLD JAMES; ELLIOTT
HENNINGTON; ROBERT RICHARDS;
JENS RUECKERT; and OJUAN GLAZE,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-05339-SCJ

AMENDED COMPLAINT

1. Plaintiffs bring this action to challenge the Georgia General Assembly's congressional redistricting plan, the Georgia Congressional

Redistricting Act of 2021 (“SB 2EX”), on the ground that it violates Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

2. In undertaking the latest round of congressional redistricting following the 2020 decennial census, the General Assembly has diluted the growing electoral strength of the state’s communities of color. Faced with Georgia’s changing demographics, the General Assembly has ensured that the growth of the state’s Black population will not translate to increased political influence at the federal level.

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population¹—in multiple congressional districts throughout the state, including an additional majority-Black

¹ The phrases “majority of eligible voters” and “majority of the voting age population” have been used by courts interchangeably when discussing the threshold requirements of a vote-dilution claim under Section 2 of the Voting Rights Act. *Compare, e.g., Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (“[T]he first *Gingles* precondition . . . ‘requires only a simple *majority of eligible voters* in a single-member district.’” (emphasis added) (quoting *Dickinson v. Ind. State Election Bd.*, 933 F.2d 497, 503 (7th Cir. 1991))), with *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality op.) (“[T]he majority-minority rule relies on an objective, numerical test: Do minorities make up *more than 50 percent of the voting-age population* in the relevant geographic area?” (emphasis added)). The phrase “majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population.”

district in the western Atlanta metropolitan area. This additional majority-Black district can be drawn without reducing the total number of districts in the region and statewide in which Black voters have the opportunity to elect candidates of their choice.

4. Rather than draw this additional congressional district to allow Georgians of color the opportunity to elect their preferred candidates, the General Assembly instead chose to “pack” some Black voters in the Atlanta metropolitan area and “crack” other Black voters among rural-reaching, predominantly white districts.

5. Section 2 of the Voting Rights Act prohibits this result and requires the General Assembly to draw an additional congressional district in which Black voters have the opportunity to elect their candidate of choice.

6. By failing to create this district, the General Assembly’s response to Georgia’s changing demographics has had the effect of diluting minority voting strength in the state.

7. Accordingly, Plaintiffs seek an order (i) declaring that SB 2EX violates Section 2 of the Voting Rights Act; (ii) enjoining Defendants from conducting future elections under SB 2EX; (iii) requiring adoption of a valid plan for new

congressional districts in Georgia that comports with Section 2 of the Voting Rights Act; and (iv) providing any and such additional relief as is appropriate.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988 and 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1357.

9. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper under 28 U.S.C. § 1391(b) because “a substantial part of the events or omissions giving rise to the claim occurred” in this district.

PARTIES

11. Plaintiff Coakley Pendergrass is a Black citizen of the United States and the State of Georgia. The Rev. Pendergrass is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Eleventh Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. The Rev. Pendergrass resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to

elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like the Rev. Pendergrass and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

12. Plaintiff Triana Arnold James is a Black citizen of the United States and the State of Georgia. Ms. James is a registered voter and intends to vote in future congressional elections. She is a resident of Douglas County and located in the Third Congressional District under the enacted plan, where she is unable to elect candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. James resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. James and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

13. Plaintiff Elliott Hennington is a Black citizen of the United States and the State of Georgia. Mr. Hennington is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect

candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Hennington resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Hennington and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

14. Plaintiff Robert Richards is a Black citizen of the United States and the State of Georgia. Mr. Richards is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Richards resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Mr. Richards and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

15. Plaintiff Jens Rueckert is a Black citizen of the United States and the State of Georgia. Mr. Rueckert is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Rueckert resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Rueckert and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

16. Plaintiff Ojuan Glaze is a Black citizen of the United States and the State of Georgia. Mr. Glaze is a registered voter and intends to vote in future congressional elections. He is a resident of Douglas County and located in the Thirteenth Congressional District under the enacted plan. The Thirteenth Congressional District is a district in which Black voters like Mr. Glaze are packed,

preventing the creation of an additional majority-Black district as required by the Voting Rights Act.

17. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity. Secretary Raffensperger is Georgia’s chief election official and is responsible for administering the state’s elections and implementing election laws and regulations, including Georgia’s congressional plan. *See* O.C.G.A. § 21-2-50; Ga. Comp. R. & Regs. 590-1-1-.01–.02 (specifying, among other things, that Secretary of State’s office must provide “maps of Congressional, State Senatorial and House Districts” when requested). Secretary Raffensperger is also an ex officio non-voting member of the State Election Board, which is responsible for “formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. §§ 21-2-30(d), -31(2).

18. Defendant Judge William S. Duffey, Jr. is the Chair of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

19. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

20. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

21. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

22. Defendant Dr. Janice Johnston is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

LEGAL BACKGROUND

23. Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the

United States to vote on account of race or color.” 52 U.S.C. § 10301(a). Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution.

24. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

25. Such a violation might be achieved by “cracking” or “packing” minority voters. To illustrate, the dilution of Black voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters”—cracking—“or from the concentration of blacks into districts where they constitute an excessive majority”—packing. *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

26. In *Thornburg v. Gingles*, the U.S. Supreme Court identified three necessary preconditions for a claim of vote dilution under Section 2: (i) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (ii) the minority group must be “politically

cohesive”; and (iii) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 50–51.

27. Once all three preconditions are established, Section 2 directs courts to consider whether, “based on the totality of circumstances,” members of a racial minority “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

28. The Senate Report on the 1982 amendments to the Voting Rights Act identified several nonexclusive factors that courts should consider when determining if, under the totality of circumstances in a jurisdiction, the operation of the challenged electoral device results in a violation of Section 2. *See Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1288–89 (11th Cir. 2020). These “Senate Factors” include:

- a. the history of official voting-related discrimination in the state or political subdivision;
- b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
- c. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for

discrimination against the minority group, such as unusually large election districts, majority-vote requirements, or prohibitions against bullet-voting;

d. the exclusion of members of the minority group from candidate-slating processes;

e. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;

f. the use of overt or subtle racial appeals in political campaigns;
and

g. the extent to which members of the minority group have been elected to public office in the jurisdiction.

29. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see also id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the-circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

The 2020 Census

30. Between 2010 and 2020, Georgia's population increased by more than 1 million people. As a result of this population growth, the state will retain 14 seats in the U.S. House of Representatives.

31. The population growth during this period is entirely attributable to the increase in Georgia's minority population. The 2020 census results indicate that Georgia's Black population grew by over 15 percent and now comprises 33 percent of Georgia's total population. Meanwhile, Georgia's white population *decreased* by 4 percent over the past decade. In total, Georgia's minority population now comprises just under 50 percent of the state's total population.

The 2021 Congressional Redistricting Plan

32. In enacting Georgia's new congressional map, the Republican-controlled General Assembly diluted the political power of the state's minority voters.

33. On November 22, 2021, the General Assembly passed SB 2EX, which adopted a new congressional redistricting plan that revised existing congressional district boundaries. Republican Governor Brian Kemp signed SB 2EX into law on December 30, 2021.

34. Democratic and minority legislators were largely excluded from the redistricting process and repeatedly decried the lack of transparency. Moreover, lawmakers and activists from across the political spectrum questioned the speed with which the General Assembly undertook its redistricting efforts, observing that the haste resulted in unnecessary divisions of communities and municipalities.

35. Rather than create an additional congressional district in the western Atlanta metropolitan area in which Georgia's growing Black population would have the opportunity to elect candidates of its choice, the General Assembly did just the opposite: it packed and cracked Georgia's Black voters to dilute their influence.

36. SB 2EX packs Black voters into the Atlanta metropolitan area, particularly into the new Thirteenth Congressional District, which includes significant Black populations in south Fulton, Douglas, and Cobb Counties. The remaining Black communities in Douglas and Cobb Counties are cracked among the new Third, Sixth, Eleventh, and Fourteenth Congressional Districts—predominantly white districts that stretch into the rural reaches of western and northern Georgia.

37. This combination of cracking and packing dilutes the political power of Black voters in the Atlanta metropolitan area. The General Assembly could have instead created an additional, compact congressional district in which Black voters, including Plaintiffs, comprise a majority of eligible voters and have the opportunity

to elect their preferred candidates, as required by Section 2 of the Voting Rights Act. Significantly, this could have been done without reducing the number of other districts in which Black voters have the opportunity to elect candidates of their choice.

38. Unless enjoined, SB 2EX will deny Black voters an equal opportunity to elect candidates of their choice.

39. The relevant factors and considerations readily require the creation of an additional majority-Black district under Section 2.

Racial Polarization

40. This Court has recognized that “voting in Georgia is highly racially polarized.” *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge panel).

41. “Districts with large black populations are likely to vote Democratic.” *Id.* Indeed, during competitive statewide elections over the past decade—from the 2012 presidential election through the 2021 U.S. Senate runoff elections—an average of 97 percent of Black Georgians supported Democratic candidates.

42. White voters, by striking contrast, overwhelmingly vote Republican. An average of only 13 percent of white Georgians supported Democratic candidates in competitive statewide elections over the past decade.

43. Georgia's white majority usually votes as a bloc to defeat minority voters' candidates of choice, including in the areas where Plaintiffs live and the Black population could be united to create a new majority-Black district.

History of Discrimination

44. Georgia's past discrimination against its Black citizens, including its numerous attempts to deny Black voters an equal opportunity to participate in the political process, is extensive and well documented. This prejudice is not confined to history books; the legacy of discrimination manifests itself today in state and local elections marked by racial appeals and undertones. And the consequences of the state's historic discrimination persist to this day as well, as Black Georgians continue to experience socioeconomic hardship and marginalization.

45. This history dates back to the post-Civil War era, when Black Georgians first gained the right to vote and voted in their first election in April 1868. Soon after this historic election, a *quarter* of the state's Black legislators were either jailed, threatened, beaten, or killed. In 1871, the General Assembly passed a resolution that expelled 25 Black representatives and three senators but permitted the four mixed-race members who did not "look" Black to keep their seats. The General Assembly's resolution was based on the theory that Black Georgians' right

of suffrage did not give them the right to hold office, and that they were thus “ineligible” to serve under Georgia’s post-Civil War state constitution.

46. After being denied the right to hold office, Black Georgians who attempted to vote also encountered intense and frequently violent opposition. The Ku Klux Klan and other white mobs engaged in a campaign of political terrorism aimed at deterring Black political participation. Their reigns of terror in Georgia included, for instance, attacking a Black political rally in Mitchell County in 1868, killing and wounding many of the participants; warning the Black residents of Wrightsville that “blood would flow” if they exercised their right to vote in an upcoming election; and attacking and beating a Black man in his own home to prevent him from voting in an upcoming congressional election.

47. In the General Assembly, fierce resistance to Black voting rights led to more discriminatory legislation. In 1871, Georgia became the first state to enact a poll tax. At the state’s 1877 constitutional convention, the General Assembly made the poll tax permanent and cumulative, requiring citizens to pay all back taxes before being permitted to vote. The poll tax reduced turnout among Black voters in Georgia by half and has been described as the single most effective disenfranchisement law ever enacted. The poll tax was not abolished until 1945—after it had been in effect for almost 75 years.

48. After the repeal of the poll tax in 1945, voter registration among Black Georgians significantly increased. However, as a result of the state's purposeful voter suppression tactics, not a *single* Black lawmaker served in the General Assembly between 1908 and 1962.

49. Georgia's history of voter discrimination is far from ancient history. As recently as 1962, 17 municipalities and 48 counties in Georgia required segregated polling places. When the U.S. Department of Justice filed suit to end this practice, a local Macon leader declared that the federal government was ruining "every vestige of the local government."

50. Other means of disenfranchising Georgia's Black citizens followed. The state adopted virtually every one of the "traditional" methods to obstruct the exercise of the franchise by Black voters, including literacy and understanding tests, strict residency requirements, onerous registration procedures, voter challenges and purges, the deliberate slowing down of voting by election officials so that Black voters would be left waiting in line when the polls closed, and the adoption of "white primaries."

51. Attempts to minimize Black political influence in Georgia have also tainted redistricting efforts. During the 1981 congressional redistricting process, in opposing a bill that would maintain a majority-Black district, Joe Mack Wilson—a

Democratic state representative and chair of the House Reapportionment Committee—openly used racial epithets to describe the district: following a meeting with officials of the U.S. Department of Justice, he complained that “the Justice Department is trying to make us draw [n*****] districts and I don’t want to draw [n*****] districts.” Speaker of the House Tom Murphy objected to creating a district where a Black representative would certainly be elected and refused to appoint any Black lawmakers to the conference committee, fearing that they would support a plan to allow Black voters to elect a candidate of their choice. Several senators also expressed concern about being perceived as supporting a majority-Black congressional district.

52. Indeed, federal courts have invalidated Georgia’s redistricting plans for voting rights violations numerous times. In *Georgia v. United States*, the U.S. Supreme Court affirmed a three-judge panel’s decision that Georgia’s 1972 reapportionment plan violated Section 5 of the Voting Rights Act, at least in part because it diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See* 411 U.S. 526, 541 (1973); *see also Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge panel) (denying preclearance based on evidence that Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166

(1983); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004) (per curiam) (three-judge panel) (invalidating state legislative plans that reduced number of majority-minority districts).

53. Due to its lengthy history of discrimination against racial minorities, Georgia became a “covered jurisdiction” under Section 5 of the Voting Rights Act upon its enactment in 1965, meaning that any changes to Georgia’s election practices or procedures (including the enactment of new redistricting plans) were prohibited until either the U.S. Department of Justice or a federal court determined that the change did not result in backsliding, or “retrogression,” of minority voting rights.

54. Accordingly, between 1965 and 2013—at which time the U.S. Supreme Court effectively barred enforcement of the Section 5 preclearance requirement in *Shelby County v. Holder*, 570 U.S. 529 (2013)—Georgia received more than 170 preclearance objection letters from the U.S. Department of Justice.

55. Georgia’s history of racial discrimination in voting, here only briefly recounted, has been thoroughly documented by historians and scholars. Indeed, “[t]he history of the state[’s] segregation practice and laws at all levels has been rehashed so many times that the Court can all but take judicial notice thereof.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also*, e.g., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41

(N.D. Ga. Nov. 15, 2021), ECF No. 636 (taking judicial notice of fact that “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”).

56. Ultimately, as this Court has noted, “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013) (quoting *Brooks*, 848 F. Supp. at 1560), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Use of Racial Appeals in Political Campaigns

57. In addition to Georgia’s history of discrimination against minorities in voting, political campaigns in the state have often relied on both overt and subtle racial appeals—both historically *and* during recent elections.

58. In 2016, Tom Worthan, former Republican Chair of the Douglas County Board of Commissioners, was caught on video making racist comments aimed at discrediting his Black opponent, Romona Jackson-Jones, and a Black candidate for sheriff, Tim Pounds. During the recorded conversation with a Douglas County voter, Worthan asked, “[D]o you know of another government that’s more

black that's successful? They bankrupt you.” Worthan also stated, in reference to Pounds, “I’d be afraid he’d put his black brothers in positions that maybe they’re not qualified to be in.”

59. In the 2017 special election for Georgia’s Sixth Congressional District—a majority-white district that had over the previous three decades been represented by white Republicans Newt Gingrich, Johnny Isakson, and Tom Price—the husband of the eventual Republican victor, Karen Handel, shared an image over social media that urged voters to “[f]ree the black slaves from the Democratic plantation.” The image also stated, “Criticizing black kids for obeying the law, studying in school, and being ambitious as ‘acting white’ is a trick the Democrats play on Black people to keep them poor, ignorant and dependent.” The image was then shared widely by local and national media outlets.

60. During that same election, Jere Wood—the Republican Mayor of Roswell, Georgia’s eighth-largest city—insinuated that voters in the Sixth Congressional District would not vote for Democratic candidate Jon Ossoff because he has an “ethnic-sounding” name. When describing voters in that district, Wood said, “If you just say ‘Ossoff,’ some folks are gonna think, ‘Is he Muslim? Is he

Lebanese? Is he Indian?’ It’s an ethnic-sounding name, even though he may be a white guy, from Scotland or wherever.”²

61. On a separate occasion, State Senator Fran Millar alluded to the fact that the Sixth Congressional District was gerrymandered in such a way that it would not support candidate Ossoff—specifically, because he was formerly an aide to a Black member of Congress. State Senator Millar said, “I’ll be very blunt. These lines were not drawn to get Hank Johnson’s protégé to be my representative. And you didn’t hear that. They were not drawn for that purpose, OK? They were not drawn for that purpose.”

62. Earlier in 2017, Tommy Hunter, a member of the board of commissioners in Gwinnett County—the second-most populous county in the state—called the late Black Congressman John Lewis a “racist pig” and suggested that his reelection to the U.S. House of Representatives was “illegitimate” because he represented a majority-minority district.

² In actuality, now-U.S. Senator Ossoff’s paternal forebears were Ashkenazi Jewish immigrants who fled pogroms during the early 20th century. *See* Etan Nechin, *Jon Ossoff Tells Haaretz How His Jewish Upbringing Taught Him to Fight for Justice*, Haaretz (Dec. 20, 2020), <https://www.haaretz.com/us-news/.premium-jon-ossoff-tells-haaretz-how-his-jewish-upbringing-taught-him-to-fight-for-justice-1.9386302>.

63. Racist robocalls targeted the Democratic candidate for governor in 2018, referring to Stacey Abrams as “Negress Stacey Abrams” and “a poor man’s Aunt Jemima.” The Republican candidate, now-Governor Kemp, posted a statement on Twitter on the eve of the election alleging that the Black Panther Party supported Ms. Abrams’s candidacy.

64. Governor Kemp also ran a controversial television advertisement during the primary campaign asserting that he owned “a big truck, just in case [he] need[s] to round up criminal illegals and take ‘em home [him]self.”

65. The 2020 campaigns for Georgia’s two U.S. Senate seats were also rife with racial appeals. In one race, Republican incumbent Kelly Loeffler ran a paid advertisement on Facebook that artificially darkened the skin of her Democratic opponent, now-Senator Raphael Warnock. In the other race, Republican incumbent David Perdue ran an advertisement against Democratic nominee Ossoff that employed a classic anti-Semitic trope by artificially enlarging now-Senator Ossoff’s nose.

66. Senator Perdue later mispronounced and mocked the pronunciation of then-Senator Kamala Harris’s first name during a campaign rally, even though the two had been colleagues in the Senate since 2017.

67. Racial appeals were apparent during local elections in Fulton County even within the last few weeks. City council candidates in Johns Creek and Sandy Springs pointed to Atlanta crime and protests that turned violent to try to sway voters, publicly urging residents to vote for them or risk seeing their cities become home to chaos and lawlessness. *The Atlanta Journal-Constitution* quoted Emory University political scientist Dr. Andra Gillespie, who explained that although the term “law and order” is racially neutral, the issue becomes infused with present-day cultural meaning and thoughts about crime and violence and thus carries racial undertones.

68. These are just a few—and, indeed, only among the more recent—examples of the types of racially charged political campaigns that have tainted elections in Georgia throughout the state’s history.

Ongoing Effects of Georgia’s History of Discrimination

69. State-sponsored segregation under Georgia’s Jim Crow laws permeated all aspects of daily life and relegated Black citizens to second-class status. State lawmakers segregated everything from public schools to hospitals and graveyards. Black Georgians were also precluded from sitting on juries, which effectively denied Black litigants equal justice under the law. Moreover, Black Georgians were excluded from the most desirable manufacturing jobs, which limited their

employment opportunities to primarily unskilled, low-paying labor. And in times of economic hardship, Black employees were the first to lose their jobs.

70. Decades of Jim Crow and other forms of state-sponsored discrimination—followed by continued segregation of public facilities well into the latter half of the 20th century, in defiance of federal law—resulted in persistent socioeconomic disparities between Black and white Georgians. These disparities hinder the ability of Black voters to participate effectively in the political process.

71. Black Georgians, for instance, have higher poverty rates than white Georgians. According to the U.S. Census Bureau’s 2019 American Community Survey (“ACS”) 1-Year Estimate, 18.8 percent of Black Georgians have lived below the poverty line in the past 12 months, compared to 9 percent of white Georgians.

72. Relatedly, Black Georgians have lower per capita incomes than white Georgians. The 2019 ACS 1-Year Estimate shows that white Georgians had an average per capita income of \$40,348 over the past 12 months, compared to \$23,748 for Black Georgians.

73. Black Georgians also have lower homeownership rates than white Georgians. The 2019 ACS 1-Year Estimate shows that 52.6 percent of Black Georgians live in renter-occupied housing, compared to 24.9 percent of white Georgians. And Black Georgians also spend a higher percentage of their income on

rent than white Georgians. The 2019 ACS 1-Year Estimate shows that in Georgia, the percent of income spent on rent is a staggering 54.9 percent for Black Georgians, compared to 40.6 percent for white Georgians.

74. Black Georgians also have lower levels of educational attainment than their white counterparts and are less likely to earn degrees. According to the 2019 ACS 1-Year Estimate, only 25 percent of Black Georgians have obtained a bachelor's degree or higher, compared to 37 percent of white Georgians.

75. These disparities impose hurdles to voter participation including working multiple jobs, working during polling place hours, lack of access to childcare, lack of access to transportation, and higher rates of illness and disability. All of these hurdles make it more difficult for poor and low-income voters to participate effectively in the political process.

CAUSES OF ACTION

COUNT I:

SB 2EX Violates Section 2 of the Voting Rights Act

76. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

77. Section 2 of the Voting Rights Act prohibits the enforcement of any “standard, practice, or procedure” that “results in a denial or abridgement of the right

of any citizen of the United States to vote on account of race or color, or” membership in a language minority group. 52 U.S.C. § 10301(a).

78. Georgia’s congressional district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

79. Black Georgians in the northwestern and western Atlanta metropolitan area are sufficiently numerous and geographically compact to constitute a majority of eligible voters in an additional congressional district, without reducing the number of minority-opportunity districts already included in the enacted map.

80. Under Section 2 of the Voting Rights Act, the General Assembly was required to create an additional congressional district in which Black voters in this area would have the opportunity to elect their candidates of choice.

81. Black voters in Georgia, including in and around this area, are politically cohesive. Elections in this area reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters’ preferred candidates.

82. The totality of the circumstances establishes that the enacted congressional map has the effect of denying Black voters an equal opportunity to

participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

83. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

- A. Declare that SB 2EX violates Section 2 of the Voting Rights Act;
- B. Enjoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in SB 2EX, including an injunction barring Defendants from conducting any further congressional elections under the enacted map;
- C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid congressional redistricting plan that includes an additional congressional district in the western Atlanta metropolitan area in which Black voters have the opportunity to elect their preferred candidates, as required by Section 2 of the Voting

Rights Act, without reducing the number of minority-opportunity districts currently drawn in SB 2EX;

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: October 28, 2022

By: **Adam M. Sparks**

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing **AMENDED COMPLAINT** has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing **AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

Pendergrass Doc. 122

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

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

DEFENDANTS' ANSWER TO PLAINTIFFS' AMENDED COMPLAINT

Defendants Brad Raffensperger, in his official capacity as Secretary of the State of Georgia; William S. Duffey, Jr., in his official capacity as the Chair of the State Election Board; and Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, in their official capacities as members of the State Election Board (collectively, the “Defendants”), answer Plaintiffs’ Amended Complaint [Doc. 120] (the “Amended Complaint”) as follows:

FIRST AFFIRMATIVE DEFENSE

The allegations in Plaintiffs’ Amended Complaint fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred for failure to name necessary and indispensable parties.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack constitutional standing to bring this action.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs lack statutory standing to bring this action.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' federal claims against Defendants are barred by the Eleventh Amendment to the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by sovereign immunity.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because Section 2 of the Voting Rights Act provides no provide right of action.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they should be heard by a three-judge panel.

NINTH AFFIRMATIVE EFENSE

Defendants deny that Plaintiffs have been subjected to the deprivation of any right, privilege, or immunity under the Constitution or laws of the United States.

TENTH AFFIRMATIVE DEFENSE

Defendants reserve the right to amend their defenses and to add additional ones, including lack of subject matter jurisdiction based on the mootness or ripeness doctrines, as further information becomes available in discovery.

Defendants answer the specific numbered paragraphs of Plaintiffs' Amended Complaint as follows:

1. Paragraph 1 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.
2. Defendants deny the allegations set forth in Paragraph 2 of the Amended Complaint.
3. Defendants deny the allegations set forth in Paragraph 3 of the Amended Complaint.

4. Defendants deny the allegations set forth in Paragraph 4 of the Amended Complaint.

5. Paragraph 5 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

6. Defendants deny the allegations set forth in Paragraph 6 of the Amended Complaint.

7. Paragraph 7 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied and Defendants further deny that Plaintiffs are entitled to any relief.

8. Defendants admit that this Court has federal-question jurisdiction for claims arising under the Voting Rights Act. Defendants deny the remaining allegations set forth in Paragraph 8 of the Amended Complaint.

9. Defendants deny the allegations set forth in Paragraph 9 of the Amended Complaint.

10. Defendants admit the allegations set forth in Paragraph 10 of the Amended Complaint.

11. The allegations in Paragraph 11 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

12. The allegations in Paragraph 12 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

13. The allegations in Paragraph 13 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

14. The allegations in Paragraph 14 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

15. The allegations in Paragraph 15 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

16. The allegations in Paragraph 16 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

17. Defendants admit that Secretary Raffensperger is the Secretary of State of Georgia and that the Secretary of State is designated by statute as the chief election official. Defendants further admit that the Secretary has responsibilities under law related to elections. Defendants deny the remaining allegations contained in Paragraph 17 of the Amended Complaint.

18. Defendants admit that William S. Duffey, Jr. is the Chair of the State Election Board and is named in his official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in

statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations set forth in Paragraph 18 of the Amended Complaint

19. Defendants admit that Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 19 of the Amended Complaint.

20. Defendants admit that Matthew Mashburn is a member of the State Election Board and is named in his official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 20 of the Amended Complaint.

21. Defendants admit that Edward Lindsey is a member of the State Election Board and is named in his official capacity. Defendants further

admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 21 of the Amended Complaint.

22. Defendants admit that Dr. Janice Johnston is a member of the State Election Board and is named in her official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 22 of the Amended Complaint.

23. Paragraph 23 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

24. Paragraph 24 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

25. Paragraph 25 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

26. Paragraph 26 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

27. Paragraph 27 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

28. Paragraph 28 of the Amended Complaint and its subparagraphs set forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

29. Paragraph 29 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

30. Defendants admit the allegations set forth in Paragraph 30 of the Amended Complaint.

31. Defendant admits that, as a percentage of the electorate, the white percentage has decreased and the percentage of voters of color has

increased over the last ten years. The remaining allegations in Paragraph 31 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

32. Defendants deny the allegations set forth in Paragraph 32 of the Amended Complaint.

33. Defendants admit the allegations set forth in Paragraph 33 of the Amended Complaint.

34. Defendants deny the allegations set forth in Paragraph 34 of the Amended Complaint.

35. Defendants deny the allegations set forth in Paragraph 35 of the Amended Complaint.

36. Defendants deny the allegations set forth in Paragraph 36 of the Amended Complaint.

37. Defendants deny the allegations set forth in Paragraph 37 of the Amended Complaint.

38. Defendants deny the allegations set forth in Paragraph 38 of the Amended Complaint.

39. Defendants deny the allegations set forth in Paragraph 39 of the Amended Complaint.

40. Paragraph 40 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. Defendants admit that Black and white voters in Georgia vote in blocs and prefer different candidates. The remaining allegations in this Paragraph are denied.

41. Defendants admit that a substantial majority of Black voters in Georgia prefer Democrat candidates. Defendants deny the remaining allegations set forth in Paragraph 41 of the Amended Complaint.

42. Defendants admit that a majority of white voters in Georgia have voted for Republican candidates in the recent past. Defendants deny the remaining allegations set forth in Paragraph 42 of the Amended Complaint.

43. Defendants admit that Black and white voters in Georgia usually vote in blocs and prefer different candidates. Defendants deny the remaining allegations set forth in Paragraph 43 of the Amended Complaint.

44. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. Defendant denies the remaining allegations set forth in Paragraph 44 of the Amended Complaint.

45. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 45 of the Amended Complaint set forth legal conclusions to which

no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

46. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 46 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

47. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 47 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

48. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 48 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

49. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 49 of the Amended Complaint set forth legal conclusions to which

no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

50. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 50 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

51. Defendants admit that Democratic representatives in the 1981 redistricting process sought to minimize Black political influence in Georgia. The remaining allegations of Paragraph 51 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

52. Defendants admit that plans drawn when Democrats controlled Georgia government were objected to in 1971, 1981, 1991, and 2001 and that redistricting plans drawn when Democrats controlled Georgia government were rejected as unconstitutional in 2004. The remaining allegations of Paragraph 52 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

53. Defendants admit that, prior to 2013, Georgia was a covered jurisdiction under Section 4 of the Voting Rights Act and was required to seek

preclearance of election laws prior to enforcement. The remaining allegations in Paragraph 53 set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

54. Defendants admit that, prior to 2013, Georgia was a covered jurisdiction under Section 4 of the Voting Rights Act and was required to seek preclearance of election laws prior to enforcement. The remaining allegations in Paragraph 54 set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

55. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 55 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

56. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 56 of the Amended Complaint set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

57. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 57 of the Amended Complaint set forth legal conclusions to which

no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

58. The allegations in Paragraph 58 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

59. The allegations in Paragraph 59 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

60. The allegations in Paragraph 60 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

61. The allegations in Paragraph 61 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

62. The allegations in Paragraph 62 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

63. The allegations in Paragraph 63 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

64. The allegations in Paragraph 64 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

65. The allegations in Paragraph 65 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

66. The allegations in Paragraph 66 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

67. The allegations in Paragraph 67 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

68. The allegations in Paragraph 68 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

69. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 69 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

70. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 70 of the Amended Complaint set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

71. The allegations in Paragraph 71 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

72. The allegations in Paragraph 72 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

73. The allegations in Paragraph 73 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

74. The allegations in Paragraph 74 of the Amended Complaint are outside Defendants' knowledge and are therefore denied on that basis.

75. Defendants deny the allegations set forth in Paragraph 75 of the Amended Complaint.

76. Defendants incorporate their responses to Paragraphs 1 through 75 as if fully set forth herein.

77. Paragraph 77 of the Amended Complaint sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

78. Defendants deny the allegations set forth in Paragraph 78 of the Amended Complaint.

79. Defendants deny the allegations set forth in Paragraph 79 of the Amended Complaint.

80. Defendants deny the allegations set forth in Paragraph 80 of the Amended Complaint.

81. Defendants deny the allegations set forth in Paragraph 81 of the Amended Complaint.

82. Defendants deny the allegations set forth in Paragraph 82 of the Amended Complaint.

83. Defendants deny the allegations set forth in Paragraph 83 of the Amended Complaint.

Prayer for Relief

Defendants deny that Plaintiffs are entitled to any relief they seek. Defendants further deny every allegation in the Amended Complaint not specifically admitted in this Answer.

Respectfully submitted this 14th day of November, 2022.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing DEFENDANTS' ANSWER TO PLAINTIFFS' AMENDED COMPLAINT has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

Pendergrass Doc. 173-1

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

COAKLEY PENDERGRASS; TRIANA
ARNOLD JAMES; ELLIOTT
HENNINGTON; ROBERT RICHARDS;
JENS RUECKERT; and OJUAN GLAZE,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-05339-SCJ

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT**

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INTRODUCTION

Last February, this Court concluded that Plaintiffs “have shown that they are likely to ultimately prove that certain aspects of the State’s redistricting plans are unlawful.” ECF No. 97 (“PI Order”) at 10. What was true at the preliminary injunction stage is still true today: This matter is a textbook Section 2 case. By failing to include a district in the western Atlanta metropolitan area where Black voters can elect their preferred candidates, Georgia’s congressional map denies them equal access to the political process in violation of the Voting Rights Act.

Plaintiffs’ experts have reaffirmed and reinforced their opinions and reports since the Court’s ruling last year. William Cooper, Plaintiffs’ demographic and mapping expert, reestablished that a compact majority-Black district can be readily drawn in the western Atlanta suburbs. Dr. Maxwell Palmer, who analyzed racially polarized voting, and Dr. Loren Collingwood, who examined socioeconomic and political disparities between Black and white Georgians, supplemented and reconfirmed their findings using 2022 election data. And Dr. Orville Vernon Burton, who explored Georgia’s history of discriminatory voting practices and racialized politics, expanded his discussion of the factors relevant to the Section 2 inquiry.

Defendants’ experts, by striking contrast, have done *nothing* in the past 12 months to remedy the analytical and evidentiary shortcomings that the Court

highlighted in its preliminary injunction order. John Morgan submitted a cursory rebuttal report that fails to challenge Mr. Cooper’s illustrative map on any meaningful metric. Dr. John Alford *confirmed* Dr. Palmer’s findings of racially polarized voting, offering only his (misguided) views on the legal significance of these undisputed facts. And Plaintiffs’ expert evidence on the other components of the Section 2 inquiry has gone completely unaddressed and unrefuted. In short, Defendants have failed to raise *any* genuine dispute of material fact relevant to the elements of Plaintiffs’ claim.

The denial of Plaintiffs’ preliminary injunction motion was based not on the merits—indeed, the Court concluded that “the *Pendergrass* Plaintiffs have satisfied their burden to show a substantial likelihood of success as to Illustrative Congressional District 6”—but instead on the determination that there was “insufficient time to effectuate remedial relief for purposes of the 2022 election cycle.” *Id.* at 220, 236–37. Freed from those equitable concerns and considering virtually the same body of evidence that informed the Court’s earlier ruling, Plaintiffs respectfully submit that summary judgment is now warranted, and that a new congressional map that complies with Section 2 and ensures Black Georgians equal access to the political process is required.

BACKGROUND

The Court’s preliminary injunction order recounted much of the factual and procedural background in this matter, including the Georgia General Assembly’s enactment of the Georgia Congressional Redistricting Act of 2021 and the litigation that followed. *See* PI Order 11–16. Plaintiffs will therefore focus this section on the demographic developments in Georgia over the past decade.

Between 2010 and 2020, Georgia’s population grew by over 1 million people—a 10.57% increase that can be attributed entirely to gains in the state’s minority population. Statement of Undisputed Material Facts in Supp. of Pls.’ Mot. for Summ. J. (“SUMF”) ¶¶ 1–2; Ex. 1 (“Cooper Report”) ¶¶ 13–14, fig.1.¹ During that decade, Georgia’s Black population grew by 484,048 people, accounting for 47.26% of the state’s overall population gain. SUMF ¶¶ 3–4; Cooper Report ¶ 15, fig.1. Georgia’s any-part Black population now constitutes 33.03% of the statewide population and is the largest minority group in the state. SUMF ¶¶ 5–6; Cooper Report ¶ 16, fig.1. By contrast, Georgia’s white population *decreased* by 51,764 people between 2010 and 2020; non-Hispanic white Georgians now comprise a

¹ All exhibits are attached to the Declaration of Jonathan P. Hawley, filed concurrently with this motion.

razor-thin majority of the state’s population at only 50.06%. SUMF ¶¶ 7–8; Cooper Report ¶¶ 15, 17, fig.1.

The Atlanta Metropolitan Statistical Area (“MSA”) has been the key driver of population growth in Georgia during this century, led in no small measure by a large increase in the region’s Black population. SUMF ¶ 16; Cooper Report ¶ 25, fig.4.² The population gain in the Atlanta MSA between 2010 and 2020 amounted to 803,087 people—more than the population of one congressional district—with about half of that gain coming from an increase in the region’s Black population. SUMF ¶ 17; Cooper Report ¶ 30, fig.5. Over the past two decades, the Black population in the Atlanta MSA has grown from 1,248,809 in 2000 to 2,186,815 in 2020—an increase of 938,006 people—accounting for 75.1% of the statewide Black population increase and 51.4% of the Atlanta MSA’s total increase during that period. SUMF ¶ 19; Cooper Report ¶ 26, fig.4. The decrease in the region’s white population has been just as evident: Under the 2000 census, the Atlanta MSA’s

² As defined by the U.S. Office of Management and Budget, the Atlanta MSA consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. SUMF ¶ 15; Cooper Report ¶ 12 n.3.

population was 60.42% non-Hispanic white, decreasing to 50.78% in 2010 and then to just 43.71% in 2020. SUMF ¶ 22; Cooper Report ¶ 27, fig.4.

According to the 2020 census, the 11 core counties comprising the Atlanta Regional Commission (“ARC”) service area account for more than half of the statewide Black population. SUMF ¶ 20; Cooper Report ¶ 28. The combined Black population in just four of these counties (Cobb, Fulton, Douglas, and Fayette) is 807,076 people, more than would be sufficient to constitute an entire congressional district—or a majority in two congressional districts. SUMF ¶ 26; Cooper Report ¶ 42, fig.8.

LEGAL STANDARD

“The principal function of the motion for summary judgment is to show that one or more of the essential elements of a claim or defense . . . is not in doubt and that, as a result, judgment can be rendered as a matter of law.” *Tomlin v. JCS Enters., Inc.*, 13 F. Supp. 3d 1330, 1335 (N.D. Ga. 2014) (alteration in original) (quoting *Tippens v. Celotex Corp.*, 805 F.2d 949, 952 (11th Cir. 1986)). When there is no genuine dispute as to any material fact, the moving party is entitled to judgment as a matter of law on all or any part of a claim. Fed. R. Civ. P. 56(a).

Once the moving party has met its initial burden of proving that no genuine issue of material fact exists, the burden shifts to the opposing party to establish

otherwise. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585–86 (1986). To avoid summary judgment, the opposing party must “go beyond the pleadings” and designate specific facts establishing a genuine issue for trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). In so doing, the opposing party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita*, 475 U.S. at 586. Rather, it “must come forward with significant, probative evidence demonstrating the existence of a triable issue of fact.” *Irby v. Bittick*, 44 F.3d 949, 953 (11th Cir. 1995) (quoting *Chanel, Inc. v. Italian Activewear of Fla., Inc.*, 931 F.2d 1472, 1479 (11th Cir. 1991)). “Evidence that is ‘merely colorable, or is not significantly probative’ of a disputed fact cannot satisfy a party’s burden, and a mere scintilla of evidence is likewise insufficient.” *Kernel Recs. Oy v. Mosley*, 694 F.3d 1294, 1301 (11th Cir. 2012) (citations omitted) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986)).

ARGUMENT

Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). This includes the

manipulation of district lines [to] dilute the voting strength of politically cohesive minority group members, whether by fragmenting the

minority voters among several districts where a bloc-voting majority can routinely outvote them, or by packing them into one or a small number of districts to minimize their influence in the districts next door.

Johnson v. De Grandy, 512 U.S. 997, 1007 (1994); *see also Voinovich v. Quilter*, 507 U.S. 146, 153 (1993) (“Dividing the minority group among various districts so that it is a majority in none may prevent the group from electing its candidate of choice[.]”); PI Order 16–19, 27 (exploring history of Voting Rights Act).

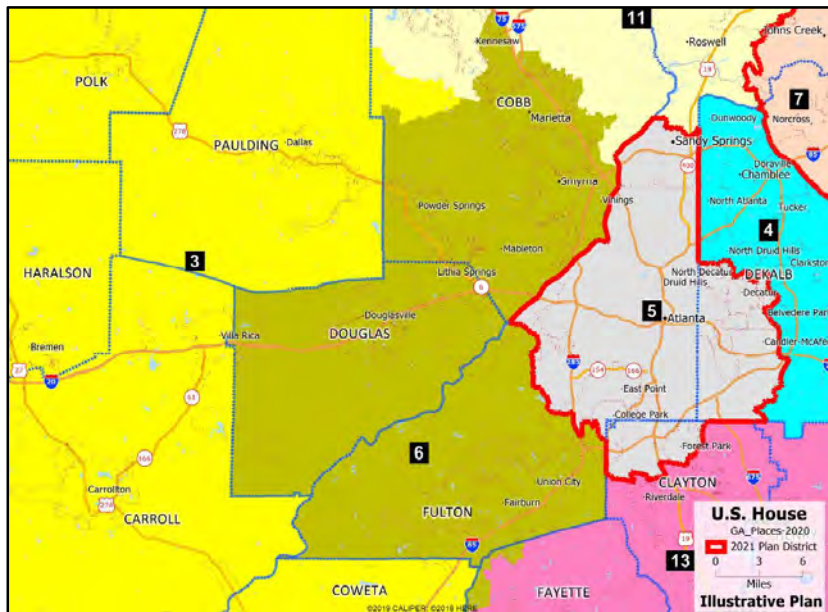
To prevail on their Section 2 claim, Plaintiffs must show that (1) the minority group is “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group “is politically cohesive”; and (3) “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986); *see also* PI Order 28–29 (describing *Gingles* preconditions). Once Plaintiffs have made this threshold showing, the Court must then examine “the totality of circumstances”—including the Senate Factors, which are the nine factors identified in the U.S. Senate report that accompanied the 1982 amendments to the Voting Rights Act—to determine whether “the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by members of the minority group. 52 U.S.C. § 10301(b); *see also Gingles*, 478 U.S. at 43–44; PI Order 29–32 (describing Senate Factors).

I. *Gingles* One: An additional compact majority-Black congressional district can be drawn in the western Atlanta metropolitan area.

Plaintiffs readily satisfy the first *Gingles* precondition because it is possible to “create[e] more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice.” *LULAC v. Perry*, 548 U.S. 399, 430 (2006) (plurality opinion) (quoting *De Grandy*, 512 U.S. at 1008); *see also* PI Order 51–55 (summarizing applicable legal standards, including numerosity and compactness requirements).

Expert demographer William Cooper has again offered an illustrative plan that unequivocally satisfies the first *Gingles* precondition, demonstrating that the Black community in the western Atlanta metropolitan area is sufficiently large and geographically compact to comprise more than 50% of the voting-age population in an additional congressional district. SUMF ¶¶ 31, 43; Cooper Report ¶ 10; Ex. 8 (“Morgan Dep.”) at 65:10–66:13; *see also* PI Order 35–38 (reviewing Mr. Cooper’s relevant experience and methodology and finding “his methods and conclusions [] highly reliable”). Given the striking increase in the Atlanta metropolitan area’s Black population during this century, *see supra* at 4–5, Mr. Cooper used this region as the focal point for his analysis. SUMF ¶ 34; Cooper Report ¶ 35. Mr. Cooper’s additional majority-Black district—illustrative Congressional District 6—is

anchored in the western Atlanta suburbs, encompassing all of Douglas and parts of Cobb, Fayette, and Fulton counties:



SUMF ¶¶ 32, 35; Cooper Report ¶¶ 10, 51, 86–87, Ex. I-2. The Black population of Mr. Cooper’s illustrative Congressional District 6 exceeds 50% under various metrics, SUMF ¶¶ 36–39; Cooper Report ¶ 73, figs.11 & 14; Ex. 6 (“Morgan Report”) ¶ 12, and his illustrative plan includes this additional district without reducing the number of preexisting majority-Black districts in the enacted plan, SUMF ¶ 33; Cooper Report ¶ 73, fig.14; Morgan Dep. 65:10–66:13.

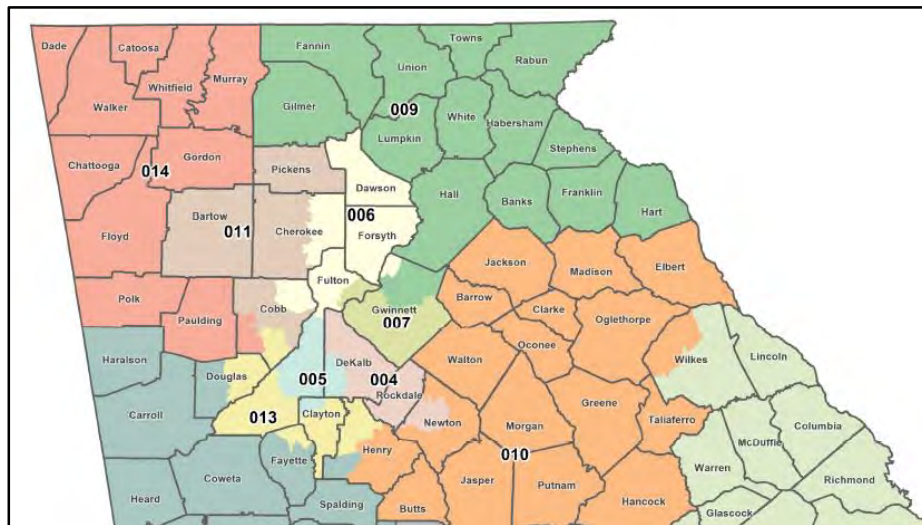
Mr. Cooper’s illustrative plan undeniably complies with traditional redistricting principles, including the guidelines adopted by the General Assembly to inform its 2021 redistricting efforts. SUMF ¶ 46; Exs. 10–11. As in the enacted

plan, population deviations in Mr. Cooper's illustrative plan are limited to plus-or-minus one person from the ideal district population, and his districts are contiguous. SUMF ¶¶ 47–49; Cooper Report ¶¶ 52–53, fig.11; Morgan Dep. 62:4–7, 62:14–17; *see also* PI Order 71, 76. The mean and lowest compactness scores of Mr. Cooper's illustrative plan are similar or identical to the corresponding scores for the enacted plan and Georgia's prior congressional plan. SUMF ¶¶ 50, 53; Cooper Report ¶¶ 78–79 & n.12, fig.13; Morgan Report ¶ 22; Morgan Dep. 55:18–57:5; *see also* PI Order 71–76. In particular, Mr. Cooper's additional majority-Black district, illustrative Congressional District 6, is as compact as the average for the enacted plan on the Polsby-Popper scale and *more* compact than the enacted plan's average on the Reock scale; it is also more compact than the enacted Congressional District 6 on both measures. SUMF ¶¶ 54–55; Cooper Report Exs. L-1 & L-3; Morgan Dep. 57:15–60:2.

Mr. Cooper's illustrative plan is also comparable to (and, in several instances, better than) the enacted plan in preserving political subdivisions. Although both Mr. Cooper's illustrative plan and the enacted plan split 15 counties, the illustrative plan scores better across four other metrics: county splits (unique county/district combinations), split municipalities, municipality splits (unique municipality/district combinations), and voting district splits. SUMF ¶¶ 58–60; Cooper Report ¶¶ 81–82,

fig.14; Morgan Report ¶ 20; Morgan Dep. 44:6–46:16, 54:7–11, 54:18–55:6; *see also* PI Order 76–79.

Mr. Cooper’s illustrative Congressional District 6 also better preserves communities with shared interests in the western Atlanta metropolitan area. The enacted map splits majority-non-white Cobb County among four congressional districts, including three majority-white districts—one of which, Congressional District 14, begins in southwest Cobb County and stretches up to Appalachian north Georgia and the Chattanooga suburbs:

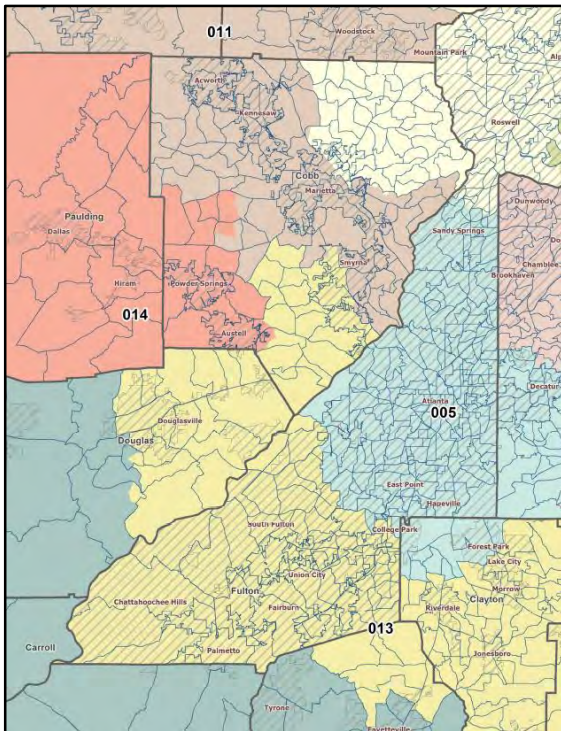


SUMF ¶¶ 61–63; Cooper Report ¶¶ 60, 65, 68, 73, fig.14, Ex. G. In Mr. Cooper’s plan, by contrast, Cobb County is split between only three districts,³ and his

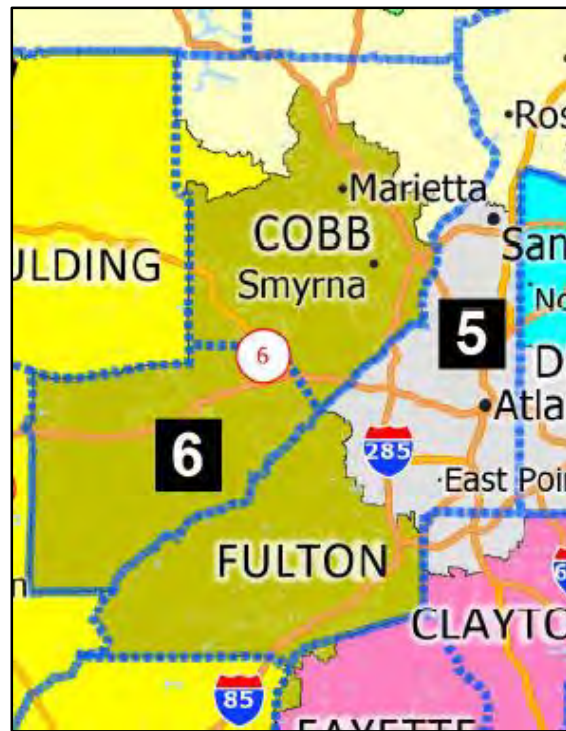
³ As an additional improvement, Mr. Cooper assigned all but noncontiguous zero-population areas of Marietta (population 60,972) to his Congressional District 6,

illustrative Congressional District 6 unites Atlanta-area urban, suburban, and exurban voters in Cobb, Douglas, Fulton, and Fayette counties, all of which are core metro counties under the ARC:

Enacted Plan



Mr. Cooper's Illustrative Plan



SUMF ¶¶ 61, 63–64; Cooper Report ¶¶ 60, 65, 68, Exs. G & H-1; *see also* PI Order 79–85 (finding that “Mr. Cooper’s Illustrative Congressional Plan sufficiently respects communities of interest in the western Atlanta metropolitan area” given “the relative geographic proximity . . . of the proposed district” and “that the areas

whereas the enacted plan divides populated areas of the city between Congressional Districts 6 and 11. SUMF ¶ 66; Cooper Report ¶ 69.

constituting illustrative Congressional District 6 are developed and suburban in nature and generally face the same infrastructure, medical care, educational, and other critical needs”).

Additionally, Dr. Maxwell Palmer confirmed that Black voters would be able to elect their preferred candidates in Mr. Cooper’s illustrative Congressional District 6. In the proposed district, Black-preferred candidates would have won all 31 statewide races from 2012 through 2021 with an average of 66.1% of the vote. SUMF ¶¶ 40–41; Ex. 2 (“Palmer Report”) ¶¶ 9, 23, 25, fig.5, tbl.8.⁴ Plaintiffs therefore satisfy the first *Gingles* precondition. *See LULAC*, 548 U.S. at 430 (first *Gingles* precondition requires “reasonably compact districts with a sufficiently large minority population to elect candidates of its choice” (quoting *De Grandy*, 512 U.S. at 1008)).

Defendants’ mapping expert, John Morgan, has provided no opinions to contest this conclusion or otherwise undermine Plaintiffs’ satisfaction of the first *Gingles* precondition. *See* PI Order 42–46 (finding that Mr. Morgan’s “testimony lacks credibility” and thus “assign[ing] little weight to his testimony”). Indeed, he

⁴ Dr. Palmer also concluded that the candidates of choice for Black voters would continue to win in Congressional District 13, the only district from which Mr. Cooper’s illustrative Congressional District 6 was drawn that previously performed for Black-preferred candidates. SUMF ¶ 42; Palmer Report ¶ 26.

does not dispute that the Black population in the Atlanta metropolitan area is sufficiently numerous and geographically compact to allow for the creation of an additional majority-Black congressional district consistent with traditional redistricting principles. *See* Morgan Dep. 65:10–66:13; *see also* PI Order 69–71 (finding that earlier iteration of illustrative Congressional District 6 “comports with traditional redistricting principles” and thus satisfied compactness requirement). Indeed, Mr. Morgan does not dispute that Mr. Cooper’s illustrative plan equalizes population, *see* Morgan Dep. 62:4–7; is contiguous, *see id.* at 62:14–17; is similarly compact as the enacted plan, *see* Morgan Report ¶ 22; Morgan Dep. 55:18–57:5; and preserves political subdivisions the same as or better than the enacted plan, *see* Morgan Report ¶ 20; Morgan Dep. 44:6–46:16, 54:7–11, 54:18–55:6—in other words, satisfies the redistricting principles that the General Assembly itself adopted as guidelines when drawing Georgia’s enacted congressional districts. SUMF ¶ 46; Exs. 10–11.

Mr. Morgan’s only apparent complaints with Mr. Cooper’s illustrative plan are neither persuasive nor meaningful. First, he objects to the illustrative plan’s “discontinuity” with Georgia’s prior congressional plan and the enacted plan. Morgan Report ¶¶ 14, 18. But, as the Court previously noted, the preservation of existing district cores was not an enumerated guideline adopted by the General

Assembly. *See* PI Order 85–86. And, in any event, Mr. Cooper’s illustrative plan leaves six of the 14 districts in the enacted plan unchanged, SUMF ¶ 68; Cooper Report ¶¶ 11, 51; Morgan Report ¶ 18—a degree of core retention that previously led the Court to “find[] that not only does Mr. Cooper’s Illustrative Congressional Plan comply with the traditional districting principles and the General Assembly’s guidelines, his plan also does not alter existing district cores in a manner that counsels against finding that it satisfies the first *Gingles* precondition,” PI Order 86–87.

Second, Mr. Morgan offers a single sentence claiming that “care [was] taken” by Mr. Cooper “to avoid changing the racial make-up” of his illustrative Congressional District 6. Morgan Report ¶ 17. But this conclusory assertion is, as Mr. Morgan implicitly conceded in his deposition, wholly unsupported by any meaningful analysis or discussion in his expert report. *See* Morgan Dep. 52:1–53:4. Mr. Morgan’s idle speculation does not meaningfully counter Mr. Cooper’s assertion that no one factor—neither racial considerations nor anything else—predominated in the drawing of his illustrative congressional plan. SUMF ¶ 45; Cooper Report ¶ 50; *see also* PI Order 37, 87–92. And baseless conjecture can hardly serve as evidence sufficient to defeat summary judgment. *See Kernel Recs. Oy*, 694 F.3d at 1301 (“Although all justifiable inferences are to be drawn in favor of the nonmoving

party,’ ‘inferences based upon speculation are not reasonable.’” (citations omitted) (first quoting *Baldwin County v. Purcell Corp.*, 971 F.2d 1558, 1563–64 (11th Cir. 1992); and then quoting *Marshall v. City of Cape Coral*, 797 F.2d 1555, 1559 (11th Cir. 1986))).

Ultimately, Mr. Morgan’s brief declaration in this matter is little more than a recitation of the metrics already reported by Mr. Cooper, and certainly does nothing to dispute that Plaintiffs’ illustrative map fulfills the applicable criteria under Section 2. Indeed, by acknowledging the numerosity and compactness of the Atlanta metropolitan area’s Black population and recognizing that Mr. Cooper’s illustrative plan satisfies the relevant neutral criteria, Mr. Morgan has all but conceded Plaintiffs’ compliance with the first *Gingles* precondition.

II. *Gingles* Two: Black Georgians in the focus area are politically cohesive.

Plaintiffs satisfy the second *Gingles* precondition because Black voters in the area where Mr. Cooper has drawn an additional majority-Black congressional district are politically cohesive. *See* 478 U.S. at 49. “Bloc voting by blacks tends to prove that the black community is politically cohesive, that is, it shows that blacks prefer certain candidates whom they could elect in a single-member, black majority district.” *Id.* at 68; *see also* PI Order 172 (explaining second *Gingles* precondition).

Dr. Palmer analyzed political cohesion and racially polarized voting in a focus area comprising the five congressional districts from which Mr. Cooper’s illustrative majority-Black district was drawn. SUMF ¶ 69; Palmer Report ¶ 10, fig.1. To perform his analysis, Dr. Palmer examined precinct-level election results and voter turnout by race and employed a widely accepted methodology called ecological inference analysis. SUMF ¶¶ 70–72; Palmer Report ¶¶ 8, 11, 13–14; Ex. 9 (“Alford Dep.”) at 36:11–37:12; *see also, e.g., Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297, 1305 (M.D. Ga. 2018) (recognizing ecological inference as “the ‘gold standard’ for use in racial bloc voting analyses”), *aff’d*, 979 F.3d 1282 (11th Cir. 2020); PI Order 176–78 (finding that Dr. Palmer’s “methods and conclusions are highly reliable”).

Dr. Palmer found that Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections he examined—a conclusion with which Defendants’ expert, Dr. John Alford, readily agreed. SUMF ¶¶ 73–74; Palmer Report ¶¶ 15–16 & n.13, figs.2 & 3, tbl.1; Ex. 3 (“Suppl. Palmer Report”) ¶ 5, tbl.1; Ex. 7 (“Alford Report”) at 3; Alford Dep. 37:13–15. Across the focus area, Black voters supported their candidates of choice with an average of 98.4% of the vote in the 40 elections Dr. Palmer examined, a finding reflected in each of the five component congressional districts as well. SUMF ¶¶ 75–77; Palmer Report ¶¶ 7, 16,

19, fig.4, tbls.2, 3, 4, 5 & 6. Plaintiffs therefore satisfy the second *Gingles* precondition. *See* 478 U.S. at 56 (“A showing that a significant number of minority group members usually vote for the same candidates is one way of proving [] political cohesiveness[.]”); *see also* PI Order 185–86 (concluding that “Plaintiffs have satisfied their burden to establish that Black voters in Georgia (at least for those regions examined) are politically cohesive”).

III. *Gingles* Three: White Georgians engage in bloc voting to defeat Black-preferred candidates in the focus area.

Finally, Plaintiffs satisfy the third *Gingles* precondition because, in the area where Mr. Cooper proposes a new majority-Black district, “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” 478 U.S. at 51; *see also* PI Order 197–98 (explaining third *Gingles* precondition).

Dr. Palmer found high levels of white bloc voting in opposition to the candidates whom Black voters cohesively supported—another finding endorsed by Dr. Alford. SUMF ¶ 78; Palmer Report ¶ 17, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3; Alford Dep. 38:20–39:8. In the same 40 elections Dr. Palmer analyzed, white voters in the focus area overwhelmingly opposed Black voters’ candidates of choice: On average, only 12.4% of white voters supported Black-preferred candidates, and in no election did white support exceed 17%. SUMF

¶ 79; Palmer Report ¶¶ 7, 17. Consequently, across the focus area, white-preferred candidates won the majority of the vote in all 40 elections. SUMF ¶ 82; Palmer Report ¶¶ 8, 22, tbl.7. Dr. Palmer reported the same results at the district level: White voters cohesively opposed Black-preferred candidates in each of the five congressional districts, and only in the majority-Black Congressional District 13 did Black-preferred candidates win larger shares of the vote in the 40 elections. SUMF ¶¶ 80–81, 83–85; Palmer Report ¶¶ 8, 20, 22, fig.4, tbls.2, 3, 4, 5, 6 & 7; Suppl. Palmer Report ¶ 4; Cooper Report ¶ 73, fig.14.

In short, Black voters’ candidates of choice are consistently defeated in the focus area by white bloc voting, except where Black voters make up a majority of eligible voters—thus satisfying the third *Gingles* precondition. *See* 478 U.S. at 68 (“Bloc voting by a white majority tends to prove that blacks will generally be unable to elect representatives of their choice.”); *see also* PI Order 198–200 (crediting “Dr. Palmer’s analysis and testimony” and concluding that “Plaintiffs have satisfied their burden under the third *Gingles* precondition”).

IV. Under the totality of circumstances, the enacted map denies Black voters equal opportunity to elect their preferred candidates to Congress.

Considering the “totality of circumstances,” Georgia’s enacted congressional map denies Black voters an equal opportunity to elect their preferred congressional representatives. 52 U.S.C. § 10301(b). Notably, “it will be only the very unusual

case in which the plaintiffs can establish the existence of the three *Gingles* [preconditions] but still have failed to establish a violation of § 2 under the totality of circumstances.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1342 (11th Cir. 2015) (quoting *Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir. 1993)). Again, this is not an unusual case.

The factors outlined in the Senate Judiciary Committee report accompanying the 1982 Voting Rights Act amendments—the Senate Factors—are “typically relevant to a § 2 claim” and guide this analysis. *LULAC*, 548 U.S. at 426; *see also Gingles*, 478 U.S. at 36–37 (listing Senate Factors). They are not exclusive, and “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Gingles*, 478 U.S. at 45 (quoting S. Rep. No. 97-417, pt. 1, at 29 (1982)).

Here, each of the relevant Senate Factors confirms that the enacted congressional map denies Black voters equal electoral opportunities.

A. Senate Factor One: Georgia has an ongoing history of official voting-related discrimination.

“It cannot be disputed that Black Georgians have experienced franchise-related discrimination.” PI Order 205. Indeed, “Georgia electoral history is marked by too many occasions where the State, through its elected officials, enacted discriminatory measures designed to minimize black voting strength.” *Brooks v.*

State Bd. of Elections, 848 F. Supp. 1548, 1572 (S.D. Ga. 1994); *see also, e.g., Fair Fight Action, Inc. v. Raffensperger*, 593 F. Supp. 3d 1320, 1342 (N.D. Ga. 2021) (taking judicial notice of fact that, “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”). As the Eleventh Circuit has similarly acknowledged, “[t]he voting strength of blacks has historically been diminished in Georgia in numerous ways, including property ownership requirements, literacy tests, and the use of the county unit system which undermined the voting power of counties with large black populations.” *Brooks v. Miller*, 158 F.3d 1230, 1233 (11th Cir. 1998). Although these discriminatory actions have evolved over the years, they have persisted; as a result of this centuries-long effort to marginalize and disenfranchise Black Georgians, they still lack equal access to the state’s political processes today.

Dr. Orville Vernon Burton prepared an extensive (and unrebutted) examination of the history of voting-related discrimination in Georgia, emphasizing a sordid and recurring pattern: After periods of increased nonwhite voter registration and turnout, the State finds methods to disfranchise and reduce the influence of minority voters. SUMF ¶ 86; Ex. 4 (“Burton Report”) at 2, 9–10; *see also* PI Order 207 (finding Dr. Burton “highly credible,” his “historical analysis [] thorough and methodologically sound,” and his “conclusions . . . reliable”). Indeed, “[w]hile

Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War.” SUMF ¶ 95; Burton Report 10 (quoting Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* 2–3 (2003)). Following Reconstruction, these tactics included poll taxes, a white-only primary system, and use of majority-vote requirements and at-large districts. SUMF ¶¶ 96–104; Burton Report 10–12, 14–26. Efforts at de jure disenfranchisement were reinforced by rampant political terror and violence against Black legislators and voters; between 1875 and 1930, Georgia witnessed 462 lynchings—second only to Mississippi—which, as Dr. Burton explained, “served as a reminder for Black Georgians who challenged the status quo” and “did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared participate in the franchise.” SUMF ¶¶ 87–94; Burton Report 14–26.

While enactment of the Voting Rights Act altered Georgia’s trajectory, it did not end efforts to prevent the exercise of Black political power. SUMF ¶¶ 105–06; Burton Report 36–43. By 1976, among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens; these disparities were directly attributable to Georgia’s continued efforts to enact policies designed to circumvent the Voting

Rights Act's protections and suppress the rights of Black voters. SUMF ¶ 107; Burton Report 36. Notably, between 1965 and 1980, nearly 30% of the Department of Justice's objections to voting-related changes under Section 5 were attributable to Georgia—more than any other state in the country. SUMF ¶ 108; Burton Report 3, 39. When Congress reauthorized the Voting Rights Act in 1982, it specifically cited systemic abuses by Georgia officials intended to obstruct Black voting rights. SUMF ¶ 109; Burton Report 3, 42.

Georgia's voting-related discrimination extended to its redistricting efforts. SUMF ¶¶ 119–21; Burton Report 32. Prior to the effective termination of the Section 5 preclearance requirement following *Shelby County v. Holder*, 570 U.S. 529 (2013), federal challenges and litigation were common features of the state's decennial redistricting—indeed, the Department of Justice objected to reapportionment plans submitted by Georgia during each of the four redistricting cycles following enactment of the Voting Rights Act because the maps diluted Black voting strength. SUMF ¶¶ 122–26; Burton Report 40–44; Exs. 12–13; *see also, e.g., Georgia v. United States*, 411 U.S. 526, 541 (1973) (affirming that Georgia's 1972 reapportionment plan violated Section 5 in part because it diluted Black vote in Atlanta-based congressional district); *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge court) (denying preclearance based on evidence that

Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166 (1983).

Significantly, racial discrimination in voting is not consigned to history books; efforts to dilute the political power of Black Georgians persist today. Following *Shelby County*, Georgia was the only former preclearance state that proceeded to adopt “all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures.” SUMF ¶ 111; Burton Report 48–49. Throughout the first two decades of the 21st century, the State investigated Black candidates and organizations dedicated to protecting the voting rights of Georgia’s minority voters; investigations into alleged voter fraud in the predominantly Black City of Quitman and into the efforts of the New Georgia Project and the Asian American Legal Advocacy Center ended without convictions or evidence of wrongdoing. SUMF ¶ 110; Burton Report 45–46. In 2015, Georgia began closing polling places in primarily Black neighborhoods; by 2019, 18 counties closed more than half of their polling places and several closed nearly 90%, depressing turnout in affected areas and leading to substantially longer waiting times at the polls. SUMF ¶¶ 112–13; Burton Report 49–50. The State has also engaged in “systematic efforts to purge the

voting rolls in ways that particularly disadvantaged minority voters and candidates”—between 2012 and 2018, Georgia removed 1.4 million voters from the eligible voter rolls, purges that disproportionately impacted Black voters. SUMF ¶¶ 115–16; Burton Report 50–51.

Ultimately, the growth of Georgia’s nonwhite population over the past 20 years—and the corresponding increase in minority voting power—has, in Dr. Burton’s words, “provide[d] a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote.” SUMF ¶ 118; Burton Report 60. Georgia’s efforts to discriminate against Black voters has simply not stopped. *See* PI Order 205–09 (finding that “Plaintiffs have demonstrated the history of voting-related discrimination in Georgia” and “[t]he first Senate Factor thus weighs decisively in Plaintiffs’ favor”).

B. Senate Factor Two: Georgia voters are racially polarized.

Courts have repeatedly found that voting throughout Georgia is racially polarized. *See, e.g., Fayette Cnty.*, 775 F.3d at 1340 (Fayette County “[v]oters’ candidate preferences in general elections were racially polarized”); *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge court) (“[V]oting in Georgia is highly racially polarized.”); *Wright*, 301 F. Supp. 3d at 1319 (“Sumter County’s voters [are] highly polarized.”). These findings were

confirmed in the focus area and in its constituent congressional districts by Dr. Palmer's analysis discussed above: Black voters overwhelmingly support their candidates of choice, and white voters consistently and cohesively vote in opposition to Black-preferred candidates. SUMF ¶¶ 128–36; Palmer Report ¶¶ 7, 16–17, 19–20, figs.2, 3 & 4, tbls.1, 2, 3, 4, 5, & 6; Suppl. Palmer Report ¶¶ 4–5, fig.1, tbl.1; Alford Report 3; Alford Dep. 37:13–15, 38:20–39:8, 44:8–16, 45:10–12; *see also supra* at 16–19.

Far from disputing this polarization, Defendants' expert Dr. Alford confirmed it, both in his expert report, *see* Alford Report 3 (“As evident in Dr. Palmer's [reports], the pattern of polarization is quite striking.”), and in his deposition, *see* Alford Dep. 44:8–16, 45:10–12 (“This is clearly polarized voting, and the stability of it across time and across office and across geography is really pretty remarkable.”). Voting in the focus area is undeniably polarized along racial lines, and the second Senate Factor thus tips strongly in Plaintiffs' favor.

Neither Dr. Alford's expert report nor Defendants' prior arguments change this conclusion. As at the preliminary injunction stage, Dr. Alford maintains that the polarization is better explained by partisanship than race. But his analysis is guided by the wrong question. The inquiry implicated by this Senate Factor is objective, not subjective: *how* Black and white Georgians vote, not *why* they vote that way. As this

Court previously explained, “to satisfy the second *Gingles* precondition, Plaintiffs need not prove the causes of racial polarization, just its existence.” PI Order 174. This critical emphasis on correlation rather than causation finds its basis in the concerns that animated revisions to Section 2 decades ago; as this Court explained,

applying the standard advocated by Defendants would undermine the congressional intent behind the 1982 amendments to the VRA—namely, to focus on the *results* of the challenged practices. Congress wanted to avoid “unnecessarily divisive [litigation] involv[ing] charges of racism on the part of individual officials or entire communities.” As the Eleventh Circuit long ago made clear, “[t]he surest indication of race-conscious politics is a pattern of racially polarized voting.”

Id. at 175–76 (alterations in original) (citations omitted) (first quoting S. Rep. No. 97-417, pt. 1, at 36; and then quoting *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1567 (11th Cir. 1984)).

Dr. Alford conceded in his deposition that the relevance of his analysis hinges not on the *fact* of racial polarization, which is not in dispute, *see* Alford Report 3; Alford Dep. 44:8–16, 45:10–12, but on a threshold *legal* question, *see* Alford Dep. 114:13–21 (“[I]f the judge thinks the law doesn’t require anything other than that the two groups vote differently without any connection to race . . . , then that’s the law.”). That legal question has already been addressed—and resolved—by this Court. *See* PI Order 209–10 (concluding that “the Court’s analysis on the second and

third *Gingles* preconditions controls here” and “[t]he second Senate Factor thus weighs in Plaintiffs’ favor”).

C. Senate Factor Three: Georgia’s voting practices enhance the opportunity for discrimination.

As discussed above, Georgia has employed a variety of voting practices that have discriminated against Black voters. *See supra* at 20–25; *see also* SUMF ¶ 154; Burton Report 11–55. In addition to the malapportionment of legislative and congressional districts to dilute the votes of Black Georgians throughout the 20th century, SUMF ¶¶ 155–56; Burton Report 31, and the continuing use of polling place closures, voter purges, and other suppressive techniques, SUMF ¶ 159; Burton Report 49–55, numerous Georgia counties with sizeable Black populations shifted from voting by district to at-large voting following enactment of the Voting Rights Act, thus ensuring the electoral success of white-preferred candidates, SUMF ¶ 157; Burton Report 32–33.

Moreover, even though the *Gingles* Court specifically highlighted the use of majority-vote requirements as meaningful evidence of ongoing efforts to discriminate against minority voters, *see* 478 U.S. at 45, Georgia continues to impose a majority-vote requirement in general elections, including elections to the U.S. House of Representatives, SUMF ¶ 158; Burton Report 34; O.C.G.A. § 21-2-501. The combination of a majority-vote requirement and racially polarized voting

ensures that Black voters cannot elect their candidates of choice when they are a minority of a jurisdiction's population, even when the white vote is split. *See City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982) (describing how such circumstances “permanently foreclose a black candidate from being elected”); *see also* PI Order 210–11 (finding that “Plaintiffs have shown there has been a history of voting practices or procedures in Georgia that have enhanced the opportunity for discrimination against Black voters” and “this factor weighs in Plaintiffs’ favor”).

D. Senate Factor Four: Georgia has no history of candidate slating for congressional elections.

Because Georgia's congressional elections do not use a slating process, this factor has no relevance to Plaintiffs' claim. SUMF ¶ 160; PI Order 211.

E. Senate Factor Five: Georgia's discrimination has produced severe socioeconomic disparities that impair Black Georgians' participation in the political process.

Georgia's Black community continues to suffer as a result of the state's history of discrimination. Dr. Loren Collingwood's (also unrebutted) expert report concluded that, “[o]n every metric, Black Georgians are disadvantaged socioeconomically relative to non-Hispanic White Georgians,” disparities that “have an adverse effect on the ability of Black Georgians to participate in the political process, as measured by voter turnout and other forms of political participation.” SUMF ¶ 161; Ex. 5 (“Collingwood Report”) at 3; *see also* PI Order 214 (finding

“Dr. Collingwood to be credible, his analysis methodologically sound, and his conclusions reliable”). While “the burden is not on the plaintiffs to prove” that these disparities are “causing reduced political participation,” *Marengo Cnty.*, 731 F.2d at 1569, Dr. Collingwood has concluded that this is the case, as the data show a significant relationship between turnout and socioeconomic disparities; as health, education, and employment outcomes increase, so does voter turnout. SUMF ¶ 162; Collingwood Report 3.

The disparities and disadvantages experienced by Black Georgians impact nearly every aspect of daily life:

- The unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%). SUMF ¶ 163; Collingwood Report 4.
- White households are twice as likely as Black households to report an annual income above \$100,000. SUMF ¶ 164; Collingwood Report 4.
- Black Georgians are more than twice as likely as white Georgians to live below the poverty line—and Black children more than *three times* as likely. SUMF ¶ 165; Collingwood Report 4.
- Black Georgians are nearly three times as likely as white Georgians to receive SNAP benefits. SUMF ¶ 166; Collingwood Report 4.

- Black adults are more likely than white adults to lack a high school diploma—13.3% as compared to 9.4%. SUMF ¶ 167; Collingwood Report 4.
- Thirty-five percent of white Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24% of Black Georgians over the age of 25. SUMF ¶ 168; Collingwood Report 4.

Dr. Collingwood further concluded that these racial disparities hold across nearly every county in the state. SUMF ¶ 169; Collingwood Report 4–6.

The evidence strongly suggests that the socioeconomic disparities imposed on Black Georgians impact their levels of political participation. Dr. Collingwood explained that extensive literature in the field of political science demonstrates a strong and consistent link between socioeconomic status and voter turnout: In general, voters with higher income and education are disproportionately likely to vote and participate in American politics. SUMF ¶¶ 171–72; Collingwood Report 7. This pattern is evident in Georgia. Dr. Collingwood found that, in elections between 2010 and 2022, Black Georgians consistently turned out to vote at lower rates than white Georgians—a gap of at least 3.1 percentage points (during the 2012 general election) that reached its peak of 13.3 percentage points during the 2022 general election. SUMF ¶ 173; Collingwood Report 7–8. This trend can be seen at the local level as well, including in the Atlanta metropolitan area: During each general

election, white voters exceeded the turnout rates of Black voters in all but a handful of Georgia's 159 counties, and white voters had higher rates of turnout in 79.2% of the 1,957 precincts analyzed. SUMF ¶¶ 174–75; Collingwood Report 8–19. White Georgians are also more likely than Black Georgians to participate in a range of political activities, including attending local meetings, demonstrating political participation through lawn signs and bumper stickers, working on campaigns, attending protests and demonstrations, contacting public officials, and donating money to campaigns and political causes. SUMF ¶ 178; Collingwood Report 34–38.

Comparing rates of Black voter turnout with educational attainment, Dr. Collingwood found that each 10-point increase in the percentage of the Black population without a high school degree decreases Black turnout by 3.5 percentage points, and that Black turnout rises 2.3 percentage points for each 10-point increase in the percentage of the Black population with a four-year degree. SUMF ¶ 176; Collingwood Report 24–26. The pattern holds between voter turnout and poverty: Black turnout falls 4.9 percentage points for each 10-point increase in the percentage of the Black population below the poverty line, SUMF ¶ 177; Collingwood Report 28, confirming the link between socioeconomic disadvantage and depressed political participation, *see* PI Order 211–15 (finding that “Plaintiffs have offered un rebutted evidence that Black Georgians suffer socioeconomic hardships stemming

from centuries-long racial discrimination, and that those hardships impede their ability to fully participate in the political process,” and concluding that “Plaintiffs’ evidence on this factor weighs in favor of a finding of vote dilution”).

F. Senate Factor Six: Racial appeals are prevalent in Georgia’s political campaigns.

As Dr. Burton concluded, “[r]acism, whether dog whistled or communicated directly, became a hallmark of” Georgia politics during the second half of the 20th century. SUMF ¶ 183; Burton Report 66. Although *explicit* racial appeals are no longer commonplace, *implicit* racial appeals—which, as political scientists have explained, use coded language, subtext, and visuals to activate racial thinking—are still a recurring feature of Georgia campaigns and contribute to the state’s polarized voting. SUMF ¶¶ 179–82; Burton Report 62–64.

Georgia politicians have long employed implicit racial appeals to win elected office, from future U.S. House Speaker Newt Gingrich’s invocation of “welfare cheaters” during his first run for Congress in 1978—one campaign aide later said, “[W]e went after every rural southern prejudice we could think of”—to Governor Brian Kemp’s repeated use of coded language and insinuation during his (successful) campaigns against Stacey Abrams in 2018 and 2022. SUMF ¶¶ 184–90, 194; Burton Report 65–70 (quoting Dana Milbank, *The Destructionists: The Twenty-Five Year Crack-up of the Republican Party* 66 (2022)). During the 2022

gubernatorial election, Governor Kemp’s campaign deliberately darkened Abrams’s face in campaign advertisements “to create a darker, more menacing image,” while the 2020 U.S. Senate race saw implicit racial attacks on now-Senator Raphael Warnock and his church, the landmark Ebenezer Baptist Church. SUMF ¶¶ 191–93, Burton Report 68–70. These and other racial appeals have been amplified by local, state, and national news outlets since the 2016 election, SUMF ¶ 200; Exs. 14–25—thus ensuring that racialized campaigning remains an ingrained feature of Georgia’s political environment.

Notably, some racial appeals from recent Georgia campaigns carry haunting echoes of the state’s tragic history of discrimination and disenfranchisement. After Abrams planned a campaign rally in Forsyth County during the 2022 election, the local Republican Party issued a digital flyer attacking her and Senator Warnock and urging “conservatives and patriots” to “save and protect our neighborhoods”—a call reminiscent of the infamous Forsyth County pogrom in 1912, when Black residents were forcibly expelled. SUMF ¶ 195; Burton Report 70 (quoting Maya King, *In Georgia County With Racist History, Flier Paints Abrams as Invading Enemy*, N.Y. Times (Sept. 16, 2022), <https://www.nytimes.com/2022/09/16/us/politics/stacey-abrams-forsyth-georgia-republicans.html>).

Governor Kemp and other Georgia politicians have recently embraced another gambit with familiar undertones: the unsubstantiated specter of voter fraud in the Atlanta metropolitan area and other areas with large Black populations, which mirrors the efforts of white Georgians during and after Reconstruction to restrict and eliminate Black suffrage. SUMF ¶¶ 196, 199; Burton Report 70–74. Plurality-Black Fulton County has been at the center of these baseless allegations of fraud, with former President Donald Trump spreading conspiracy theories about the county as part of his effort to overturn Georgia’s 2020 election results. SUMF ¶ 197; Cooper Report Ex. D; Burton Report 73–74. In one particularly pernicious incident, two Black poll workers in Fulton County, Ruby Freeman and Shaye Moss, were targeted by former President Trump and his campaign with allegations that they had engaged in “surreptitious illegal activity”; the two women received harassing phone calls and death threats, often laced with racial slurs, with suggestions that they should be “strung up from the nearest lamppost and set on fire”—in Dr. Burton’s words, “horribly echoing the calls for lynchings of Black citizens from earlier years who were attempting to participate in the political process.” SUMF ¶ 198; Burton Report 73–74 (quoting Jason Szep & Linda So, *Trump Campaign Demonized Two Georgia Election Workers—and Death Threats Followed*, Reuters (Dec. 1, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia>).

Ultimately, although racial appeals might have become more coded in recent campaigns, they are no less insidious—and no less a facet of Georgia’s political landscape. *See* PI Order 215–17 (finding that “Plaintiffs have presented sufficient evidence for this factor to weigh in their favor”).

G. Senate Factor Seven: Black candidates in Georgia are underrepresented in office and rarely succeed outside of majority-minority districts.

As a consequence of Georgia’s history of voter suppression and racial discrimination, Black Georgians have struggled to win election to public office.

At the time of the Voting Rights Act’s passage, Black Georgians constituted 34% of the state’s voting-age population, and yet Georgia had only *three* elected Black officials. SUMF ¶ 201; Burton Report 35. By 1980, Black Georgians comprised just 3% of county officials in the state, the vast majority of whom were elected from majority-Black districts or counties. SUMF ¶ 202; Burton Report 41. That particular trend has not changed: While more Black Georgians have been elected to office in recent years, those officials are almost always from near-majority- or outright-majority-Black districts. SUMF ¶ 203; Burton Report 55–57. In the 2020 legislative elections, for example, no Black members of the Georgia House of Representatives were elected from districts where white voters exceeded 55% of the voting-age population, and no Black members of the Georgia State

Senate were elected from districts where white voters exceeded 47%. SUMF ¶ 204; Burton Report 56; *see also supra* at 19 (noting that Black-preferred candidates prevail only in focus area’s majority-Black congressional district).

Although Black Georgians now comprise more than 33% of the state’s population, SUMF ¶ 5; Cooper Report ¶ 16, fig.1, the Georgia Legislative Black Caucus had only 16 members in the State Senate and 52 members in the House after the 2020 election—less than 30% of each chamber. SUMF ¶ 205; Burton Report 56. Black officials have been underrepresented across Georgia’s statewide offices as well: Although Georgia recently reelected a Black member of the U.S. Senate, Senator Raphael Warnock is the *first* Black Georgian to hold that office—after more than 230 years of white senators. SUMF ¶ 206; Burton Report 53, 68; *see also* PI Order 217–18 (finding that “[b]ased on the evidence presented, . . . this factor [] weighs in Plaintiffs’ favor”).

H. Senate Factor Eight: Georgia is not responsive to its Black residents.

Although the Eleventh Circuit has noted that “[u]nresponsiveness is considerably less important under” a Section 2 results claim, *see Marengo Cnty.*, 731 F.2d at 1572, it is nonetheless true that Georgia has long neglected the needs of its Black residents. As discussed above, *see supra* at 29–33, Black Georgians face clear and significant disadvantages across a range of socioeconomic indicators,

including education, employment, and health, SUMF ¶ 207; Collingwood Report 3; Cooper Report ¶¶ 83–85. Dr. Collingwood articulated the inevitable conclusion; as he explained, “[i]t follows that the political system is relatively unresponsive to Black Georgians; otherwise, we would not observe such clear disadvantages in healthcare, economics, and education.” SUMF ¶ 208; Collingwood Report 4; *see also* PI Order 218–19 (finding that this factor “weighs in [Plaintiffs’] favor”).⁵

I. Senate Factor Nine: The justification for the new congressional map is tenuous.

Finally, no legitimate governmental interest justifies denying Black Georgians the ability to elect their candidates of choice. Defendants cannot justify the refusal to draw an additional majority-Black congressional district in the western Atlanta metropolitan area, especially given that drawing districts to account for the numerosity and compactness of Georgia’s Black community is required by the

⁵ As if to underscore the apathy (and antipathy) of certain elected officials, one of the districts into which Cobb County’s Black voters are cracked, Congressional District 14, *see supra* at 11, is currently represented by Congresswoman Marjorie Taylor Greene, who has a history of making racist statements and videos—claiming, among other things, that the Black community’s progress is hindered by Black gang activity, drugs, lack of education, Planned Parenthood, and abortions, SUMF ¶ 187; Burton Report 69. During the 117th Congress, the U.S. House of Representatives voted to strip Congresswoman Greene of her assignments on the House Budget and Education and Labor committees “in light of conduct she has exhibited.” SUMF ¶ 209; Exs. 26–27.

Voting Rights Act. *See* PI Order 219 (concluding that “[t]his factor [] weighs in Plaintiffs’ favor” because “Mr. Cooper’s illustrative maps demonstrate that it is possible to create such maps while respecting traditional redistricting principles—just as the Voting Rights Act requires”).

Nor, for that matter, can the enacted congressional map’s treatment of Cobb County and the western Atlanta suburbs be justified. As discussed above, *see supra* at 11–13, the enacted plan splits majority-non-white Cobb County into parts of four districts, including three majority-white districts: Congressional Districts 6, 11, and 14. SUMF ¶ 210; Cooper Report ¶¶ 60, 65, 73, fig.14. Southwest Cobb County—including its constituent Black voters—is inexplicably included in Congressional District 14, which stretches into Appalachian north Georgia and the suburbs of Chattanooga. SUMF ¶ 211; Cooper Report ¶¶ 60, 68, Ex. G. Douglas County is similarly divided; its western half is drawn into Congressional District 3, which stretches west and south into majority-white counties along the Alabama border. SUMF ¶ 212; Cooper Report Exs. D & G. While equal-population requirements might sometimes justify combining urban and rural voters, Mr. Cooper’s illustrative plan demonstrates that voters in the western Atlanta metropolitan area can be united in a single district comprising Douglas County and

parts of Cobb, Fulton, and Fayette counties, all of which are core counties under the ARC. SUMF ¶ 213; Cooper Report ¶ 68, Ex. H-1.

CONCLUSION

Despite having more than a year to prepare a defense of the enacted congressional plan, Defendants have left Plaintiffs' evidence effectively unrefuted. Any disputes that they and their experts have managed to raise are of a purely legal character—and were already considered by the Court and resolved in Plaintiffs' favor following last year's preliminary injunction proceeding.

Given that they have submitted credible, unrebutted expert evidence proving the required elements of a Section 2 vote-dilution claim, Plaintiffs respectfully request that the Court grant summary judgment in their favor and order the adoption of a new congressional plan for Georgia that complies with the requirements of federal law.

Dated: March 20, 2023

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing ***Brief in Support of Plaintiffs' Motion for Summary Judgment*** has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: March 20, 2023

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CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing ***Brief in Support of Plaintiffs' Motion for Summary Judgment*** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: March 20, 2023

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Pendergrass Doc. 189

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

COAKLEY PENDERGRASS; TRIANA
ARNOLD JAMES; ELLIOTT
HENNINGTON; ROBERT RICHARDS;
JENS RUECKERT; and OJUAN GLAZE,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-05339-SCJ

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

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INTRODUCTION

There's an old saying: Never let the truth get in the way of a good story. Defendants have taken that chestnut and run with it, deciding not to let the evidence get in the way of the legal narrative they crafted at the very outset of this case. The first thread of Defendants' story is that Plaintiffs' illustrative congressional plan necessarily constitutes an impermissible racial gerrymander—and thus Plaintiffs cannot satisfy the first *Gingles* precondition. The second thread is the belief that party, not race, explains Georgia's electoral polarization—and thus Plaintiffs cannot prove racially polarized voting. So committed are Defendants to these arguments that, even though the Court already *rejected both* in its preliminary injunction ruling, they now reappear on summary judgment.

But Defendants' story just doesn't hold water. Plaintiffs' illustrative congressional plan was drawn in compliance with traditional redistricting principles and unites voters with shared interest in the Atlanta suburbs. Defendants can point to nothing in the record—not even their own expert's testimony—to suggest that race impermissibly predominated in the map's creation. As for racially polarized voting, not only do Defendants have the legal standard backwards, but they also wholly disregard Plaintiffs' un rebutted evidence that race drives polarization in

Georgia's electorate. In short, the undisputed facts have disproved Defendants' preferred narrative.

Defendants' other contentions are no more availing. Given their statutory responsibility for ensuring fair and lawful elections, the members of the State Election Board are proper defendants in this matter. And proportionality does not weigh against Plaintiffs' claim—and certainly does not bar the relief they seek.

Defendants' motion proves nothing other than their dogged devotion to the same failed arguments they advanced over a year ago. Neither the law nor the facts are on their side, and their summary judgment motion should be denied.

ARGUMENT

I. The members of the State Election Board are proper defendants.

The members of the State Election Board ("SEB") are proper defendants in this action because they, along with the Secretary of State, have the legal responsibility to ensure the fair and lawful administration of Georgia's elections.

Among the SEB's statutorily enumerated responsibilities are "formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections." O.C.G.A. § 21-2-31(2). Given that Plaintiffs seek an order from this Court enjoining use of the enacted congressional map in future elections administered in part by the

SEB, *see* ECF No. 120 at 29–30, Plaintiffs’ injury is fairly traceable to the SEB’s conduct, and an injunction against the SEB’s ability to conduct congressional elections under the enacted map will redress that injury. This case is therefore distinguishable from *Jacobson v. Florida Secretary of State*, where the plaintiffs’ ballot-order injury was not fairly traceable to the secretary of state because county officials maintained sole and independent responsibility for placing candidates on the ballot. *See* 974 F.3d 1236, 1253–54 (11th Cir. 2020). Nor does *Lewis v. Governor of Alabama*, 944 F.3d 1287 (11th Cir. 2019) (en banc), help Defendants’ argument. There, the court determined that the Alabama “Attorney General’s litigating and opinion-giving authority” was insufficient to confer standing because he had no affirmative legal duty to actually do anything, and the speculative link between the plaintiffs’ injury and the relief they sought against him vitiated Article III’s traceability and redressability requirements. *Id.* at 1296–1306.

Here, by contrast, the SEB maintains broad powers and responsibilities in coordination with the Secretary of State—and an affirmative legal duty—to ensure the fair and orderly administration of elections. *See* O.C.G.A. §§ 21-2-31, 21-2-50. Accordingly, both the Secretary of State *and* the SEB are proper defendants.

That “Plaintiffs have not located any evidence that the named members of the SEB had any say in the design of the maps,” ECF No. 175-1 (“Defs.’ Mot.”) at 13,

is of little moment—Plaintiffs seek to enjoin *use* of the maps, making election administrators (as opposed to map-drawers) the appropriate defendants, *see, e.g., Brown v. Jacobsen*, 590 F. Supp. 3d 1273, 1284–85 (D. Mont. 2022) (three-judge court); *La. State Conf. of NAACP v. Louisiana*, 490 F. Supp. 3d 982, 1030–31 (M.D. La. 2020). Nor does it matter that “Plaintiffs have produced no evidence in discovery that any of the individually named SEB members . . . implement the maps in any substantive way,” Defs.’ Mot. 14, since, “in the absence of clear evidence to the contrary, courts presume that [public officers] have properly discharged their official duties,” *United States v. Chem. Found., Inc.*, 272 U.S. 1, 14–15 (1926). Given their statutory obligation to oversee Georgia’s elections, the SEB’s role in implementing the congressional map can be assumed.

II. Plaintiffs have readily satisfied the first *Gingles* precondition.

Plaintiffs have satisfied the first *Gingles* precondition because the illustrative congressional plan prepared by their mapping expert, William Cooper, complies with traditional redistricting principles and was not drawn based predominantly on race.

A. Race did not predominate in Mr. Cooper’s illustrative plan.

Although Defendants claim that “[t]he evidence demonstrates that Plaintiffs have gone beyond” the limited consideration of race acceptable under Section 2, Defs.’ Mot. 14, they provide *no* actual evidence that makes this demonstration.

Defendants’ predominance argument hinges primarily on Mr. Cooper’s alleged “use[of] racial shading and other” unspecified “techniques” to draw a new majority-Black congressional district, *id.* at 15, but the purportedly supporting citation they point to earlier in their brief does not substantiate this claim. Far from admitting that he used racial shading as the predominant tool to draw his illustrative plan, Mr. Cooper explained only that he “*sometimes*” observed “little dots showing where the minority population is concentrated” and thus was “*aware*” of racial information. Pls.’ Statement of Additional Material Facts (“SAMF”) ¶ 1; Ex. 7 (“Cooper Dep.”) at 24:12–25:6 (emphases added).¹

Mr. Cooper’s awareness of demographic information is a far cry from the use of race in *Miller v. Johnson*, 515 U.S. 900 (1995), which Defendants invoke using a misleading parenthetical, *see* Defs.’ Mot. 15. There, the federal government “was driven by its policy of maximizing majority-black districts” when preclearing

¹ All exhibits are attached to the Declaration of Jonathan P. Hawley, filed concurrently with this response.

Georgia’s congressional plan, with one lawyer explaining that “what we did and what I did specifically was to take a map of the State of Georgia shaded for race, shaded by minority concentration, and overlay the districts that were drawn by the State of Georgia and see how well those lines adequately reflected black voting strength.” *Miller*, 515 U.S. at 924–25 (cleaned up). Mr. Cooper did *not* attempt to maximize the number of majority-Black districts in his illustrative plan. SAMF ¶ 2; Cooper Dep. 18:18–19:18. Instead, he was asked to “determine whether the African American population in Georgia is ‘sufficiently large and geographically compact’ to allow for the creation of *an* additional majority-Black congressional district in the Atlanta metropolitan area,” and concluded that this was the case. SAMF ¶¶ 3–4; Ex. 1 (“Cooper Report”) ¶¶ 8, 10 (emphasis added). Mr. Cooper attested that neither race nor any other single factor predominated in the drawing of his illustrative plan, SAMF ¶ 5; Cooper Report ¶ 50, and Defendants have adduced no evidence to the contrary.

The expert report prepared by Defendants’ mapping expert, John Morgan, certainly provides no compelling analysis to suggest that race predominated in the creation of Mr. Cooper’s illustrative plan, *see* ECF No. 173-1 (“Pls.’ Mot.”) at 13–16—which might explain why neither his report nor even his name appears in Defendants’ summary judgment brief. Notably, while Mr. Morgan opined that the

illustrative state legislative plans prepared by Mr. Cooper and Blake Esselstyn in related cases “are focused on race, prioritizing race to the detriment of traditional redistricting factors,” Expert Report of John B. Morgan ¶ 6, *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, No. 1:21-CV-05337-SCJ (N.D. Ga. Mar. 20, 2023), ECF No. 231-6; Expert Report of John B. Morgan ¶ 6, *Grant v. Raffensperger*, No. 1:22-CV-00122-SCJ (N.D. Ga. Mar. 20, 2023), ECF No. 192-3, no such opinion appears in Mr. Morgan’s report in *this* case. It is telling, to say the least, that Defendants’ own expert apparently does not support the racial predominance argument they advance here.

At most, the evidence suggests that Mr. Cooper was *aware* of race when he drew his illustrative congressional plan. Mere consciousness of race is neither comparable to *Miller*’s admitted racial predominance nor otherwise suspect. To the contrary, the U.S. Supreme Court has acknowledged that a “legislature always is *aware* of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors. That sort of race consciousness does not lead inevitably to impermissible race discrimination.” *Shaw v. Reno*, 509 U.S. 630, 646 (1993).

At any rate, the Eleventh Circuit has expressly rejected “apply[ing] authorities such as *Miller* to [a] Section Two case . . . because the *Miller* and *Gingles*[] lines

address very different contexts.” *Davis v. Chiles*, 139 F.3d 1414, 1425 (11th Cir. 1998); *see also, e.g., Robinson v. Ardoin*, 37 F.4th 208, 223 (5th Cir. 2022) (per curiam) (“[W]e have rejected the proposition that a plaintiff’s attempt to satisfy the first *Gingles* precondition is invalid if the plaintiff acts with a racial purpose.”). Section 2 “*require[s]* plaintiffs to show that it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate.” *Davis*, 139 F.3d at 1425; *see also Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality opinion) (applying “objective, numerical” requirement that “minorities make up more than 50 percent of the voting-age population in the relevant geographic area”). The gambit that Defendants have once again adopted—dismissing any illustrative plan as an impermissible gerrymander—is neither supported nor justifiable; “[t]o penalize [plaintiffs] for attempting to make the very showing that *Gingles*[and its progeny] demand would be to make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action.” *Davis*, 139 F.3d at 1425. Defendants’ position is not the law—nor should it be.

B. Mr. Cooper’s illustrative plan adheres to traditional redistricting principles.

Even if Defendants had mustered more compelling direct evidence of racial predominance, there is no indication that Mr. Cooper “subordinate[d] other factors,

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

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for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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such as compactness or respect for political subdivisions, to racial considerations.” ECF No. 97 (“PI Order”) at 87. Far from it, his illustrative congressional plan complies with traditional redistricting principles such as “compactness, contiguity, and respect for political subdivisions,” which “serve[s] to defeat a claim that a district has been gerrymandered on racial lines.” *Shaw*, 509 U.S. at 647.

As discussed at greater length in Plaintiffs’ summary judgment brief, *see* Pls.’ Mot. 8–16, Mr. Cooper’s illustrative plan indisputably complies with neutral redistricting criteria such as population equality, contiguity, compactness, and minimization of political subdivision splits; indeed, Defendants do not contend otherwise. As in the enacted plan, population deviations in Mr. Cooper’s illustrative plan are limited to plus-or-minus one person from the ideal district population, and his districts are contiguous. SAMF ¶¶ 6–8; Cooper Report ¶¶ 52–53, fig.11; Ex. 9 (“Morgan Dep.”) at 62:4–7, 62:14–17. The mean and lowest compactness scores of Mr. Cooper’s illustrative plan are similar or identical to the corresponding scores for the enacted plan and Georgia’s prior congressional plan. SAMF ¶¶ 9–10; Cooper Report ¶¶ 78–79 & n.12, fig.13; Ex. 5 (“Morgan Report”) ¶ 22; Morgan Dep. 55:18–57:5. Mr. Cooper’s additional majority-Black district, illustrative Congressional District 6, is as compact as the average for the enacted plan on the Polsby-Popper scale, more compact than the enacted plan’s average on the Reock scale, and more

compact than the enacted Congressional District 6 on both measures. SAMF ¶¶ 11–12; Cooper Report Exs. L-1 & L-3; Morgan Dep. 57:15–60:2. And although both Mr. Cooper’s illustrative plan and the enacted plan split 15 counties, the illustrative plan scores better in terms of county splits (unique county/district combinations), split municipalities, municipality splits (unique municipality/district combinations), and voting district splits. SAMF ¶¶ 13–15; Cooper Report ¶¶ 81–82, fig.14; Morgan Report ¶ 20; Morgan Dep. 44:6–46:16, 54:7–11, 54:18–55:6.

Defendants’ primary criticism of Plaintiffs’ illustrative plan—that Mr. Cooper “was unable to identify factors that connected areas of his new majority-Black district beyond the common community of interest shared by all Black individuals,” Defs.’ Mot. 15—ignores that illustrative Congressional District 6 unites Atlanta-area urban and suburban voters in Cobb, Douglas, Fulton, and Fayette counties, all of which are core metro counties under the Atlanta Regional Commission. SAMF ¶¶ 16–18; Cooper Report ¶¶ 60, 65, 68, 73; Exs. G & H-1; *see also* PI Order 79–85 (finding that “Mr. Cooper’s Illustrative Congressional Plan sufficiently respects communities of interest in the western Atlanta metropolitan area” given “the relative geographic proximity . . . of the proposed district” and “that the areas constituting illustrative Congressional District 6 are developed and suburban in nature and generally face the same infrastructure, medical care, educational, and other critical

needs”). As Mr. Cooper explained in his report, his illustrative Congressional District 6 is “drawn in a compact fashion that keeps Atlanta-area urban/suburban/exurban voters together. In sharp contrast, the [enacted plan] . . . inexplicably mixes Appalachian North Georgia with urban/suburban Metro Atlanta.” SAMF ¶ 19; Cooper Report ¶ 68. Defendants disregard not only illustrative Congressional District 6’s undeniably suburban character, but also Mr. Cooper’s testimony describing this commonality.

In short, this is not a case where an illustrative district combines “disparate communities of interest” with “differences in socio-economic status, education, employment, health, and other characteristics” across an “enormous geographical distance.” *LULAC v. Perry*, 548 U.S. 399, 435 (2006) (plurality opinion) (cleaned up). Mr. Cooper’s illustrative Congressional District 6 is not only compact as measured by traditional redistricting principles—it also unites “nonracial communities of interest” in the western Atlanta metropolitan area. *Id.* at 433.²

² Defendants cite excerpts from Mr. Cooper’s deposition transcript that supposedly show a lack of connection between various Black populations, *see* Defs.’ Mot. 16–17, but significantly, none of that testimony involves illustrative Congressional District 6.

C. Mr. Cooper’s illustrative plan is a permissible remedy.

While “[a] district court must determine as part of the *Gingles* threshold inquiry whether it can fashion a permissible remedy in the particular context of the challenged system,” *Nipper v. Smith*, 39 F.3d 1494, 1530–31 (11th Cir. 1994) (en banc) (opinion of Tjoflat, C.J.), Defendants have identified no meaningful deficiencies with Mr. Cooper’s illustrative plan that would render it an impermissible remedy.

Defendants fault Mr. Cooper’s purported inability to identify the common interests of Black voters in different parts of congressional districts *other* than the new majority-Black district. *See* Defs.’ Mot. 16–17. But the Section 2 compactness inquiry relates to the “compactness of the minority population” whose voting strength is improperly diluted. *LULAC*, 548 U.S. at 433. Because the compactness of the minority group is used to assess “the opportunity that § 2 requires [and] that the first *Gingles* condition contemplates,” *id.*, there is neither a requirement nor a reason for Plaintiffs to demonstrate the shared interests of communities outside of the geographic area where they have alleged vote dilution. And here, as discussed above, *see supra* at 10–11, Mr. Cooper’s illustrative Congressional District 6 satisfies the relevant compactness requirement by combining communities with shared interests in the western Atlanta suburbs. Ultimately, Defendants’ criticisms

are not only practically unfounded—homogeneity is neither a desirable nor a feasible outcome when drawing congressional districts—but legally misguided as well.

Any other isolated critiques of Mr. Cooper’s illustrative congressional plan are not dispositive or even revealing. The U.S. Supreme Court has explained that the “impossibly stringent” standard of perfect districting is “unattainable” and not required under the Voting Rights Act. *Bush v. Vera*, 517 U.S. 952, 977 (1996) (plurality opinion). Just as Section 2 requires only an illustrative majority-minority district “that is *reasonably* compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries,” so it follows that an illustrative plan as a whole need not “defeat rival[s] . . . in endless ‘beauty contests.’” *Id.* After all, “[i]llustrative maps are just that—illustrative. The Legislature need not enact any of them.” *Robinson*, 37 F.4th at 223. To the extent Defendants might prefer a different remedial map, they can take that up with the Georgia General Assembly after a liability ruling, since “states retain broad discretion in drawing districts to comply with the mandate of § 2.” *Shaw v. Hunt*, 517 U.S. 899, 917 n.9 (1996). The State of Georgia (or, if needed, this Court)

would be free to adopt an alternative map so long as it remedies the unlawful dilution of Black voting strength in the western Atlanta metropolitan area.³

III. Plaintiffs have proved legally significant racially polarized voting.

Just as the Court concluded following the preliminary injunction proceedings, *see* PI Order 209–10, Plaintiffs have satisfied the applicable test for racially polarized voting.

At the outset, Defendants contend that the causes of racially polarized voting are properly considered as part of the first two *Gingles* preconditions, as opposed to the second Senate Factor. Although they acknowledge that “courts disagree on” this point, they casually conclude that “this minor disagreement does not matter much.” Defs.’ Mot. 24–25. This is simply disingenuous: The distinction matters a great deal, since while “there is no requirement that any particular number of [Senate F]actors be proved, or that a majority of them point one way or the other,” the *Gingles* preconditions are “*necessary*” to prove unlawful vote dilution under Section 2.

³ Moreover, even if the racial-gerrymandering doctrine could be mechanically applied to the first *Gingles* precondition—it cannot, *see supra* at 7–8—and even if race predominated over other factors in the illustrative plan—it did not, *see supra* at 5–11—Mr. Cooper’s illustrative Congressional District 6 would be permissible because it would survive strict scrutiny, *see Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1305 (N.D. Ga. 2013), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Thornburg v. Gingles, 478 U.S. 30, 45, 50 (1986) (emphasis added) (quoting S. Rep. No. 97-417, pt. 1, at 29 (1982)).

While the second and third *Gingles* preconditions provide the *quantitative* basis to assess “whether voting is racially polarized and, if so, whether the white majority is usually able to defeat the minority bloc’s candidates,” *Brooks v. Miller*, 158 F.3d 1230, 1240 (11th Cir. 1998), the *qualitative* underpinnings of that polarization are properly understood as part of the totality-of-circumstances analysis, *see, e.g., Rose v. Raffensperger*, No. 1:20-cv-02921-SDG, 2022 WL 3135915, at *12 (N.D. Ga. Aug. 5, 2022), *appeal docketed*, No. 22-12593 (11th Cir. Aug. 8, 2022). As the Eleventh Circuit has explained, satisfaction of the *Gingles* preconditions creates an inference of racial bias, since “[t]he surest indication of race-conscious politics is a pattern of racially polarized voting.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1567 (11th Cir. 1984); *see also Nipper*, 39 F.3d at 1525–26; *Sanchez v. Colorado*, 97 F.3d 1303, 1310 (10th Cir. 1996) (*Gingles* preconditions “create[] the inference the challenged practice is discriminatory”). After a Section 2 plaintiff has established the requisite minority cohesion and bloc voting under *Gingles*, “[t]he weight that should be placed on the extent of such polarization—and any link to partisanship—must necessarily be part of the totality-of-the-circumstances analysis under the second Senate Factor.” PI Order 174–75;

see also, e.g., Lewis v. Alamance County, 99 F.3d 600, 615 n.12 (4th Cir. 1996) (“We think the best reading of the several opinions in *Gingles* . . . is one that treats causation as irrelevant in the inquiry into the three *Gingles* preconditions but relevant in the totality of circumstances inquiry.” (citations omitted)). But this is not an inquiry required as part of the threshold *Gingles* preconditions.⁴

A. Plaintiffs have satisfied their burden as to racially polarized voting.

Under circuit precedent, Plaintiffs have proved the existence of legally significant racially polarized voting.

As discussed at length in Plaintiffs’ summary judgment brief, *see* Pls.’ Mot. 16–19, 25–28, Dr. Maxwell Palmer demonstrated that, in the area where they have proposed a new majority-Black congressional district, Black voters overwhelmingly support their candidates of choice and white voters consistently and cohesively vote in opposition to Black-preferred candidates, SAMF ¶¶ 20–28; Ex. 2 (“Palmer Report”) ¶¶ 7, 16–17, 19–20, figs.2, 3 & 4, tbls.1, 2, 3, 4, 5, & 6; Ex. 3 ¶¶ 4–5, fig.1, tbl.1; Ex. 6 (“Alford Report”) at 3; Ex. 10 (“Alford Dep.”) at 37:13–15, 38:20–39:8, 44:8–16, 45:10–12. Far from disputing this polarization, Defendants’ quantitative

⁴ Considering racially polarized voting as part of the totality-of-circumstances inquiry also makes logical sense: If that analysis were already subsumed in the *Gingles* preconditions, then the second Senate Factor would be superfluous.

expert, Dr. John Alford, *confirmed* it, both in his expert report, *see* Alford Report 3 (“As evident in Dr. Palmer’s [reports], the pattern of polarization is quite striking.”), and in his deposition, *see* Alford Dep. 44:8–16, 45:10–12 (“This is clearly polarized voting, and the stability of it across time and across office and across geography is really pretty remarkable.”). Voting in this area of Georgia is undeniably polarized along racial lines, thus creating an “inference that racial bias is at work.” *Nipper*, 39 F.3d at 1525. This showing satisfies Plaintiffs’ burden.

Defendants assert that “Plaintiffs must . . . *prove*” that “*race*, not *party*, is the cause of” polarization, Defs.’ Mot. 28, but the Eleventh Circuit has never held that Section 2 requires an affirmative showing that voters are motivated by race when evaluating the existence of racially polarized voting as part of the totality of circumstances. In fact, it has indicated the *opposite*, reversing a district court’s insistence that a Section 2 plaintiff “indicate that race was an overriding or primary consideration in the election of a candidate.” *City of Carrollton Branch of NAACP v. Stallings*, 829 F.2d 1547, 1556 (11th Cir. 1987). In so doing, the court reiterated the *Gingles* plurality position on this issue: “[R]acially polarized voting, as it relates to claims of vote dilution, refers only to the existence of a correlation between the race of voters and the selection of certain candidates.” *Id.* at 1557 (quoting *Gingles*, 478 U.S. at 74). Thus, “Plaintiffs need not prove causation or intent in order to prove

a prima facie case of racial bloc voting.” *Id.* at 1557–58 (quoting *Gingles*, 478 U.S. at 74); *see also, e.g., Rose*, 2022 WL 3135915, at *12 (“The Secretary cannot point to a single case establishing that, even if [the *Gingles* preconditions and Senate Factors] are satisfied, a plaintiff must still prove that race independent of partisanship explains the discriminatory effect. That is not the law, and this Court will not impose such a requirement.”).

To the extent that courts consider potential causes of polarization, moreover, it is *Defendants’* burden to *disprove* racial motivation among the electorate. It is possible, as the Eleventh Circuit has noted, that “[o]ther circumstances may indicate that both the degree and nature of the bloc voting weigh against an ultimate finding of minority exclusion from the political process,” since “what appears to be bloc voting on account of race may, instead, be the result of political or personal affiliation of different racial groups with different candidates.” *Solomon v. Liberty Cnty. Comm’rs*, 221 F.3d 1218, 1225 (11th Cir. 2000) (en banc). But significantly, the “inference [of] racial bias” created by the *Gingles* preconditions “will endure *unless and until* the defendant adduces credible evidence tending to prove that detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system.” *Uno v. City of Holyoke*, 72 F.3d 973, 983 (1st Cir. 1995). Defendants thus have the burden precisely backwards: The

onus is on *them* to “rebut proof of vote dilution by showing that losses by minority-preferred candidates are attributable to non-racial causes.” *Nipper*, 39 F.3d at 1526.

B. Defendants have failed to rebut Plaintiffs’ proof of vote dilution.

There is no question that Defendants have failed to disprove the inference that racial bias causes polarized voting in Georgia. Defendants repeatedly *suggest* that partisanship and not race is responsible for the polarization that Drs. Palmer and Alford identified, but they have not provided a shred of probative evidence to *prove* this is the case.

The testimony of their only expert on this issue underscores their failure to meet their burden. Dr. Alford concluded in his report that “the voting pattern is clearly one of partisan polarized voting, with both highly cohesive Black vote for the Democrat and highly cohesive white vote for the Republican candidate.” Alford Report 9. But he undertook *no* research or analysis to support his assertion that partisanship and not race explains the polarization. Instead, Dr. Alford simply looked at Dr. Palmer’s data and drew different inferences—and the data cannot support his expansive, unwarranted conclusions.

Most significantly, although Dr. Alford emphasized that the data show “cohesive Black voter support for *Democratic* candidates, and white voter support for *Republican* candidates,” *id.*, these same empirical results would be seen if Black

Georgians voted Democratic (and white Georgians voted Republican) *because of race*—in other words, if race were indeed the root cause of the polarization. Dr. Alford conceded as much, noting that the data “doesn’t demonstrate that” partisan behavior is not “actually being driven by racial considerations.” SAMF ¶ 29; Alford Dep. 109:15–111:1. The partisan breakdown of the data cannot support the causal weight Dr. Alford places on it; the objective numbers alone say nothing about what “*motivated* [the] voting patterns” Dr. Palmer reported, and Dr. Alford did not undertake that inquiry. *Nipper*, 39 F.3d at 1515 (emphasis added). Moreover, “*Gingles* . . . requires Plaintiffs to show that voting is both racially polarized *and* politically cohesive. This necessarily means that the correlation between race and partisan voting must be high, or else there would be no discernable evidence of cohesive bloc voting.” *Rose*, 2022 WL 3135915, at *7. Far from undermining Plaintiffs’ showing, the presence of a stark partisan divide supports it.

Dr. Alford also concluded that race has no effect on polarization because the data do not show “cohesive Black voter support for *Black* candidates and white voter support for *white* candidates.” Alford Report 9. But he also admitted that the race of candidates is not the *only* role race might play in a voter’s decision, SAMF ¶ 30; Alford Dep. 99:14–100:7, and therefore he cannot foreclose the possibility of racial motivation based solely on this single racial cue. Indeed, Dr. Alford conceded that

race likely plays a role in shaping voters' party preferences. SAMF ¶ 30; 99:14–100:7, 134:19–135:18 (“[T]here’s certainly room for race to be involved in decision-making in a wide variety of ways.”). He did *not*, however, explore the role of race in shaping political behavior, either generally or in this case. SAMF ¶ 31; Alford Dep. 12:15–18, 115:12–116:10, 132:8–133:15.

In short, Dr. Alford’s conclusion that party and not race explains the stark voting polarization reported by Dr. Palmer is based on nothing more than speculation. Under the most generous standard available to them, it is Defendants’ burden to “introduc[e] *evidence* of objective, non-racial factors” that caused the polarization that Plaintiffs demonstrated. *Nipper*, 39 F.3d at 1513 (emphasis added). Dr. Alford’s report falls well short of this burden; having reviewed Dr. Palmer’s data, he merely drew competing (and unsupported) inferences but *did not prove* that factors other than race motivated the decisions of Georgia voters. Indeed, he admitted that he could *not* have made such a showing by only considering the results of Dr. Palmer’s ecological inference analysis. SAMF ¶ 32; Alford Dep. 82:17–84:14, 90:4–91:9 (“EI is never going to answer a causation question. . . . Establishing causation is a very difficult scientific issue[.]”).⁵

⁵ The shortcomings in Dr. Alford’s report reflect those of the Secretary of State’s racially polarized voting expert in *Rose*, whose analysis was “of limited utility”

In short, while “Plaintiffs have proven both political cohesion and racial polarization,” Defendants have “not offered any evidence of an alternate explanation for why minority-preferred candidates are less successful, such as ‘organizational disarray, lack of funds, want of campaign experience, the unattractiveness of particular candidates, or the universal popularity of an opponent.’” *Rose*, 2022 WL 3135915, at *14 (quoting *Uno*, 72 F.3d at 983 n.4). Having failed to rebut the inference of racial bias established by Plaintiffs’ evidence, Defendants are not entitled to summary judgment on this issue. To the contrary, summary judgment in *Plaintiffs’* favor is warranted.

C. Plaintiffs demonstrated that voting in Georgia is polarized on account of race.

Defendants contend that “Plaintiffs’ claim fails under Section 2 because they ‘have not even attempted to establish proof of racial bloc voting by demonstrating that race, not . . . partisan affiliation, is the predominant determinant of political preference.’” Defs.’ Mot. 28 (alteration in original) (quoting *LULAC, Council No. 4434 v. Clements*, 999 F.2d 831, 855 (5th Cir. 1993) (en banc)). Setting aside that

because he “did not consider the impact of race on party affiliation, which was a crucial omission. Indeed,” like Dr. Alford, “[he] conceded that his model did not account for factors that may determine partisanship, including race or racial identity.” 2022 WL 3135915, at *7.

Plaintiffs need not make this showing in the first instance, *see supra* at 17–19, Defendants are simply incorrect: Plaintiffs *did* prove that race drives political preferences in Georgia.

Plaintiffs’ Senate Factors expert, Dr. Orville Vernon Burton, explored the relationship between race and partisanship in Georgia politics. SAMF ¶ 33; Ex. 4 (“Burton Report”) at 57–62.⁶ As he explained,

[s]ince Reconstruction, conservative whites in Georgia and other southern states have more or less successfully and continuously held onto power. While the second half of the twentieth century was generally marked by a slow transition from conservative white Democrats to conservative white Republicans holding political power, the reality of conservative white political dominance did not change.

SAMF ¶ 35; Burton Report 57. Notably, the Democratic Party’s embrace of civil rights legislation in the mid-20th century—and the Republican Party’s opposition to it—was the catalyst for this political transformation, as Black voters left the Republican Party (the “Party of Lincoln”) for the Democratic Party. SAMF ¶ 36; Burton Report 57–58. In turn, the Democratic Party’s embrace of civil rights sparked the “Great White Switch,” in which white voters abandoned the Democratic Party for the Republican Party. SAMF ¶ 37; Burton Report 58.

⁶ Notably, Dr. Alford did not review Dr. Burton’s conclusions on this issue, SAMF ¶ 34; Alford Dep. 16:3–14, and certainly provided no grounds to refute them.

Electoral politics in the postwar American South illustrated this phenomenon. During the 1948 presidential election, South Carolina Governor Strom Thurmond mounted a third-party challenge to Democratic President Harry Truman in protest of Truman's support for civil rights, including his integration of the armed forces. SAMF ¶ 38; Burton Report 58. Thurmond ran on the ticket of the so-called Dixiecrat Party, which claimed the battle flag of the Confederacy as its symbol, and ended Democratic dominance of the Deep South by winning South Carolina, Alabama, Mississippi, and Louisiana. SAMF ¶ 38; Burton Report 58. Sixteen years later, in 1964, Republican presidential nominee Barry Goldwater—who told a group of Southern Republicans that it was better for the Republican Party to forgo the “Negro vote” and instead court white Southerners who opposed equal rights—became the first Republican candidate to win Georgia's electoral votes. SAMF ¶¶ 39–40; Burton Report 58–59. Four years after that, third-party candidate George Wallace won Georgia's electoral votes after running on a platform of vociferous opposition to civil rights legislation. SAMF ¶ 41; Burton Report 58.

The effectiveness of what was called the “Southern strategy” during Richard Nixon's presidency had a profound impact on the development of the nearly all-white modern Republican Party in the South, including in Georgia. SAMF ¶ 42; Burton Report 59. Matthew D. Lassiter, an historian of the Atlanta suburbs, observed

that “the law-and-order platform at the center of Nixon’s suburban strategy tapped into Middle American resentment toward antiwar demonstrators and black militants but consciously employed a color-blind discourse that deflected charges of racial demagoguery.” SAMF ¶ 43; Burton Report 60 (quoting Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* 234 (2006)). As Dr. Burton concluded, “[w]hite southerners abandoned the Democratic Party for the Republican Party because the Republican Party identified itself with racial conservatism. Consistent with this strategy, Republicans today continue to use racialized politics and race-based appeals to attract racially conservative white voters.” SAMF ¶ 44; Burton Report 59.

The significant impact of race on Georgia’s partisan divide can be further seen in the opposing positions taken by officeholders of the two major political parties on issues inextricably linked to race. For example, the Democratic and Republican members of Georgia’s congressional delegation consistently oppose one another on issues related to civil rights, according to a report prepared by the NAACP. SAMF ¶ 45; Burton Report 74–75. These opposing attitudes extend to voters as well: In a poll of 3,291 likely Georgia voters conducted just before the 2020 election, among voters who believed that racism was the most important issue facing the country, 78% voted for Joe Biden and 20% voted for Donald Trump; among voters who

believed that racism was “not too or not at all serious,” 9% voted for Biden and 90% voted for Trump; and among voters who believed that racism is a serious problem in policing, 65% voted for Biden and 33% voted for Trump. SAMF ¶ 46; Burton Report 76. The Pew Research Center found a similar divergence on racial issues between Democratic and Republican voters nationwide. SAMF ¶ 47; Burton Report 75–76.⁷

Dr. Burton concluded that racial bloc voting “is so strong, and race and partisanship so deeply intertwined, that statisticians refer to it as multicollinearity, meaning one cannot, as a scientific matter, separate partisanship from race in Georgia elections.” SAMF ¶ 49; Burton Report 61; *see also* *Rose*, 2022 WL 3135915, at *13 (“[T]he Court is heavily persuaded by . . . testimony that it is impossible to separate race from politics in current-day Georgia, even if that were

⁷ Dr. Burton further noted that, while “Republicans nominated a Black candidate—Herschel Walker, a former University of Georgia football legend—to challenge Senator Raphael Warnock in the 2022 general election for U.S. Senate”—a fact Defendants previously cited as “tend[ing] to indicate a lack of racism in Georgia politics,” ECF No. 40 at 19—“Walker’s nomination only underscores the extent to which race and partisanship remain intertwined. Republican leaders in Georgia admittedly supported Walker because they wanted to ‘peel[] off a handful of Black voters’ and ‘reassure white swing voters that the party was not racist,’” SAMF ¶ 48; Burton Report 61 (quoting Cleve R. Wootson Jr., *Herschel Walker’s Struggles Show GOP’s Deeper Challenge in Georgia*, Wash. Post, <https://www.washingtonpost.com/politics/2022/09/22/herschel-walker-georgia-black-voters> (Sept. 22, 2022)).

required under the [Voting Rights Act]. . . . [R]ace likely drives political party affiliation, not the other way around.”). Tellingly, Defendants completely ignore this evidence in their summary judgment motion; Dr. Burton’s name appears not once in their brief.⁸ Instead, their brief uses the phrase “race-neutral partisan politics,” Defs.’ Mot. 17—a contradiction in terms, since Dr. Burton’s historical analysis (and, indeed, *any* realistic appraisal of Georgia’s political history) belies the notion that partisan politics is somehow devoid of racial motivation.

* * *

Once again, Defendants’ rush to advance a predetermined legal argument has run up against the evidence in the record. Although Plaintiffs need not demonstrate in the first instance that race and not partisanship is the case of polarized voting—their satisfaction of the *Gingles* preconditions presupposes as much—Dr. Burton’s un rebutted testimony proves that this is indeed the case.

⁸ Indeed, Defendants baldly assert that “Plaintiffs’ experts studiously avoided any analysis of the cause of the polarization they found,” Defs.’ Mot. 4, notwithstanding Dr. Burton’s analysis of this very issue—calling into question whether Defendants have actually engaged with the evidence before the Court.

D. This Court’s approach to racially polarized voting is consistent with Section 2, *Gingles*, and the U.S. Constitution.

Given that they have mischaracterized the proper standard for racially polarized voting and ignored Plaintiffs’ unrebutted evidence that race does indeed motivate the electoral polarization that Drs. Palmer and Alford observed, Defendants’ discussion of other circuits’ caselaw and the constitutionality of Section 2 amounts to little more than an academic digression. *See* Defs.’ Mot. 18–27. Plaintiffs nevertheless respond to emphasize that the standard for racially polarized voting adopted by this Court (and, for that matter, the Eleventh Circuit) is consistent with precedent and the U.S. Constitution.

First, Defendants fault this Court for adopting the *Gingles* plurality’s standard for polarized voting, suggesting that “a closer review of the opinions shows that a majority of the justices . . . declined to endorse this approach to majority-bloc voting.” Defs.’ Mot. 18. This is simply untrue. The *Gingles* majority “adopt[ed a] definition of ‘racial bloc’ or ‘racially polarized’ voting” that was premised on “*correlation*”; specifically, that “‘racial polarization’ exists where there is a consistent relationship between the race of the voter and the way in which the voter votes.” 478 U.S. at 53 n.21 (cleaned up) (emphasis added). Not only is that the standard this Court adopted, *see* PI Order 174–76, but it is *precisely* what Dr. Palmer proved (and Dr. Alford confirmed).

A close reading of Justice White’s *Gingles* concurrence demonstrates that the separate position he articulated is consistent with that definition of racially polarized voting. While Justice White disagreed with the *Gingles* plurality’s position that causation is *never* relevant to the racially polarized voting analysis, he did not suggest that causation is *always* relevant. To the contrary, Justice White acknowledged that, “on the facts of [that] case,” there was “*no need*” to analyze causation. *Gingles*, 478 U.S. at 83 (White, J., concurring) (emphasis added). Nor, under Justice White’s reasoning, is there a need to analyze causation in *this* case, as his reservations implicated hypotheticals that simply do not apply here.

Specifically, Justice White noted that where significant numbers of Black voters support white candidates of choice, an inference that electoral decisions might be motivated by issues other than race—such as the “interest-group politics” that Defendants reference, Defs.’ Mot. 19—might indeed be drawn, *see Gingles*, 478 U.S. at 83 (White, J., concurring). But that hypothetical is completely divorced from contemporary political realities in Georgia.

As Dr. Palmer reported and Dr. Alford agreed, there is virtually *no* Black crossover voting for white-preferred candidates where Plaintiffs have proposed an additional majority-Black congressional district. Across that area, Black voters supported their candidates of choice with an average of 98.4% of the vote in the 40

elections Dr. Palmer examined. SAMF ¶ 22; Palmer Report ¶¶ 7, 16. Under such circumstances—where voting is dramatically polarized along racial lines and there is no indication that non-racial interest-group politics is confounding the results—there is “a sufficient inference that racial bias is at work.” *Nipper*, 39 F.3d at 1525. This Court was therefore correct in concluding that “Plaintiffs need not prove the causes of racial polarization,” PI Order 174, especially given Defendants’ failure to produce evidence identifying non-racial causes for the polarization.

Second, Defendants discourse on the constitutionality of a Section 2 standard that would impose liability in cases where partisanship impacts polarization. Given Plaintiffs’ evidence that race *does* motivate both partisanship and the polarization reported by Dr. Palmer, these concerns are misplaced. Defendants’ argument is also foreclosed by Eleventh Circuit precedent, *see Marengo Cnty. Comm’n*, 731 F.2d at 1550 (“[A]mended section 2 is a constitutional exercise of congressional enforcement power under the Fourteenth and Fifteenth Amendments.”), and for good reason. The *Gingles* preconditions and Senate Factors constitute “objective indicia that ordinarily would show whether the voting community as a whole is driven by racial bias as well as whether the contested electoral scheme allows that bias to dilute the minority group’s voting strength,” *Nipper*, 39 F.3d at 1534—thus

establishing the requisite link between the challenged vote dilution and the racial discrimination that the Fifteenth Amendment was designed to redress.

In any event, Defendants cannot isolate just one factor from the “totality” and pronounce it a poison pill to the entire Section 2 inquiry. *See Johnson v. De Grandy*, 512 U.S. 997, 1011 (1994) (“[T]he ultimate conclusions about equality or inequality of opportunity were intended by Congress to be judgments resting on comprehensive, not limited, canvassing of relevant facts.”). Indeed, as the *Gingles* Court explained, “[t]he essence of a § 2 claim is that a certain electoral law, practice, or structure *interacts* with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives.” 478 U.S. at 47 (emphasis added). The results test is designed to operate at the intersection of race, politics, and history, and the interaction of these forces is a *feature* of the Section 2 inquiry, not a disqualification. There is thus no need to cleanly disentangle race from political and other considerations, as Defendants suggest—which would be a virtually impossible task at any rate, as their expert conceded. SAMF ¶ 32; Alford Dep. 82:17–84:14, 90:4–91:9.

As then-Chief Judge Tjoflat evocatively expounded in *Nipper*, “[l]ike a Seurat painting, a portrait of the challenged scheme emerges against the background of the voting community. Only by looking at all of the dots on the canvas is a district court

able to determine whether vote dilution has occurred.” 39 F.3d at 1527. Here, putting those dots together—including racially polarized voting—demonstrates that Black Georgians in the western Atlanta metropolitan area have been denied equal access to the electoral process on account of race. *See generally* Pls.’ Mot.

IV. Proportionality does not bar Plaintiffs’ claim.

Despite acknowledging that “proportionality is not a safe harbor” in a Section 2 challenge, Defs.’ Mot. 32, Defendants nonetheless ask the Court for summary judgment on this basis. They are wrong on both the law and the facts.

The U.S. Supreme Court has made clear that proportionality merely “provides *some evidence* of whether ‘the political processes leading to nomination or election in the State or political subdivision are not equally open to participation.’” *LULAC*, 548 U.S. at 437 (emphasis added) (quoting 52 U.S.C. § 10301(b)); *see also Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1289 (11th Cir. 2020) (“[P]roportionality is a relevant fact in the totality of circumstances analysis.” (cleaned up)). It does not follow—and the Court has never held—that proportionality alone can *bar* a Section 2 claim, as Defendants suggest. *See* Defs.’ Mot. 30. Defendants cherry-pick from *De Grandy* while ignoring crucial language: “[P]roportionality *is not dispositive* in a challenge to single-member districting.” 512 U.S. at 1000 (emphasis added); *accord id.* at 1026 (O’Connor, J., concurring) (“The

Court also makes clear that proportionality is never dispositive.”). Instead, courts must look to “the totality of facts, including those pointing to proportionality,” to determine if “the [challenged] scheme would deny minority voters equal political opportunity.” *Id.* at 1013–14. And here, the totality of circumstances demonstrates that Black voters are denied equal political opportunities. *See* Pls.’ Mot. 19–40.

Moreover, Defendants apply the wrong metric for proportionality. They suggest that, because “the 2021 congressional plan elected five Black Democratic candidates to the 14 congressional districts”—in other words, “35.7% of the Georgia congressional delegation”—“the percentage of Black candidates and Black-preferred candidates being elected is more than roughly proportional to the percentage of Black individuals in Georgia.” Defs.’ Mot. 32. But proportionality “asks whether ‘minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters’ respective shares in the voting-age population,’” *Wright*, 979 F.3d at 1289 (quoting *De Grandy*, 512 U.S. at 1000), not whether the number of successful minority candidates is proportional to the minority population. Here, *at most*, only four of Georgia’s enacted congressional districts have Black voting-age populations that exceed 50%—less than 29% of the total. SAMF ¶ 50; Cooper Report ¶ 73, fig.14. By contrast, Black Georgians comprise *at least* 31.73% of the state’s voting-age population. SAMF ¶ 51; Cooper

Report ¶ 18, fig.2.⁹ Properly calculated, proportionality would not bar Plaintiffs’ claim even if the factor were dispositive.

Notably, Defendants’ preferred method for assessing proportionality was expressly foreclosed in *De Grandy*, where the Supreme Court specifically cautioned *against* looking to “the success of minority candidates” because doing so conflates two distinct strands of proportionality:

“Proportionality” as the term is used here links the number of majority-minority voting districts to minority members’ share of the relevant population. The concept is distinct from the subject of the proportional representation clause of § 2, which provides that “nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.” This proviso speaks to the success of minority candidates, as distinct from the political or electoral power of minority voters.

512 U.S. at 1014 n.11 (citation omitted) (quoting 52 U.S.C. § 10301(b)). Because “the ultimate right of § 2 is equality of opportunity, not a guarantee of electoral success for minority-preferred candidates of whatever race,” *id.*, the Court “provided an explicit definition of proportionality” that “count[s] *only* those districts with ‘a clear majority of black voters,’” not districts “in which black voters, although not a majority, had been ‘able to elect representatives of their choice with the aid of cross-

⁹ Both the number of majority-Black congressional districts and the size of the Black voting-age population vary based on which metrics are employed. SAMF ¶¶ 50–52; Cooper Report ¶¶ 18, 20, 73, figs.2 & 14.

over votes,”” *Black Pol. Task Force v. Galvin*, 300 F. Supp. 2d 291, 312 (D. Mass. 2004) (three-judge court) (quoting *De Grandy*, 512 U.S. at 1023).

In short, the electoral success of Black-preferred candidates statewide is not the relevant metric for assessing proportionality as part of the totality of circumstances—and certainly does not foreclose the ability of Black voters in the western Atlanta metropolitan area to vindicate their voting rights under Section 2.¹⁰

CONCLUSION

The truth has gotten in the way of Defendants’ story. Plaintiffs’ illustrative congressional plan is not a racial gerrymander and satisfies the first *Gingles* precondition. Plaintiffs have surpassed their burden of proving that voting in this area of Georgia is polarized on racial lines by demonstrating that the polarization is indeed on account of race. The SEB members are proper defendants in this action, and proportionality does not bar Plaintiffs’ claim. Defendants’ request for summary judgment is unwarranted, and their motion should be denied.

¹⁰ Moreover, Mr. Cooper demonstrated why proportionality considerations *support* Plaintiffs’ claim. Only 49.96% of Georgia’s Black voters reside in majority-Black districts under the enacted congressional plan, while 82.47% of non-Hispanic white voters live in majority-white districts—a difference of 32.51 points. SAMF ¶ 53; Cooper Report ¶ 74, fig.15. Under the illustrative plan, by contrast, 57.48% of the Black voting-age population resides in majority-Black districts and 75.50% of the non-Hispanic white voting-age population resides in majority-white districts—a difference of only 18.01 points. SAMF ¶ 54; Cooper Report ¶ 74, fig.15.

Dated: April 19, 2023

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: April 19, 2023

/s/ Adam M. Sparks
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Pendergrass Doc. 215

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

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION FILE

No. 1:21-CV-5339-SCJ

ORDER

This matter appears before the Court on the Parties' Cross-Motions for Summary Judgment (Doc. Nos. [173]¹; [175]).

Full briefing on these Motions—responses in opposition (Doc. Nos. [187]; [189]) and replies in support (Doc. Nos. [200]; [202])—has been completed. The

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

Parties have also submitted supplemental briefing (Doc. Nos. [212], [214]) following the Supreme Court’s decision in Allen v. Milligan, 599 U.S. ---, 143 S. Ct. 1487 (2023).

The Parties’ Motions for Summary Judgment are now ripe for review. The inquiry into a vote dilution claim must involve a “comprehensive, not limited canvassing of relevant facts.” Johnson v. De Grandy, 512 U.S. 997, 1011 (1994). The Court has thoroughly analyzed the Parties’ Statements of Material Facts, the Record, and the Parties’ arguments and ultimately determines that each Motion must be **DENIED**. Material questions of fact remain as to all aspects of Plaintiffs’ claims, and the Court cannot rule for one Party without making factual determinations, weighing evidence, and assessing the credibility of the experts. Unlike on a motion for a preliminary injunction, these determinations are impermissible on motions for summary judgment.

* * * * *

“The political franchise of voting . . . is regarded as a fundamental political right, because [it is] preservative of all other rights.” Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886). The Supreme Court’s “paramount concern has remained an individual and personal right—the right to an equal vote.”

Gaffney v. Cummings, 412 U.S. 772, 781 (1973) (Brennan, J., concurring). And the “[p]assage of the Voting Rights Act of 1965 was an important step in the struggle to end discriminatory treatment of minorities who seek to exercise one of the most fundamental rights of [American] citizens: the right to vote.” Bartlett v. Strickland, 556 U.S. 1, 10 (2009).

In the intervening fifty-eight years since the passage of the Voting Rights Act (“VRA”) and thirty-seven years since its most substantive amendment, the VRA has been used to ensure that minority voters have an equal opportunity to participate in elections and elect candidates of their choice. Specifically, “Section 2 was enacted to [prohibit], in all 50 States, any ‘standard, practice, or procedure . . . imposed or applied . . . to deny or abridge the right of any citizen of the United States to vote on account of race or color.’” Shelby Cnty. v. Holder, 570 U.S. 529, 536 (2013). “Section 2 is permanent [and] applies nationwide.” Id. at 537.

During the Supreme Court's October 2022 Term, it heard argument on Section 2 challenges to Alabama's congressional map. Allen, 143 S. Ct. 1487.² On June 8, 2023, in a 5-4 decision, Chief Justice Roberts delivered the opinion of the Court and affirmed the three-judge court's order granting plaintiffs a preliminary injunction. Id. at 1504. The majority³ conducted a clear error review of the lower

² The Court engages in a more thorough discussion of Allen in the summary judgment order in Alpha Phi Alpha Fraternity, Inc., et al. v Brad. Raffensperger, 1:21-cv-5337-SCJ, (N.D. Ga. July 17, 2023).

³ Chief Justice Roberts delivered the opinion of the Court except as to Part III-B-1, in which Justice Kavanaugh concurred. Allen, 143 S. Ct. at 1510–12. “When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, ‘the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds.’” Marks v. United States 430 U.S. 188, 193 (1977) (quoting Gregg v. Georgia, 428 U.S. 153, 169 n.15 (1976)). But see Horton v. Zant, 941 F.2d 1449, 1464 n.32 (11th Cir. 1991) (“[P]lurality opinions are not binding on [the Eleventh Circuit]; however, they are persuasive authority.”). Part III-B-1 of Allen is not the Court's holding; rather it is the Court's reasoning for rejecting a part of Alabama's proposed test. Thus, the Allen majority's holding is binding.

Justice Kavanaugh's concurrence likewise rejected Alabama's attempt to create a new test for Section 2. He reasoned that under the doctrine of statutory *stare decisis*, “the Court has ordinarily left the updating or correction of erroneous statutory precedents to the legislative process.” Allen, 143 S. Ct. at 1517 (Kavanaugh, J., concurring) (quoting Ramos v. Louisiana, 140 S. Ct. 1390, 1413 (2020)). He rejected that the Gingles test requires the number of majority-minority districts be proportional to the minority population because under that formulation, “States would be forced to group together geographically dispersed minority voters into unusually shaped districts,” which is not the test. Id. at 1518. Justice Kavanaugh also declined to address the constitutional question of whether Section 2 should continue to govern into the future because it was not raised before the Court. Id. at 1519.

court's factual findings and applied them to the virtually untouched and longstanding test from Thornburg v. Gingles, 478 U.S. 30 (1986).

Unequivocally, the Allen majority asserted:

Gingles has governed our Voting Rights Act jurisprudence since it was decided 37 years ago. Congress has never disturbed our understanding of § 2 as Gingles construed it. And we have applied Gingles in one § 2 case after another, to different kinds of electoral systems and to different jurisdictions in States all over the country.

143 S. Ct. at 1504. Thus, following Allen, the standards governing Plaintiffs' Section 2 challenges are the same as those the Court applied in its preliminary injunction order.

I. BACKGROUND⁴

On December 30, 2021, Plaintiffs filed their VRA Section 2 claim against Defendants.⁵ Doc. No. [1]. Plaintiffs—who include several Black Georgians residing in Cobb and Douglas Counties—sued Georgia Secretary of State Brad Raffensperger, Judge William S. Duffey, Jr., as the Chair of the State Election Board (“SEB”), and four individual members of the SEB. Doc. No. [120], ¶¶ 11–22.

Plaintiffs seek to enjoin the use of the congressional redistricting plan (“SB 2EX” or the “Enacted Plan”) that was enacted following the 2020 Decennial Census. Doc. No. [120], ¶¶ 1–2, 7. Plaintiffs allege that SB 2EX violated Section 2

⁴ The Court derives the following facts from the Parties’ submissions (Doc. Nos. [173-1]; [173-2]; [175]; [176]; [187]; [188]; [189]; [189-1]; [189-2]; [200]; [201]; [201-1]; [202]; [203]) and the Record. Pursuant to Local Rule 56.1(B), when a fact is undisputed, the Court includes the fact. For the disputed facts, the Court reviews the Record to determine if a dispute exists and, if so, whether the dispute is material. If the dispute is not material, the Court cites the fact and the opposing party’s response. Where the dispute is material and the opposing party’s response reflects the Record more accurately, the Court modifies the proposed fact and cites the record. The Court also rules on objections to proposed facts and excludes immaterial facts, those stated as an issue or legal conclusion, those not supported by a citation to evidence, or those that the Record citation fails to support. Finally, where appropriate, the Court includes facts drawn from its review of the Record.

⁵ Subsequently, Plaintiffs amended their complaint, and this Amended Complaint is now the operative pleading in this case. Doc. No. [120].

of the VRA by failing to include an additional majority-minority⁶ congressional district in the western Atlanta region. Doc. No. [120], ¶¶ 4–6.

The 2020 Census revealed that Georgia’s Black population increased in the last decade from 31.53% to 33.03% and constitutes the largest minority population in the state. Doc. No. [188], ¶¶ 5–6. Georgia’s voting age population

⁶ The Court takes judicial notice that the parties in Anne Lois Grant, et al. v. Brad Raffensperger, et al., 1:22-cv-122-SCJ, Doc. No. [192], ¶ 58 (N.D. Ga. Mar. 20, 2023) agree that “[m]ap-drawers distinguish ‘majority-minority’ from ‘majority-Black.’ Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single racial category constitute a majority of a district.” The Court clarifies that as a legal term of art, majority-minority districts and opportunity districts can refer to districts where a single-minority group is the majority population of a particular district. See Allen, 148 S. Ct. 1506–14 (using the term majority-minority districts to describe districts where the Black population, alone, exceeded 50% of the proposed district); Abbott v. Perez, 138 S. Ct. 2305, 2315 (2018) (“[i]n a series of cases tracing back to [Gingles], we have interpreted this standard to mean that, under certain circumstance[s], States must draw ‘opportunity’ districts in which minority groups form ‘effective majorit[ies].’” (cleaned up) (quoting League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 426 (2006) (“LULAC”))). Thus, when the Court uses the term majority-minority districts it encompasses majority-Black districts.

is 31.73% any-part Black. *Id.* ¶ 13.⁷ Non-Hispanic whites now constitute a slim-majority (50.06%) of Georgia’s 2020 population. Doc. No. [174-1], ¶ 17.⁸

The growth of Georgia’s minority population – as well as the population growth in the State as a whole – has largely occurred in the Atlanta Metropolitan Statistical Area (MSA), which includes 29 counties.⁹ Doc. Nos. [188], ¶ 15; [174-1], ¶ 25. The any-part Black population in the MSA increased from 33.61% in 2010

⁷ The Court uses the any-part Black or any-part Black voting age population (“APBVAP”) for purposes of determining numerosity. “[I]t is proper to look at *all* individuals who identify themselves as [B]lack” in their census responses, even if they “self-identify as both [B]lack and a member of another minority group,” because the inquiry involved “an examination of only one minority group’s effective exercise of the electoral franchise.” *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003), superseded by statute in other part, *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 276–77 (2015).

⁸ Defendants object to this statement because “the citation only refers to the percentage, not the timeline” for the statistic. Doc. No. [188], ¶ 8. The Court resolves this objection by taking judicial notice of the 2020 U.S. Census Bureau Data. See *United States v. Phillips*, 287 F.3d 1053, 1055 n.1 (11th Cir. 2002) (citing *Hollis v. Davis*, 941 F.2d 1471, 1474 (11th Cir. 1991) and *Moore v. Comfed Savings Bank*, 908 F.2d 834, 941 n.4) (taking judicial notice of the United States Census Bureau’s 1990 census figures). Pursuant to 2020 U.S. States Census, Georgia’s total population was 10,711,908 and the non-Hispanic white population was 5,362,156, which was approximately 50.06% of the total population. U.S. Census Bureau, Table S2901 (Jul. 13, 2023, 9:00 AM), <https://data.census.gov/cedsci/table?q=S2901&g=0400000US13&tid=ACSST1Y2021.S2901>.

⁹ The counties in the MSA are Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. Doc. No. [188], ¶ 15.

to 35.91% in 2020. Doc. No. [174-1], ¶ 26. The Atlanta Regional Commission (made up of 11 core counties in metro Atlanta, all of which are in the MSA) account for 54.7% of Georgia’s total any-part Black population. Doc. No. [188], ¶ 20. The MSA in total constitutes 61.81% of Georgia’s total Black population. Id. ¶ 21.

Plaintiffs are challenging Congressional Districts (“CD”)-3, 6, 11, 13, and 14 in the Enacted Plan. Doc. No. [120], ¶ 36. Specifically, SB 2EX decreases the APBVAP in Enacted CD-6 from 14.6% to 9.9%, while Enacted CD-13 has an APBVAP of 66.75%. Doc. No. [174-1], ¶¶ 40–41. Enacted CD-4, moreover, also has an APBVAP in the 60% range. Doc. No. [174-1], ¶ 40; see also Doc. No. [174-2], 25 (indicating the “% 18+ AP Black” in Enacted CD-4 was “54.52%”).

In February 2022, the Court held a six-day preliminary injunction hearing on Plaintiffs’ Section 2 challenge.¹⁰ Doc. Nos. [90]–[95]. While finding Plaintiffs

¹⁰ This case will proceed as a coordinated trial with two other Section 2 cases, Case No. 1:21-cv-5337 and Case No. 1:22-cv-122, that also challenge Georgia’s legislative and congressional maps. There are pending motions for summary judgment in the coordinated cases as well. For purposes of clarity, the Court has chosen to resolve each case’s motions for summary judgment by separate Orders. But like the preliminary injunction hearing, and in the interest of judicial efficiency, the Court will hold one coordinated trial for the three cases.

were likely to succeed on the merits, in light of the Supreme Court’s stay order in Merrill v. Milligan, 142 S. Ct. 879 (2022),¹¹ the Court nevertheless denied Plaintiffs’ request for a preliminary injunction because of the proximity to the upcoming elections. Alpha Phi Alpha Fraternity, Inc. v. Raffensperger, 587 F. Supp. 3d 1222, 1233–34 (N.D. Ga. 2022). The case thereafter proceeded through discovery. At the close of discovery, the Parties filed Cross-Motions for Summary Judgment. Doc. Nos. [173]; [175].

According to Plaintiffs’ mapping expert – and not disputed by Defendants’ own expert – the Black population in the Atlanta metropolitan area is large enough to create an additional majority-Black congressional district. Doc. Nos. [188], ¶¶ 26, 31; [174-1], ¶ 42. Plaintiffs submit an illustrative congressional districting plan (“Illustrative Plan”) with an additional majority-Black district (“Illustrative District 6” or “Illustrative CD-6”) that is “anchored in Cobb, Douglas, and Fulton Counties, along with a small part of Fayette County.” Doc. No. [174-1], ¶ 55. Illustrative CD-6 has an APBVAP of

¹¹ The Allen case was initially filed under the caption Merrill v. Milligan. On January 26, 2023, the State moved to remove the secretary of state (John H. Merrill) from the action and replace him with his successor (Wes Allen). See Notification Regarding Substitution of Party Pursuant to S. Ct. R. 35.3, Allen v. Milligan, 143 S. Ct. 1487 (2023), (No. 21-1086).

51.87%, an APBVAP of 50.23%, and a non-Hispanic Black voting-age population of 50.18%. Doc. No. [188], ¶ 36–38.

The core of the instant Motions for Summary Judgment is whether SB 2EX’s violates Section 2 because it impermissibly dilutes the Black population’s votes in the western Atlanta region. The Court held a hearing on these Motions (and the summary judgment motions in the related cases) on May 18, 2023. Doc. No. [207]. The Parties submitted supplemental briefs following the Supreme Court’s Allen decision. Doc. Nos. [212]; [214]. Thus, having the benefit of full briefing and argument, the Court turns to resolve the Parties’ Cross-Motions.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56(a) provides “[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” A factual dispute is genuine if the evidence would allow a reasonable jury to find for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). “A fact is ‘material’ if it is a legal element of the claim under the applicable

substantive law which might affect the outcome of the case.” Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997) (citing Anderson, 447 U.S. at 248).

The moving party bears the initial burden of showing the court, by reference to materials in the record, that there is no genuine dispute as to any material fact that should be decided at trial. Hickson Corp. v. N. Crossarm Co., 357 F.3d 1256, 1260 (11th Cir. 2004) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The moving party meets its burden merely by “‘showing’ – that is, pointing out to the district court – that there is an absence of evidence to support [an essential element of] the nonmoving party’s case.” Celotex Corp., 477 U.S. at 325. In determining whether the moving party has met this burden, the district court must view the evidence and all factual inferences in the light most favorable to the non-moving party. Johnson v. Clifton, 74 F.3d 1087, 1090 (11th Cir. 1996). Once the moving party has adequately supported its motion, the non-movant then has the burden of showing that summary judgment is improper by showing specific facts of a genuine dispute. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The court should resolve all reasonable doubts in the non-movant’s favor. Fitzpatrick v. City of Atlanta, 2 F.3d 1112, 1115 (11th Cir. 1993). In addition, the court must “avoid weighing conflicting evidence or

making credibility determinations.” Stewart v. Booker T. Washington Ins., 232 F.3d 844, 848 (11th Cir. 2000). When the record could not lead a rational trier of fact to find for the nonmoving party, there is no genuine dispute for trial. Fitzpatrick, 2 F.3d at 1115 (citations omitted).

“[T]he filing of cross-motions for summary judgment does not give rise to any presumption that no genuine issues of material fact exist.” 3D Med. Imaging Sys., LLC v. Visage Imaging, Inc., 228 F. Supp. 3d 1331, 1336 (N.D. Ga. 2017). Rather, cross motions for summary judgment “must be considered separately, as each movant bears the burden of establishing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law.” Id. (citing Shaw Constructors v. ICF Kaiser Eng’rs, Inc., 395 F.3d 533, 538–39 (5th Cir. 2004)).

III. ANALYSIS

Having reviewed the Parties’ briefing, the Court denies both Defendants’ and Plaintiffs’ Motions for Summary Judgment. “Voting rights cases are inherently fact-intensive[.]” Nipper v. Smith, 39 F.3d 1494, 1498 (11th Cir. 1994).

This is especially the case for:

[S]ection 2 vote dilution claims alleging that . . . minority voters are denied an equal opportunity to participate in the political process and to elect representatives of their choice. In such cases, courts must conduct a “searching

practical evaluation of the ‘past and present reality’” of the electoral system’s operation.

Id. (quoting Gingles, 478 U.S. at 45). “Because a claim of vote dilution must be evaluated with a functional, rather than a formalistic, view of the political process, the Supreme Court has emphasized the importance of ‘an intensely local appraisal of the design and impact’ of the electoral structure, practice, or procedure at issue.” Id. (quoting Gingles, 478 U.S. at 79); see also Rogers v. Lodge, 458 U.S. at 613, 621 (1982).

The Court proceeds by first addressing Defendants’ Motion because Defendants move for summary judgment on the Gingles preconditions. Defendants’ success on any of their arguments would be dispositive. The Court then turns to Plaintiffs’ Motion for Summary Judgment.

A. Defendants’ Motion for Summary Judgment

Defendants move for summary judgment on Plaintiffs’ claim. Doc. No. [175-1]. Defendants first argue that Plaintiffs do not have standing to assert their claims against the members of the SEB because the alleged injury is not traceable to or redressable by the SEB. Id. at 12–14. Defendants then move for summary judgment on the merits of Plaintiffs’ Section 2 claim arguing that Plaintiffs failed to adduce facts that support the three Gingles preconditions.

Id. at 14–30. Finally, Defendants contend that there is no Section 2 violation because Georgia’s Black-Democrat congressional delegation is proportional to Georgia’s APBVAP. Id. at 30–35.

1. *Plaintiffs’ Standing Against SEB Defendants*

Defendants first argue that Plaintiffs failed to adequately assert Article III standing against the SEB. Doc. No. [175-1], 12–14. The Court disagrees. “Standing ‘is the threshold question in every federal case, determining the power of the court to entertain the suit.’” CAMP Legal Def. Fund, Inc. v. City of Atlanta, 451 F.3d 1257, 1269 (11th Cir. 2006) (quoting Warth v. Seldin, 422 U.S. 490, 499 (1975)). Article III of the United States Constitution limits federal courts to hearing actual “Cases” and “Controversies.” U.S. Const. art. III, § 2; see also Lujan v. Defs. of Wildlife, 504 U.S. 555, 559–60 (1992). Overall, Article III’s standing requirement seeks to uphold separation-of-powers principles and “to prevent the judicial process from being used to usurp the powers of the political branches.” Clapper v. Amnesty Int’l USA, 568 U.S. 398, 408 (2013).

“Standing is typically determined by analyzing the plaintiff’s situation as of the time the complaint is filed, and subsequent events do not alter standing.” Fair Fight Action, Inc., et al. v. Brad Raffensperger, et al., 1:18-cv-5391-SCJ,

Doc. No. [612], 7 (N.D. Ga. Feb. 16, 2021) (citing Focus on the Fam. v. Pinellas Suncoast Transit Auth., 344 F.3d 1263, 1275 (11th Cir. 2003) (collecting authorities)); Charles H. Wesley Educ. Found., Inc. v. Cox, 408 F.3d 1349, 1352 n.3 (11th Cir. 2005); Johnson v. Bd. of Regents of Univ. of Ga., 263 F.3d 1234, 1267 (11th Cir. 2001)). While standing is generally determined when the plaintiff's complaint is filed, "it must persist throughout a lawsuit." Ga. Ass'n of Latino Elected Offs., Inc. v. Gwinnett Cnty. Bd. of Registration & Elections, 36 F.4th 1100, 1113 (11th Cir. 2022).

To establish standing, a plaintiff must show three things:

First, the plaintiff must have suffered an "injury in fact" — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not . . . the result of the independent action of some third party not before the court. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Lujan, 504 U.S. at 560–61 (internal quotations, citations, and alterations omitted).

"The party invoking federal jurisdiction bears the burden of establishing standing—and, at the summary judgment stage, such a party can no longer rest

on . . . mere allegations, but must set forth by affidavit or other evidence specific facts.” Clapper, 568 U.S. at 411–12 (internal quotations and citations omitted); see also Church of Scientology Flag Serv. Org., Inc. v. City of Clearwater, 777 F.2d 598, 607 n.24 (11th Cir. 1985) (noting that standing “is a legal determination based on the facts established by the record.”).

Defendants argue that Plaintiffs’ injuries are not traceable to nor redressable by the SEB. Doc. No. [175-1], 12–14. Defendants do not meaningfully contest that Plaintiffs have alleged an injury-in-fact,¹² or that Plaintiffs have adequately alleged standing over Defendant Secretary of State Raffensperger.¹³

¹² “To demonstrate an injury-in-fact for purposes of a vote dilution claim, Plaintiffs must show that they (1) reside and are registered voters in districts where alleged dilution occurred, and (2) are members of a protected class whose voting strength was diluted.” Rose v. Raffensperger, 511 F. Supp. 3d 1340, 1352 (N.D. Ga. 2021) (citing Broward Citizens for Fair Dists. v. Broward Cnty., No. 12-60317-CIV, 2012 WL 1110053, at *3 (S.D. Fla. Apr. 3, 2012) (collecting cases)); cf. United States v. Hays, 515 U.S. 737, 744–45 (1995) (“Where a plaintiff resides in a racially gerrymandered district . . . the plaintiff has been denied equal treatment because of the legislature’s reliance on racial criteria, and therefore has standing to challenge the legislature’s action[.]”). Because the named Plaintiffs reside in the congressional districts at issue (Doc. No. [120], ¶¶ 11–16), Plaintiffs have asserted sufficient injury-in-fact; see also Section III(B)(1) infra (resolving whether Plaintiffs have sufficiently stated a district-specific injury).

¹³ Reapportionment litigation is redressable against the Secretary of State. “[T]he Georgia Secretary of State is a necessary party [in challenges to electoral maps] because [h]e is designated by state law as being responsible for administering state-wide

Accordingly, the Court will now determine whether Plaintiffs have adequately asserted (a) the traceability and (b) the redressability of their injuries to the SEB.

a) Traceability

“To establish causation [for standing,] a plaintiff need only demonstrate, as a matter of *fact*, a fairly traceable connection between the plaintiff’s injury and the complained-of conduct of the defendant.” Charles H. Wesley Educ. Found., 408 F.3d at 1352 (internal quotations omitted) (citing Parker v. Scrap Metal Processors, Inc., 386 F.3d 993, 1003 (11th Cir. 2004)). An injury is traceable to an election official responsible for the election administration process or for a rule that allegedly caused the plaintiff’s injury. Compare Ga. Ass’n of Latino Elected Offs., 36 F.4th at 1116 (finding the traceability requirement met when a plaintiff made allegations that a state election official failed to provide bilingual voting materials and information, which caused the organizational plaintiff’s diversion of resources) with Jacobson v. Fla. Sec’y of State, 974 F.3d 1236, 1253 (11th Cir. 2020) (finding the alleged injury was not traceability to an election

elections, and accordingly we cannot require that state-wide elections in Georgia be conducted using constitutional apportionment system in h[is] absence.” Larios v. Perdue, 306 F. Supp. 2d 1190, 1199 (N.D. Ga. 2003).

official who was not responsible for the policy). Establishing traceability is sufficient to establish causation, but only for purposes of standing. See Ga. Ass'n of Latino Elected Offs., 36 F.4th at 1116.

Defendants argue that Plaintiffs' alleged injuries are not traceable to the SEB because there is "no evidence . . . that any of the individually named SEB members designed or implemented the maps in any substantive way" Doc. No. [175-1], 14. The Court agrees with Defendants that there is no evidence in the Record that the SEB takes any direct action in the administrative implementation of Georgia's congressional maps. Doc. No. [202], 4 (arguing there is "no authority that the SEB builds ballots or that the SEB plays any role in the counties' implementation of the challenged congressional map."). Administrative implementation of the maps, however, was not Plaintiffs' requested relief. Plaintiffs instead seek to "[e]njoin Defendants, as well as their agents and successors in office, from *enforcing or giving any effect to the boundaries of the congressional districts* as drawn in SB 2EX, including an injunction barring Defendants from conducting any further congressional elections under the enacted map." Doc. No. [120], 29 (emphasis added). Plaintiffs argue that "the SEB maintains broad powers and responsibilities . . . to ensure the fair and orderly

administration of elections.” Doc. No. [189], 5. At this stage of the case, this requested relief is broad enough to be traceable to the SEB.

Under Georgia law, moreover, the SEB has a statutory duty to “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. § 21-2-31(2). Georgia law also tasks the SEB with “investigat[ing] or authoriz[ing] the Secretary of State to investigate, when necessary or advisable[,] the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney” *Id.* at § 21-2-31(5). Furthermore, the SEB is “vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with [election code] or prohibiting the actual or threatened commission of any conduct constituting a violation” O.C.G.A. § 21-2-33.1(a). The Enacted Plan provides that “[t]he provisions of this Act shall be effective for the primary and general elections of 2022 for the purpose of electing the representatives who are to take office in 2023. Successors to those representatives and future successors shall likewise be elected under the provisions of this Act.” See SB 2EX § 2(f).

Additionally, Georgia law tasks the SEB with oversight authority over the counties. See O.C.G.A. § 21-2-31(1) (“It shall be the duty of the [SEB] . . . [t]o promulgate rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections[.]”); id. at § 21-2-31(2) (“[t]o formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and, upon the adoption of each rule and regulation”); id. at § 21-2-31(5) (“[t]o investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution.”). The Court finds that these statutes give the SEB broad statutory authority to oversee the bodies that implement election law.

Georgia law assigns to the county board of registrars the “duty of determining and placing the elector in the proper congressional district[.]”

O.C.G.A. § 21-2-226(b). Thus, a lawsuit seeking to enjoin placing electors in specific congressional districts is fairly traceable to the SEB because the SEB has oversight powers over the entities that make such determinations.¹⁴

Defendants argue that violations of Section 2 are not traceable to the SEB because the SEB has only “a generalized duty that was insufficient in Jacobson” Doc. No. [175-1], 13. In Jacobson, the Eleventh Circuit held that the ballot order was not traceable to the Florida Secretary of State, even though she had the general duty to oversee elections, because the legislature expressly delegated sole authority over ballot creation to an independent body. 974 F.3d at 1242, 1253–54.

Unlike in Jacobson, the SEB does not have just a generalized duty to oversee elections. The SEB has the authority to investigate “irregularities in primaries and elections” O.C.G.A. § 21-2-31(5). It can hold hearings if it finds such irregularities. Id. at § 21-2-33.1(a). The SEB also has the power to issue orders

¹⁴ The Court also finds that a mixed question of law and fact may exist on this issue. In Fair Fight v. Raffensperger, --- F. Supp. 3d ---, 2022 WL 4725887, at * 39 (N.D. Ga. Sept. 30, 2022), this Court cited to both the above-listed statutes and the testimony of Georgia’s former director of elections as proof that the SEB has oversight authority over the counties. To the extent that this determination is a mixed question of law and fact, it is inappropriate to decide it at summary judgment.

and sanctions to ensure compliance with election laws, rules, and regulations. Id. In essence, the SEB is responsible for ensuring that both general and primary elections are run in accordance with state laws. Additionally, there is no statutory limitation to the SEB's oversight in districting matters. See generally O.C.G.A. §§ 21-2-31, 21-2-32.

Similarly, Defendants citation to Lewis v. Governor of Alabama, 944 F.3d 1287 (11th Cir. 2019) is inapposite. Doc. No. [175-1], 14. In Lewis, the plaintiffs created an extra-textual duty for the Alabama Attorney General and then sought to bring a challenge for violation of said duty. Id. at 1297–98. The Eleventh Circuit rejected this theory because the Attorney General “ha[d] no legal duty to inform anyone of anything under these circumstances” Id. at 1298. In the case *sub judice*, again, the statutes defining the SEB's power affirmatively create oversight duties over the implementation of election laws. The SEB exercises broad oversight authority over elections laws, which seemingly include both SB 2EX and O.C.G.A. § 21-2-226(b). Both laws, moreover, have the force and effect of implementing the Enacted Plan of which Plaintiffs complain. Accordingly, the Court is not persuaded by Defendants' reliance on Lewis and finds that that Plaintiffs' injuries are fairly traceable to the SEB and its members.

Plaintiffs challenge the implementation and use of an allegedly unlawful congressional map, over which the SEB has statutory oversight authority. The Court finds that the alleged injury is thereby fairly traceable to the SEB for purposes of standing.

b) Redressability

An injury is redressable when “a decision in a plaintiff’s favor would significantly increase the likelihood that she would obtain relief” Lewis, 944 F.3d at 1301 (cleaned up). That is true so long as the Court’s judgment may remedy the plaintiff’s injury, “whether directly or indirectly.” Id. (quotation marks omitted); see also Ga. Ass’n of Latino Elected Offs., 36 F.4th at 1116 (stating it must be “likely,” not merely “speculative,” that the alleged injury will be redressed by a favorable decision). Thus, if a state election official lacks the authority to redress the alleged injury, the Court cannot enter a judgment to remedy the plaintiff’s injury, and the plaintiff lacks standing. See, e.g., Jacobson, 974 F.3d at 1269 (finding the plaintiffs lacked standing because the defendant election official did not control the complained-of ballot-listing injury, which meant she could not redress the alleged injury).

In this case, the Court finds Plaintiffs’ alleged injury is redressable by the SEB. First, the Court must determine “whether a decision in [Plaintiffs’] favor would ‘significant[ly] increase . . . the likelihood’ that [they] ‘would obtain relief that directly redresses the injury’ that [they] claim[] to have suffered.” Lewis, 944 F.3d at 1301 (quoting Harrell v. Fla. Bar, 608 F.3d 1241, 1260 n.7 (11th Cir. 2010)). “Second, ‘it must be *the effect of the court’s judgment on the defendant*’ – not an absent third party – ‘that redresses the plaintiff’s injury, whether directly or indirectly.’” Id. (citing Digit. Recognition Network, Inc. v. Hutchinson, 803 F.3d 952 (8th Cir. 2015)).

The implementation of the Enacted Plan is an action affecting both general and primary elections. Plaintiffs ask the Court to enjoin Defendants from enforcing or giving any effect to the boundaries in the Enacted Plan. Doc. No. [120], 29. The SEB has the authority to ensure compliance with the implementation of the Enacted Plan by passing rules or regulations regarding its implementation, conducting hearings and investigations on failures to implement, and issuing sanctions to ensure compliance with the law. See Section III(A)(1)(a) supra. Because the Court can enjoin the SEB from taking any of these

actions with respect to the Enacted Plan, the Court finds that the injuries are redressable by the SEB.

* * * * *

The Court finds that Plaintiffs adequately asserted Article III standing with respect to the SEB. Plaintiffs have alleged an injury based upon an allegedly unlawful congressional map, the injury is fairly traceable to the SEB under various Georgia statutes, and the Court can award a remedy that is redressable by the SEB. The Court acknowledges that Plaintiffs have not pointed to any factual evidence of the SEB's direct actions in implementing or passing SB 2EX. However, under the broad language of the aforementioned Georgia statutes and finding all inferences in the light most favorable to the non-moving party,¹⁵ the SEB is not "entitled to judgment as a matter of law."¹⁶ Fed. R. Civ. P. 56(a).

¹⁵ In reviewing a motion for summary judgment, the Court considers the evidence in the light most favorable to the non-movant. Centurion Air Cargo, Inc. v. United Parcel Serv. Co., 420 F.3d 1146, 1149 (11th Cir. 2005). Thus, in stating the facts, we afford Plaintiffs, the non-movants, all credibility choices and the benefit of all reasonable inferences the facts in the Record yield. Latimer v. Roaring Toyz, Inc., 601 F.3d 1224, 1237 (11th Cir. 2010).

¹⁶ Assuming *arguendo* that Plaintiffs' case lacks standing against the SEB, this Action would proceed against the Secretary of State. Because the Secretary of State is

2. *The Gingles Preconditions*

Turning to Defendants' merits arguments, the Court concludes that Defendants have not shown they are entitled to summary judgment, as a matter of law, on the undisputed facts as it relates to the three Gingles preconditions.

Section 2 of the VRA provides:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one

responsible for administering the elections, the Court can "enjoin the holding of elections pursuant to the [Enacted Plans] (assuming, of course, that the plan [] in fact [violates Section 2]) and subsequently require elections to be conducted pursuant to a [legal] apportionment system" Larios, 306 F. Supp. 2d at 1199; see also note 13 supra.

circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

52 U.S.C. § 10301(a)–(b).

In order to prevail on a Section 2 VRA claim, Plaintiffs must satisfy three “preconditions.” Gingles, 478 U.S. at 50. First, the “minority group must be sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district” Wisc. Legis. v. Wisc. Elections Comm’n, 142 S. Ct. 1245, 1248 (2022) (*per curiam*) (citing Gingles, 478 U.S. at 46–51). “A district will be reasonably configured, our cases explain, if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 143 S. Ct. at 1503 (citing Ala. Legis. Black Caucus v. Alabama, 575 U.S. 254, 272 (2015)).¹⁷ “Second, the minority group must be able to show that

¹⁷ In supplemental briefing, Defendants “agree with how Justice Alito proposes to address [racial predominance].” Doc. No. [214], 9. That is, Defendants argue that a “plaintiff ‘must show at the outset that such a[n additional majority-minority] district can be created without making race the predominant factor in its creation.’” Id. (alteration in original) (quoting Allen, 143 S. Ct. at 1551 (Alito, J., dissenting)). To the extent that Defendants argue that Plaintiffs must show, as part of the first Gingles precondition that race did not predominate the drawing of the illustrative maps, the Court agrees. The Court, however, declines to adopt the test in Justice Alito’s dissent *in toto*.

it is politically cohesive.” Gingles, 478 U.S. at 51. And third, “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . to defeat the minority’s preferred candidate.” Id.

Finally, a plaintiff who demonstrates the three preconditions must also show, under the “totality of circumstances,” that the political process is not “equally open” to minority voters. Id. at 45–46; see also id. at 36–38 (identifying several factors relevant to the totality of circumstances inquiry).

a) The First Gingles Precondition

Under the first Gingles precondition, the “minority group must be sufficiently large and [geographically] compact to constitute a reasonably configured district” Wisc. Legis., 142 S. Ct. at 1248. “A district will be reasonably configured, . . . if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 143 S. Ct. at 1503 (citing Ala. Legis. Black Caucus, 575 U.S. at 272). To determine whether Plaintiffs have met the numerosity and compactness requirements, the Court must evaluate the specific challenged district and not the state as a whole. Cf. Ala. Legis. Black Caucus, 575 U.S. at 268 (“[T]he District Court’s analysis of racial gerrymandering

[under the Equal Protection Clause] of the State ‘as a whole’ was legally erroneous.”).¹⁸

Defendants make a number of arguments pertaining to the first Gingles precondition. The Court addresses these arguments as follows: (1) whether Mr. Cooper allowed race to predominate his drawing of the Illustrative Plan, (2) if the Illustrative Plan is sufficiently compact, and (3) if the Illustrative Plan could operate as a remedial plan.

(1) *Racial predominance*

First, the Court rejects Defendants’ argument that Plaintiff’s expert, Mr. Cooper’s use of racial shading alone is fatal to Plaintiffs’ claim. Defendants argue that because the legislature could not have used racial shading when it drew the Enacted Plan, Plaintiffs’ expert likewise is precluded from using racial shading when drawing his Illustrative Plan. Doc. No. [175-1], 15. Defendants also suggest that race *per se* predominates if an expert uses racial shading. See Doc. No. [214], 7 (“If the legislature had used racial shading, did not use

¹⁸ Although Ala. Legis. Black Caucus, concerned constitutional redistricting challenges, the Supreme Court applied its analysis to a Section 2 challenge in Allen, 143 S. Ct. at 1503, 1519.

political data, and drew without reviewing any public comments, it would be accused of racial gerrymandering”).¹⁹

Precedent establishes that the Court evaluates whether race impermissibly *predominated* the drawing of the Illustrative Plan, or whether his Illustrative Plan is simply race conscious. “The contention that mapmakers must be entirely ‘blind’ to race has no footing in our § 2 case law. The line that we have long drawn is between consciousness and predominance.” Allen, 143 S. Ct. at 1512 (plurality opinion). Defendants’ argument, however, conflicts with this existing precedent. See also Davis v. Chiles, 139 F.3d 1414, 1425–26 (11th Cir. 1998) (finding clear

¹⁹ Whether Defendants are accused of racial gerrymandering or if the Enacted Plan is, in fact, gerrymandered, constitute two different inquiries. The Supreme Court acknowledged that a State’s awareness of race when it draws its districts is not *per se* racial gerrymandering:

[W]e have assumed that compliance with the VRA may justify the consideration of race in a way that would not otherwise be allowed . . . complying with the VRA is a compelling state interest, and that a State’s consideration of race in making a districting decision is narrowly tailored and thus satisfies strict scrutiny

Abbott, 138 S. Ct. at 2315 (citations omitted). “[T]he legislature always is *aware* of race when it draws district lines That sort of race consciousness does not lead inevitably to impermissible race discrimination.” Shaw v. Reno, 509 U.S. 630, 646 (1993). Thus, because the State is not prohibited from reviewing race when it draws its congressional maps, neither is Plaintiffs’ expert in drawing the Illustrative Plans for the first Gingles precondition.

error with the district court's finding of racial predominance based on an expert's testimony that he was asked to draw additional majority-minority districts in an area with a high concentration of Black citizens).

The Court finds material disputes of fact exist over whether race predominated the drawing of Illustrative CD-6. Mr. Cooper stated that at times he used racial shading or dots to determine whether the Black population existed in the western Atlanta metropolitan area. Doc. No. [167], ("Cooper Dep. Tr.") Tr. 24:24-25:1 ("I think I mention in my last testimony that I used sometimes little dots showing where the minority population is concentrated. So I was aware of that."). Mr. Cooper also testified that this awareness *did not predominate* the drawing the illustrative plan.

Q: When you were drawing both the illustrative plan for the preliminary injunction hearing and the illustrative plan in your 12/5 report, it would be fair to say your goal was to add a majority black congressional district above the number drawn by the General Assembly; is that right?

A: No, that was not my goal. My goal was to determine whether it was possible while, at the same time, to include traditional redistricting principles

Q: Do you know what principles the Georgia Legislature used for the drawing of its congressional plans?

A: Well, I've seen a – there's a document that's posted on the General Assembly's website that identifies the factors to take into consideration. I submit for both House, Senate, and congressional plans.

Q: Did you rely on that document about the principles for drawing plans when creating your illustrative plans in this case?

A: Yes. That document is pretty straightforward and typical guidelines that any state would issue

A: Well, I mean, if the goal is to draw the maximum number possible, then it would certainly be high priority. *When I draw plans, I'm always trying to balance traditional redistricting principles.* So I would never have that as a goal unless it was just some sort of hypothetical example to show what could be drawn, perhaps even showing that well, it could be drawn, but it would violate traditional redistricting principles.

Q: So it's fair to say when you're drawing a map, you're taking into account a variety of different considerations at any given point; right?

A: Absolutely. Yes.

Id. at 14:3–11; 15:6–16; 19:5–18 (emphasis added).

In summary, Mr. Cooper testified that he was aware of race, but that race did not predominate when he drew the Illustrative Plan. He asserted moreover that he considered a variety of factors, including those used by the Georgia

legislature when drawing the Illustrative Plan. Thus, Mr. Cooper's awareness of race in conjunction with his evaluation of traditional redistricting principles is consistent with Eleventh Circuit precedent.²⁰ As Plaintiffs argue (Doc. No. [212], 12-13), the Eleventh Circuit has held:

[P]recedent[] *require[s]* plaintiffs to show that it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate. To penalize [a plaintiff] for attempting to make the very showing . . . would be to make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action.

Davis, 139 F.3d at 1425.

Moreover, Mr. Cooper's racial awareness is distinguishable from Miller v. Johnson, 515 U.S. 900, 919 (1995). In Miller, one of the DOJ line attorneys testified at trial that he took "[a] map of the State of Georgia shaded for race, shaded by minority concentration, and overlaid the districts that were drawn

²⁰ Plaintiffs furthermore contend that the Supreme Court affirmed Mr. Cooper's illustrative plans in Allen, and, in this case, Mr. Cooper "considered race to the same extent that he did in developing the [Allen] illustrative plans . . .". Doc. No. [212], 10. Any assessment of Mr. Cooper's consideration of race in this Illustrative Plan, however, requires weighing and evaluating facts in a manner inappropriate for summary judgment.

by the State of Georgia and see how well those lines adequately reflected black voting strength.” Id. at 925 (cleaned up) (citing Johnson v. Miller, 864 F. Supp. 1354, 1362 n.4 (S.D. Ga. 1994)). The Georgia legislature then used that metric to draw its congressional plan. Id. at 924–25. The Supreme Court analyzed these congressional districts and determined there was “powerful evidence” that “every [objective districting] factor that could realistically be subordinated to racial tinkering in fact suffered that fate.” Id. at 919 (alteration in original) (quoting Johnson, 864 F. Supp. at 1384).

Having the benefit of a fully developed trial record, factual findings, and credibility determinations, the Supreme Court found that race predominated the drawing of the district in Miller. At this stage of the case, however, Record evidence indicates that Mr. Cooper was aware of racial demographics at times, but also that he considered traditional redistricting principles and did not let race predominate when he draw the Illustrative Plan. Cooper Dep. Tr. 14:3–11; 15:6–16; 19:5–18. Because the awareness of racial demographics and the use of racial shading is not *per se* impermissible, any determination that race predominated the drawing of Illustrative CD-6 turns on Mr. Cooper’s credibility.

On summary judgment, such credibility determinations are inappropriate, and thereby the Court denies Defendants' Motion.

(2) *Compactness factors*

Second, Defendants have not shown they are entitled to summary judgment on the compactness inquiry because there is Record evidence from which a factfinder could conclude that the minority population in Illustrative CD-6 is compact. "Under § 2 . . . the compactness inquiry . . . refers to the compactness of the minority population, not . . . the compactness of the contested district." LULAC, 548 U.S. at 433 (citing Bush v. Vera, 517 U.S. 952, 997 (1996)). A district that "reaches out to grab small and apparently isolated minority communities" is not reasonably compact. Id. (citing Vera, 517 U.S. at 979).

Defendants argue that "Plaintiffs have presented no evidence of the geographic compactness of the Black community in the new configuration of District 6 aside from the fact that it was drawn" Doc. No. [175-1], 16. The Court disagrees. There is Record evidence that the APBVAP in Illustrative CD-6 is comparatively as compact as the Enacted Plan. The relevant factors for compactness under the first Gingles precondition include: population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and

contiguity, respect for political subdivisions, and uniting communities of interest. See Reynolds v. Sims, 377 U.S. 533, 598 (1964) (population equality); LULAC, 548 U.S. at 433 (communities of interest); Vera, 517 U.S. at 959-60 (contiguity, eyeball test); Cooper v. Harris, 581 U.S. 285, 291, 312 (2017) (political subdivisions, partisan advantage, empirical compactness measures).

It is undisputed that the districts in the Illustrative Plan achieve population equality and are contiguous. Doc. No. [188], ¶¶ 48, 49. Additionally, it is undisputed that Illustrative CD-6 has better empirical compactness scores than Enacted CD-6.²¹ Id. ¶¶ 54, 55; see also Doc. No. [157] (“Morgan Dep. Tr.”) Tr. 57:15–19 (“Q: According to your report, Mr. Cooper’s Illustrative District 6 is more compact on the Reock Scale than Enacted District 6? A: Yes.”); id. 59:7–11

²¹ Mr. Cooper utilized the Reock test and Polsby-Popper test to assess the numerical compactness of his districts. “The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact.” Alpha Phi Alpha, 587 F. Supp. 3d at 1275 n.24. “The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi \text{Area} / (\text{Perimeter}^2)$. The measure is always between 0 and 1, with 1 being the most compact.” Id. at 1275 n.26.

Undisputedly, Illustrative CD-6 has a Reock score of 0.45 and a Polsby-Popper score of 0.27, compared to the Enacted CD-6, which has a Reock score of 0.44 and a Polsby-Popper score of 0.20. Doc. No. [188], ¶¶ 53–55.

("Q: According to your report, Mr. Cooper's Illustrative District 6 is also more compact on the Polsby-Popper Scale than the Enacted District 6; is that correct?

A: Yes.").

Questions of fact that cannot be resolved on summary judgment, however, remain as to the eyeball test, respect for political subdivisions, and communities of interest. See Section III(B)(1) *infra*. Thus, the Court cannot award summary judgment on Illustrative CD-6's compactness.²² See Allen, 143 S. Ct. at 1504 (crediting the lower court's factual findings that the "produced [illustrative] districts [were] roughly as compact as the existing plan[,] . . . contained equal populations, were contiguous, and respected existing political subdivisions . . .").²³

²² Even for the factors that are undisputed—population equality, contiguousness, empirical compactness scores—the Court cannot determine whether race predominated the creation of Illustrative CD-6 without weighing facts that are in dispute or evaluating Mr. Cooper's credibility.

²³ Defendants also argue that the congressional map in the case *sub judice* differs from the redistricting plans in Allen. Doc. No. [214], 9. The Court acknowledges these differences. However, precedent makes clear that questions about redistricting under Section 2 are "'intensely local appraisals of the design and impact' of the contested electoral mechanisms." Gingles, 478 U.S. at 79 (quoting Rogers, 458 U.S. at 621-22). The fact that the maps in Allen differ from Plaintiffs' maps alone does not warrant summary judgment.

(a) eyeball test

The eyeball test is commonly utilized to determine if a district is compact or not. See Allen, 143 S. Ct. at 1504 (crediting the district court’s findings that the illustrative maps were compact because they did not contain “tentacles, appendages, bizarre shapes or any other obvious irregularities” (quoting Singleton v. Merrill, 582 F. Supp. 3d 924, 1011 (N.D. Ala. 2022))); see also Doc. No. [209] (“Hearing Tr.”) Tr. 39:9–12 (Plaintiffs’ contend that Defendants “do not even dispute that the eyeball test tells us that illustrative District 6 is compact.”). Use of any “eyeball test” to assess irregularities, however, is necessarily a matter for the factfinder. See Ala. State Conf. of NAACP v. Alabama, 612 F. Supp. 3d 1232, 1266, (M.D. Ala. 2020); Comm. for a Fair and Balanced Map v. Ill. State Bd. of Elections, 835 F. Supp. 2d 563, 570 (N.D. Ill. 2011). Thus, questions of fact remain that cannot be resolved on summary judgment.

(b) respect for political subdivisions

There are also material disputes of fact as to whether Mr. Cooper respected existing political subdivisions. Plaintiffs assert and Defendants dispute that “Mr. Cooper sought to minimize changes to the [Enacted Plan] while abiding by traditional redistricting principles . . . [*i.e.*,] respect for political subdivision

boundaries” Doc. No. [188], ¶ 44. It is undisputed, however, the Illustrative CD-6 splits Cobb County three ways. *Id.* ¶ 56. Mr. Cooper maintains that he split counties merely to comply with one-person, one-vote requirements. *Id.* ¶ 57. Thereby, to determine whether Mr. Cooper respected political subdivisions requires both credibility and factual determinations. This inquiry cannot be completed on summary judgment.

(c) **communities of interest or
combinations of disparate
communities**

Defendants also argue that Illustrative CD-6 combined disparate communities and thereby does not unite communities of interest. Doc. No. [175-1], 4, 15. Defendants dispute that Illustrative CD-6 united Atlanta-area urban, suburban, and exurban voters, because it also includes rural portions of Douglas County. Doc. No. [188], ¶ 63. Again, this dispute as to whether Illustrative CD-6 contains communities of interest or disparate communities must be determined by a factfinder and cannot be decided on summary judgment.

The case law is not clear about what constitutes a community of interest. In LULAC, the Supreme Court noted, “[w]hile no precise rule has emerged

governing § 2 compactness, the ‘inquiry should take into account traditional redistricting principles such as maintaining communities of interest and traditional boundaries.’” LULAC, 548 U.S. at 433 (quoting Abrams v. Johnson, 521 U.S. 74, 92 (1992)). The Court went on to reason that “in some cases members of a racial group in different areas—for example, rural and urban communities—could share similar interests and therefore form a compact district if the areas are in reasonably close proximity.” Id. at 435 (citing Abrams, 521 U.S. at 111–12 (Breyer, J., dissenting)). However, race being the only uniting factor between Latino communities that are 300-miles apart, without more, is not a sufficient compactness finding under Section 2. Id. “The mathematical possibility of a racial bloc does not make a district compact.”²⁴ Id.

Although a definitive test has not emerged, it is abundantly clear that the determinations about communities of interest are questions of fact. Most recently, in Allen, the Court credited the district court’s factual finding that Alabama’s Black Belt region could be a community of interest. Allen, 143 S. Ct. at 1505

²⁴ Factors that have been considered by Courts in the past include: socio-economic status, education, employment and health. LULAC, 548 U.S. at 433 (quoting the district court’s decision). Other considerations may included shared media sources, public transportation infrastructure, schools, and places of worship. Vera, 514 U.S. at 964.

(“The District Court understandably found [State witness’s testimony about a community of interest] insufficient to sustain Alabama’s ‘overdrawn argument that there can be no legitimate reason to split’ the Gulf Coast region.” (citing Singleton, 582 F. Supp. 3d at 1015)). Similarly, the Court in LULAC emphasized that the district court needed and failed to make a factual finding about the compactness of the challenged district. LULAC, 548 U.S. at 433–35. Without the benefit of trial evidence or the ability to weigh the Record evidence, the Court clearly cannot heed the Supreme Court’s guidance in making these necessary factual determinations.

(3) *Proposed Remedy*

Finally, Defendants argue that they are entitled to summary judgment because the Illustrative Plan cannot be ordered as a remedy. Doc. No. [175-1], 15. “In short, if a plaintiff cannot show that the plan used to demonstrate the first prong can also be a proper remedy, the plaintiff has not shown compliance with the first prong of Gingles.” Id. Plaintiffs respond by arguing that Defendants have identified no meaningful deficiencies with Mr. Cooper’s Illustrative Plan that would render it an impermissible remedy. Doc. No. [189], 14. In the reply

brief, Defendants do not clarify precisely which of their alleged faults as to the Illustrative Plan precludes it from being a viable remedy.

The Defendants' Statement of Material Facts (Doc. No. [176]), Plaintiffs' Response (Doc. No. [189], 14), and the assertions made at the Hearing suggest that their argument, at least in part, relates to the compactness of Illustrative Districts other than CD-6. See, e.g., Doc. Nos. [176], ¶ 53 ("Mr. Cooper agreed that his [Illustrative District] 13 connected urban (and heavily Black) parts of Clayton County with rural areas out to Jasper."); [189], 14 ("Defendants fault Mr. Cooper's purported inability to identify the common interest of Black voters in different parts of congressional districts *other* than the new majority-Black district."); Hearing Tr. 51:14–20 ("[Mr. Cooper's] District 10, also. Really, he couldn't explain the explanation for that beyond population equality. It starts in majority-Black Hancock County. There's a lot of discussion about the Black [B]elt in our preliminary injunction hearing. And Clarke County was part of that. It includes Clarke all the way up to Rabun and Towns Counties.").

The Court has already addressed Defendants' challenges related to racial predominance and lack of compactness. See Section III(A)(2)(a)(1) and (2) supra.

However, the Court will now directly address Nipper's remedial requirements, specifically, as it relates to the compactness of non-remedial districts.

In Nipper, the Eleventh Circuit held that “the first threshold factor of Gingles [] require[s] that there must be a remedy within the confines of the state’s judicial model that does not undermine the administration of justice.” Nipper, 39 F.3d at 1531 (plurality opinion). The Eleventh Circuit later clarified that “[t]his requirement simply serves ‘to establish that the minority has the potential to elect a representative of its own choice from some single-member district.’” Burton v. City of Belle Glade, 178 F.3d 1175, 1199 (11th Cir. 1999) (quoting Nipper, 39 F.3d at 1530). Additionally, “[i]f a minority cannot establish that an alternate election scheme exists that would provide better access to the political process, then the challenged voting practice is not responsible for the claimed injury.” Id.; see also Brooks v. Miller, 158 F.3d 1230, 1239 (11th Cir. 1998) (holding that “[i]f the plaintiffs in a § 2 case cannot show the existence of an adequate alternative electoral system under which the minority group’s rights will be protected, then the case ends on the first prerequisite”).

Under Nipper, the question of remedy relies on whether the alternate scheme is a “workable remedy within the confines of the state’s system of

government.” Nipper, 39 F.3d at 1533. For example, in Wright v. Sumter County Board of Elections and Registration, 979 F.3d 1282, 1304 (11th Cir. 2020), the Eleventh Circuit found that the first Gingles precondition had been met because the special master’s maps showed that at least three majority-Black districts could have been drawn in that area, meaning “that a meaningful remedy was available.”

As the Court already addressed above, neither Supreme Court nor Eleventh Circuit precedent requires that Plaintiffs’ Illustrative Plans be drawn race-blind or that the Illustrative Plans are race-neutral. See Section III(A)(1) supra. In fact, the Supreme Court recently rejected Alabama’s argument to do just that. Allen, 143 S. Ct. at 1512 (plurality opinion), 1518. And the Eleventh Circuit has long held that the first Gingles precondition specifically requires that Plaintiffs take race into consideration. Davis, 139 F.3d at 1425–26. Also, the Court has already determined that there is Record evidence from which a factfinder could conclude that the minority population in Illustrative CD-6 is compact.

As to Defendants’ argument that to be a viable remedy, Plaintiffs must prove that *all* districts in the Illustrative Plan are compact, this is not the law. LULAC, 548 U.S. at 430 (“To be sure, § 2 does not forbid the creation of a

noncompact majority-minority district.” (citing Vera, 517 U.S. at 999 (Kennedy, J., concurring))). “Simply put, the State’s creation of an opportunity district for those without a § 2 right offers no excuse for its failure to provide an opportunity district for those with a § 2 right.” Id.; see also id. at 430–31 (“[S]ince, there is no § 2 right to a district that is not reasonably compact, the creation of a noncompact district does not compensate for the dismantling of a compact opportunity district.”) (citing Abrams, 521 U.S. at 91–92). The Court understands LULAC and Vera to mean that in order for there to be a Section 2 remedy, a plaintiff must show that it is possible to create a compact majority-minority district.²⁵ However, if an affected district is not remedial under Section 2, this compactness inquiry is not required.

Furthermore, the Eleventh Circuit’s case law seems to suggest that so long as the legislature could implement the Illustrative Plan within the confines of State law and without undermining the administration of justice, then it has

²⁵ The Court is less persuaded by Plaintiffs’ contention that Allen itself “confirms that an illustrative map can be ‘reasonably configured’ even if it splits communities of interest elsewhere in the state.” Doc. No. [212], 4. While Allen certainly addresses communities of interest and split communities in the Black Belt and the Gulf Coast region, the Supreme Court did not engage with the argument being made by Defendants. Allen, 143 S. Ct. at 1504–05.

provided an available remedy. See Burton, 178 F.3d at 1199; Wright, 979 F.3d at 1304. Thus, Defendants' argument that Plaintiffs failed to provide an Illustrative Plan that could be implemented because non-remedial districts are not compact is unavailing. LULAC, 548 U.S. at 430; Bush, 517 U.S. at 999.²⁶

As such, the Court rejects Defendants' argument that the Illustrative Plans do not satisfy Nipper's remedial requirement. Therefore, there is no basis for summary judgment on this contention.

* * * * *

In sum, the Court concludes that there are material disputes of fact as to whether race predominated when Mr. Cooper drew the Illustrative Plan and

²⁶ Assuming *arguendo* that Nipper requires Plaintiffs to produce evidence that all districts in the Illustrative Plan are reasonably compact and comply with traditional redistricting principles, the Court too finds that material disputes of fact remain. As an example, Plaintiffs' dispute the contention that "[t]he only connection Mr. Cooper could identify to this similar configuration of enacted District 14 [and Illustrative CD-3] was that Heard and Troup counties were closer to Atlanta." Doc. No. [189-1], ¶ 52; Cooper Dep. Tr. 65:20–66:2. Mr. Cooper testified that he drew Illustrative CD-3 in part "to keep District 2 intact and not change it" (*id.* at 65: 9–12), "the lay of the land is closer" (*id.* at 66:2), and that the counties are "a part of Metro Atlanta" (*id.* at 66:3–11). The Court finds that there is evidence that Mr. Cooper evaluated traditional redistricting principles other than race when drawing these illustrative districts. *Id.* at 14:3–11; 15:6–16; 19:5–18. A determination of whether these considerations show that race predominated the drawing of Mr. Cooper's Illustrative Plan, as a whole, is a question of credibility, which is inappropriate on a motion for summary judgment.

whether he respected traditional redistricting principles. The Court cannot decide these disputes as to the first Gingles precondition on summary judgment.

b) Second and Third Gingles Preconditions

Likewise, the Court denies Defendants' Motion for Summary Judgment as to second and third Gingles preconditions. The second Gingles precondition requires Plaintiffs to show that "the minority group . . . is politically cohesive" and the third precondition requires Plaintiffs to show that "the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances . . . usually to defeat the minority's preferred candidate." Gingles, 478 U.S. at 51.

(1) Required showing for second and third Gingles preconditions

As the Court ruled in its Preliminary Injunction Order, the second and third Gingles preconditions require only that Plaintiffs show that minority-voter political cohesion and racial bloc voting exists, not the reason for its existence. Alpha Phi Alpha, 587 F. Supp. 3d at 1303 ("The Court concludes as a matter of law that, to satisfy the second Gingles precondition, Plaintiffs need not prove the causes of racial polarization, just its existence."); id. at 1312 ("[T]he third

precondition involves the same evaluation as to the voting preferences of the majority groups as the second precondition does for the minority group”).

Defendants still advance purely legal arguments that Plaintiffs must prove that race, not partisanship, explains racial bloc voting and minority voter political cohesion under the second and third Gingles preconditions. Doc. No. [175-1], 17-27. First, Defendants argue that precedent requires the Court to determine whether race is the cause of the vote dilution. Doc. No. [175-1], 20-25. Second, Defendants argue that failing to show that race and partisanship caused racial bloc voting makes Section 2 not congruent and proportional to the Fifteenth Amendment (*i.e.*, the constitutional authority supporting Section 2). Id. at 25-27. Third, Defendants argue that Plaintiffs must show the racial group’s voting patterns change in relation to the race of the *candidate*. Hearing Tr. 87:25-88:7; Doc. No. [214], 10-14, 17-18. Finally, Defendants argue that the holdings in Mobile v. Bolden, 446 U.S. 55 (1980) and Whitcomb v. Chavis, 403 U.S. 124 (1971) require the Court to evaluate the causes of the racial polarization at the preconditions phase of the trial. Doc. No. [214], 10-17.

(a) race-based voting

As for the first argument—that “the Court should require proof of racial bloc voting as part of the third Gingles factor” (Doc. No. [175-1], 25)—Defendants argue that the Court should decide this at the Gingles preconditions phase, rather than at the totality of the circumstances (*i.e.*, Senate Factors) phase, because “the analysis is ultimately the same.” Id. As was the case in the preliminary injunction order, the Court disagrees. Precedent establishes that evaluating the reasons behind racial bloc voting and minority political cohesion are inappropriate at the Gingles preconditions phase.

The Gingles plurality concluded “the reasons [B]lack and white voters vote differently have no relevance to the central inquiry of § 2. By contrast, the correlation between race of voter and the selection of certain candidates is crucial to that inquiry.” Gingles, 478 U.S. at 63. Only three other Justices joined this portion of Justice Brennan’s opinion. However, four other Justices likewise found that the reasons for minority political cohesion and racial bloc voting are not relevant in establishing the Gingles preconditions. Justice O’Connor wrote:

 Insofar as statistical evidence of divergent racial voting patterns is admitted solely to establish that the minority group is politically cohesive and to assess its prospects for electoral success, I agree that defendants cannot rebut

this showing by offering evidence that the divergent racial voting patterns may be explained in part by causes other than race, such as an underlying divergence in the interests of minority and white voters.

Gingles, 478 U.S. at 100 (O'Connor, J., concurring). Justice White is thereby the only Justice to suggest that Court should consider the race of the candidates in addition to the race of the voter at the precondition phase to show the causes of the polarization. Id. at 83 (White, J., concurring).

Although only a plurality of the Justices signed onto Justice Brennan's analysis regarding proof of racial bloc voting and minority cohesion, all but one Justice agreed that the reasons that Black voters and white voters vote differently is irrelevant to proving the existence of the second and third Gingles preconditions. Thus, the second and third Gingles preconditions can be established by the mere existence of minority group political cohesion and majority voter racial bloc voting. See Chisom v. Roemer, 501 U.S. 380, 404 (1991) ("Congress made clear that a violation of § 2 could be established by proof of discriminatory results alone.").

While Justice Brennan's language regarding the "effects test" is a part of the plurality, the Supreme Court has since made clear that under Section 2, Plaintiffs need only prove the existence of racially polarized voting and minority

voter political cohesion at the Gingles preconditions phase. Most recently, the Supreme Court confirmed that the Section 2 analysis is an effects test. “[F]or the last four decades, this Court and the lower federal courts have repeatedly *applied the effects test* of § 2 as interpreted in Gingles and, under certain circumstances, have authorized race-based redistricting as a remedy for state districting maps that violate § 2.” Allen, 143 S. Ct. at 1516–17 (emphasis added).

Eleventh Circuit precedent also supports that Plaintiffs are not required to prove that race caused racial bloc voting or minority voter cohesion to satisfy the second and third Gingles preconditions. Judge Tjoflat’s plurality opinion in Nipper explained:

Proof of the second and third Gingles factors—demonstrating racially polarized bloc voting that enables the white majority usually to defeat the minority’s preferred candidate—is circumstantial evidence of racial bias operating through the electoral system to deny minority voters equal access to the political process.

39 F.3d at 1254. Nipper thus did not require the plaintiffs to prove that race was the cause of the second and third Gingles preconditions, or disprove that other reasons could account for the polarization. Rather, Judge Tjoflat went on to opine that “[t]he defendant may rebut the plaintiff’s evidence by demonstrating the

absence of racial bias in the voting community; for example, by showing that the community's voting patterns can be best explained by other, non-racial circumstances." Id.

Following Nipper, the Eleventh Circuit clarified the appropriate test for finding a Section 2 violation:

[The plaintiff] must, at a minimum, establish the three now-familiar Gingles factors Proof of these three factors does not end the inquiry, however This is because it is entirely possible that bloc voting (as defined by Gingles[]) could exist, but that such bloc voting would not result in a diminution of minority opportunity to participate in the political process and elect representatives of the minority group's choice To aid courts in investigating a plaintiff's section 2 claims, the Gingles court identified other factors that may, in the "totality of the circumstances," support a claim of racial vote dilution.

Solomon v. Liberty Cnty. Comm'rs, 221 F.3d 1218, 1225 (11th Cir. 2000). Thus, it is firmly rooted in both Supreme Court and Eleventh Circuit precedent that Plaintiffs do not have to prove the causes of polarized voting at the preconditions phase of a Section 2 claim.²⁷

²⁷ Defendants also argue that Greater Birmingham Ministries v. Sec'y of State, 992 F.3d

In summary, eight Supreme Court Justice who decided Gingles previously agreed that the second and third Gingles preconditions do not require Plaintiffs to prove that race is the cause of the minority groups political cohesion or majority racial bloc voting. In Allen, the Supreme Court reaffirmed that Section 2 is an effects test. Allen, 143 S. Ct. at 1516–17. Following Gingles, the Eleventh Circuit in both Nipper and Solomon confirmed that the potential reasons for vote polarization is relevant only to the totality of the circumstances phase, not the Gingles preconditions.²⁸ The Court will likewise consider

1299 (11th Cir. 2021), created a causation requirement as a part of the second and third Gingles preconditions. Doc. No. [175-1], 20–21. The portion of Greater Birmingham Ministries discussing causation, however, is in the Court’s analysis of the totality of the circumstances and burden of proof, not in reference to the Gingles preconditions. 992 F.3d at 1329–30; *see id.* (determining plaintiffs “ma[d]e no mention of the three ‘necessary preconditions’ and they ma[d]e no attempt to articulate the existence of . . . ‘minority cohesion or bloc voting, and majority bloc voting.’”) (quoting De Grandy, 512 U.S. at 1011). Accordingly, the Court finds that Greater Birmingham Ministries is not instructive of Plaintiffs’ burden for establishing the Gingles preconditions.

²⁸ The Court further rejects Defendants’ citations to various non-binding cases in an attempt to distinguish the aforementioned binding authority. Defendants first cite Vecinos De Barrio Uno v. City of Holyoke, 72 F.3d 973, 983 (1st Cir. 1995). Doc. No. [175-1], 24. In Uno, however, the First Circuit, likewise, did not require plaintiffs to disprove partisanship as a part of the Gingles preconditions. It held that “the second and third preconditions are designed to assay whether racial cleavages in voting patterns exist and, if so, whether those cleavages are deep enough to defeat

Defendants' evidence of a non-racial motivation at the totality of the circumstances phase.

To be clear, even in the totality of circumstances inquiry, Defendants' partisanship argument may be relevant as to whether the political process is equally open to minority voters, but it is not dispositive. At no point do Plaintiffs have the *burden* of proving the causes behind a lack of equal opportunity for minority voters to participate in the political process. Allen, 143 S. Ct. at 1507

minority-preferred candidates time and again." 72 F.3d at 983. Once these preconditions are proven, they "give rise to an inference that racial bias is operating through the medium of the targeted electoral structure to impair minority political opportunities." Id.

Defendants also cite to a non-binding Fifth Circuit case, League of United Latin American Citizens v. Clements, 999 F.2d 831, 855 (5th Cir. 1993). Doc. No. [175-1], 24. In Clements, the Fifth Circuit took an opposite approach, finding it "difficult to see how the record in this case could possibly support a finding of liability" when "Plaintiffs [had] not even attempted to establish proof of racial bloc voting by demonstrating that race, not . . . partisan affiliation, is the predominate determinant of political preference." Clements, 999 F.2d at 855 (quotations omitted). For its part, the Fourth Circuit has rejected the Fifth Circuit's approach. United States v. Charleston Cnty., 365 F.3d 341, 347-48 (4th Cir. 2004) ("[T]he approach most faithful to the Supreme Court's case law 'is one that treats causation as irrelevant in the inquiry into the three Gingles preconditions, but relevant in the totality of circumstances inquiry.'" (quoting Lewis v. Alamance Cnty., 99 F.3d 600, 615-16 n.12 (4th Cir. 1996))).

Given the Court's interpretation of the Supreme Court's statements on the matter and the Eleventh Circuit's binding precedent, the Court agrees with the First and Fourth Circuits. Thus, the Court reserves its consideration of whether partisanship or race is the driving force behind the differences in racial voting patterns for the totality of the circumstances inquiry, not as part of the Gingles preconditions.

("[W]e have reiterated that § 2 turns on the presence of discriminatory effects, not discriminatory intent."); see also id. ("[T]he Gingles test helps determine whether th[e] possibility . . . that the State's map has a disparate effect on account of race . . . is reality by looking to the polarized voting preference and frequency of racially discriminatory actions taken by the State, past and present.").

(b) **congruence and proportionality:
Fifteenth Amendment**

Second, Defendants argue that "[i]f Section 2 were interpreted in a way that [P]laintiffs can establish racial bloc voting merely by showing that minorities and majorities vote differently, it would not fit within th[e] constitutional bounds . . . of the Fifteenth Amendment" ²⁹ Doc. No. [175-1], 26–27. Section 2 of the VRA provides:

No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color

²⁹ "The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." U.S. Const. amend. XV.

52 U.S.C. § 10301(a).

“[U]nder the analysis set forth by the statutory text and embraced by the Supreme Court in Chisom and [the Eleventh Circuit] in Johnson, [courts] must consider whether the challenged law results in a denial or abridgment of the right to vote on account of race or color.” Greater Birmingham Ministries, 992 F.3d at 1329 (citing Chisom, 501 U.S. at 403–04; Johnson v. Governor of Fla., 405 F.3d 1214, 1227 (11th Cir. 2005)). The Court’s “analysis [on the denial or abridgment of the right to vote] turns on whether, based on the totality of the circumstances, the challenged law violates Section 2(a) because it deprives minority voters of an equal opportunity to participate in the electoral process *and* to elect representatives of their choice.” Id.

For this inquiry, the Court must “ask whether the totality of facts . . . showed that the new scheme would deny minority voters equal political opportunity.” De Grandy, 512 U.S. at 1013–14. And, according to the Eleventh Circuit, “[t]o be actionable, a deprivation of the minority group’s right to equal participation in the political process must be on account of a classification, decision, or practice that depends on race or color, not on account

of some other racially neutral cause.” Solomon, 221 F.3d at 1225 (quoting Nipper, 39 F.3d at 1515 (plurality opinion)).

Thus, the Court reiterates that whether racial bloc voting is on account of race or on account of other, race-neutral reasons — *i.e.*, partisanship — is relevant only at the totality of the circumstances phase of the Section 2 analysis. To be successful in their Section 2 case, Plaintiffs bear the ultimate burden of proving that they satisfied the three Gingles preconditions *and* that, under the totality of circumstances, the Enacted Plan has the effect of abridging minority-voters’ right to an equal vote on account of a race. Plaintiffs’ burden on the Senate Factors thereby keeps the Gingles test congruent and proportional to the Fifteenth Amendment because the Court still must determine whether the challenged districts resulted in the abridgment of minority voter’s equal opportunity to participate in the electoral process.

(c) race of the candidate

Third, at the hearing on the Motion for Summary Judgment and in their supplemental brief, Defendants advanced the argument that, as part of the second and third Gingles preconditions, Plaintiffs must show that the race of the candidate changed voters’ behavior. Hearing Tr. 87:25–88:7 (“I think that the

inference [of] . . . Gingles 2 and 3 . . . only arises once you’ve met the burden, once you’ve come forward with the evidence. And the submission we’re looking at here is, we have no evidence that voter behavior changes in the slightest based on the race of the candidates.”); see also Doc. No. [214], 17–18.

The Court finds that an inquiry into voter preferences as it relates to the race of the candidate is not necessary to prove the second and third Gingles preconditions. In fact, the Supreme Court in De Grandy expressly disclaimed Defendants’ proposed test:

The assumption that majority-minority districts elect only minority representatives, or that majority-white districts elect only white representatives, is false as an empirical matter. And on a more fundamental level, the assumption reflects the demeaning notion that members of the defined racial groups ascribe to certain minority views that must be different from those of other citizens.

512 U.S. at 1027 (citation omitted). And, again in LULAC, the Supreme Court affirmed a finding that Texas’s Congressional District 23 violated Section 2, even though Texas intentionally created a district that would elect a Latino representative:

To begin the Gingles analysis, it is evident that the second and third Gingles preconditions—cohesion among the minority group and bloc voting among the majority population—are present in District 23. The

District Court found “racially polarized voting” in south and west Texas, and indeed “throughout the State.” The polarization in District 23 was especially severe: 92% of Latinos voted against Bonilla in 2002, while 88% of non-Latinos voted for him. Furthermore, the projected results in new District 23 show that the Anglo citizen voting-age majority will often, if not always, prevent Latinos from electing the candidate of their choice in the district. For all these reasons, appellants demonstrated sufficient minority cohesion and majority bloc voting to meet the second and third Gingles requirements.

548 U.S. at 428 (plurality opinion) (citations omitted) (quoting Session v. Perry, 298 F. Supp. 2d. 451, 492–93, 496–97 (E.D. Tex. 2004)).³⁰ In LULAC, the plurality found that it was “evident” the plaintiffs successfully proved the second and third Gingles preconditions because 92% of Latinx voters voted against Bonilla, even though Congressman Bonilla is Latino. Id. at 427. If plaintiffs were required to prove that white voters did not vote for Latinx candidates and that Latinx voters voted for Latinx candidates, then, necessarily, the second and third Gingles preconditions would not have been “evidently” met in LULAC. Indeed,

³⁰ The Court notes that only two Justices—Justice Kennedy and Justice Breyer—joined this portion of the LULAC opinion. However, none of the concurrences or dissents discuss the second or third Gingles preconditions. See generally LULAC, 548 U.S. at 447–520.

the plaintiffs in LULAC would not have been able to prove the second and third Gingles preconditions in that geographic area.

The Eleventh Circuit has concluded that it is not a clear error to give greater weight to elections involving Black candidates, but cautioned “[w]e do not mean to imply that district courts *should* give elections involving [B]lack candidates more weight; rather, we merely note that in light of existing case law district courts may do so without committing clear error.” Johnson v. Hamrick, 196 F.3d 1216, 1221–22 (11th Cir. 1999) (emphasis in original). In fact, the Eleventh Circuit went on to clarify “that this Court ‘will not automatically assume that the [B]lack community can only be satisfied by [B]lack candidates.’” Id. at 1222 n.6 (quoting Askew v. City of Rome, 127 F.3d 1355, 1378 (11th Cir. 1997)).

In sum, the Supreme Court has noted that an assumption that voter preference of minorities hinge on the race of the candidate is “false as an empirical matter.” De Grandy, 512 U.S. at 1027. The Eleventh Circuit also cautions courts against assuming that the Black community will be satisfied with any Black candidate. Thus, the Court rejects Defendants candidate-based argument as a matter of law.

(d) precedential arguments following *Allen*

Finally, in supplemental briefing, Defendants argue that *Allen*'s majority treatment of *Bolden* requires that the Court determine the causes of racial polarization. Doc. No. [214], 12–19. Defendants begin their argument by stating “[t]he majority opinion does not provide much direct guidance for lower courts on a plaintiff’s evidentiary burden in satisfying the third *Gingles* precondition, because that precondition was not squarely at issue in *Allen*.” *Id.* at 10. Defendants furthermore state that “Supreme Court did not offer any additional clarity on [the third *Gingles* precondition] because there was ‘no reason to disturb the District Court’s careful factual findings, which are subject to clear error review *and have gone unchallenged by Alabama in any event.*” *Id.* at 15 (quoting *Allen*, 143 S. Ct. at 1505). Despite these caveats, Defendants also argue that the majority opinion reaffirmed the causation test from *Bolden*.

The basis of Defendants’ argument is the majority opinion’s historical background discussion of the 115 years between the passage of the Fifteenth Amendment and the 1982 amendments to the VRA, and specifically its

reference to the Bolden decision. Allen, 143 S. Ct. at 1498–1501. The majority’s treatment of Bolden contains only a summation of the holding, the resulting backlash, the congressional debates, and the ultimate passage of the 1982 amendments to the VRA. Id. At no other point in the majority opinion, does Chief Justice Roberts discuss the viability of any precedent that came out of Bolden. In fact, the Gingles plurality expressly rejected the test that Defendants propose:

Finally, we reject the suggestion that racially polarized voting refers only to white bloc voting which is caused by white voters’ *racial hostility* toward [B]lack candidates. To accept this theory would frustrate the goals Congress sought to achieve by repudiating the intent test of Mobile v. Bolden . . . and would prevent minority voters who have clearly been denied an opportunity to elect representatives of their choice from establishing a critical element of a vote dilution claim.

Gingles, 478 U.S. at 70–71 (citation omitted).

The Court declines to read the majority opinion’s citation to Bolden as a reversion to the pre-Gingles frameworks.³¹ The Court understands that

³¹ Defendants also argue that Allen restores the precedent from Whitcomb. Doc. No. [214], 14–17. As an initial note, neither the Allen majority opinion, nor any of the concurrences or dissents, make any citation to or mention of Whitcomb. Moreover, the

Defendants disagree with the Court’s reading of the effects test outlined by the plurality in Gingles; however, as the case law stands today and as noted in detail above, the Court finds that Plaintiffs do not have to prove that race is the cause of majority-bloc voting. As the Defendants noted, Allen did not disturb the case law regarding the third Gingles precondition. Rather, at the preconditions phase Plaintiffs need to prove the existence of majority-bloc voting, and then at the totality of the circumstances phase the Court may evaluate its causes.

* * * * *

sentence cited by Defendants – “[t]he third precondition, focused on racially polarized voting, ‘establish[es] that the challenged districting thwarts a distinctive minority vote at least plausibly on account of race’” (Doc. No. [214], 14 (first alteration in original) (second alteration omitted) (citing Allen, 143 S. Ct. at 1503)) – does not create a causation requirement. The majority opinion defines, “on account of race or color” to mean “‘with respect to’ race or color,” and therefore it does “not connote any required purpose of racial discrimination.” Allen, 143 S. Ct. at 1507.

Moreover, “[a] district is not equally open . . . when minority voters face – unlike their majority peers – bloc voting along racial lines, arising against the backdrop of substantial racial discrimination within the State, that renders a minority vote unequal to a vote by a nonminority voter.” Id. The Court understands this statement to mean that (1) at the preconditions phase, Plaintiffs must prove the existence of racial bloc voting and (2) at the totality of the circumstances phase, Plaintiffs must show both past and present racial discrimination in Georgia that results in the voting process not being equally open to minority voters. To be clear, in the Court’s view, nothing in the Supreme Court’s Allen decision supports Defendants’ suggestion of the revitalization of Whitcomb or Bolden.

In summary, the Court finds that as a matter of law, to satisfy the second and third Gingles preconditions, Plaintiffs must show (1) the existence of minority voter political cohesion and (2) that the majority votes as a bloc, usually to defeat the minority voter's candidate of choice. As a part of these preconditions, Plaintiffs do not have to prove that race is the sole or predominant cause of the voting difference between the minority and majority voting blocs, nor must Plaintiffs disprove that other race-neutral reasons, such as partisanship, are causing the racial bloc voting. The Court rejects Defendants arguments to the contrary.

(2) Record evidence of racial bloc voting

Turning to the Record evidence, the Court finds that there is sufficient evidence of both minority voter political cohesion and majority racial bloc voting to create a question of fact and defeat Defendants' Motion for Summary Judgment.

Defendants first argue that Plaintiffs' expert, Dr. Palmer, only evaluated general elections for voting blocs, which is insufficient to establish that race is the reason that Black voters vote differently from the white majority. Doc. No. [175-1], 28. Defendants summarize the expert conclusions by stating

“Dr. Palmer’s data still only demonstrates two things: [t]he race of the candidate *does not* change voting behavior of Georgia voters; and the party of the candidate *does*.” Doc. No. [175-1], 29; see also id. (“Plaintiffs’ purported evidence of racial polarization is, in reality, nothing more than evidence of partisan polarization where a majority of voters supports one party and a minority of voters support another party.”). In short, according to Defendants, “all the Court has before it is evidence establishing that party, rather than race, explains the ‘diverge[nt]’ voting patterns at issue . . . Plaintiffs’ failure to offer any other evidence ends this case.” Id. at 30 (alteration in original) (citing Gingles, 478 U.S. at 100 (O’Connor, J., concurring)). The Court rejects this argument as it has already determined that Plaintiffs do not have to prove the causes of racial bloc voting to satisfy the second and third Gingles preconditions. See Section III(A)(2)(b)(1)(a) supra.

The Court instead finds that there is sufficient evidence in the Record that the minority population is politically cohesive. As explained in greater detail when resolving Plaintiffs’ Motion for Summary Judgment, the expert testimony and Record evidence submitted shows political cohesion amongst the APBVAP in Illustrative CD-6 and that the majority population typically votes as a bloc to

defeat the minority voters' candidate of choice. See Section III(B)(3) infra. Specifically, it is undisputed that in the 40 elections Dr. Palmer examined 98.4% of Black voters supported their candidate of choice. Doc. No. [188], ¶ 75. Defendants' expert even testified that "Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022." Id. ¶ 73 (citing Doc. No. [158] ("Alford. Dep. Tr.") Tr. 37:13-15). Accordingly, the Court finds that the testimony of both Plaintiffs' expert and Defendants' expert provides evidence that Black voters are politically cohesive sufficient to defeat Defendants' Motion for Summary Judgment as to the second Gingles precondition.

Similarly, the Court finds that there is Record evidence that the white majority usually votes as a bloc to defeat the minority voter's candidate of choice for the third Gingles precondition. It is undisputed that, in in the focus area, 12.4% of white voters supported Black-preferred candidates and that in no election did that support exceed 17%. Doc. No. [188], ¶ 79. Defendants' expert testified that "estimated white opposition to the Black-preferred candidate is typically above 80 percent" and "is remarkably stable." Id. ¶ 78. Although the raw data is not disputed, Defendants' and their expert argue that Dr. Palmer

should have evaluated primary election data. Doc. Nos. [175-1], 28-29; Alford Dep. Tr. 29:11–30:1. The Court finds that these arguments relate to Dr. Palmer’s credibility, which cannot be decided as summary judgment. Thus, Defendants’ Summary Judgment Motion on the third Gingles precondition must be denied.

(3) *Temporal limitations*

In supplemental briefing, Defendants argue that there are potential limitations about the temporal applicability of Section 2. Doc. No. [214], 17–18. Defendants begin by arguing that courts are shifting focus away from preferences based upon the race of the candidate, which is a departure from Gingles. *Id.* at 17–18. As the Court noted above, eight of the nine Justices agreed that the race of the candidate was not relevant at the Gingles preconditions phase of the inquiry. Additionally, the Eleventh Circuit and Supreme Court’s more recent jurisprudence has expressly rejected or cautioned against a reliance on the race of the candidate when evaluating a potential Section 2 violation. Thus, the Court finds this temporal argument unavailing. See Section III(A)(2)(b)(1)(c) *supra*.

Defendants also argue that “Justice Kavanaugh’s concurring opinion – the *fifth* vote – makes abundantly clear that the constitutionality of the law is not at

all settled into the future.” Doc. No. [214], 19 (emphasis in original). In Allen, Justice Kavanaugh opined:

Justice [Thomas] notes, however, that even if Congress in 1982 could constitutionally authorize race-based redistricting under § 2 for some period of time, the authority to conduct race-based redistricting cannot extend indefinitely into the future But Alabama did not raise that temporal argument in this Court, and therefore I would not consider it at this time.

143 S. Ct. at 1519. The Court finds this argument unavailing. As the precedent currently stands, five Justices agreed that the Gingles framework remains and affirmed the Allen three-judge court’s decision finding that Alabama violated Section 2 of the VRA. Although the two dissents raised arguments about the constitutionality of the Gingles framework, neither stated that Section 2 of the Voting Rights Act by itself should be deemed unconstitutional. See generally Allen, 143 S. Ct. at 1519–48 (Thomas, J., dissenting); id. 1548–57 (Alito, J., dissenting). In accordance with the binding majority opinion, the Court rejects Defendants’ temporal argument. The Court finds that Plaintiffs may move forward with their Section 2 claims.

* * * * *

To summarize the foregoing analysis on the second and third Gingles preconditions in this case: the Court finds that, under the current binding precedent, Plaintiffs must show the existence of (1) political cohesion amongst minority voters, and (2) that the white majority typically votes as a bloc to defeat the Black-preferred candidate. The second and third Gingles preconditions specifically do not require Plaintiffs to prove that race causes the bloc voting or disprove that race-neutral factors caused the bloc voting. None of Defendants' arguments to the contrary persuade the Court otherwise.

The Court also finds that Plaintiffs pointed to sufficient evidence in the Record of the existence of both minority voter cohesion and racial bloc voting to defeat Defendants' Motion for Summary Judgment as to the second and third Gingles preconditions. Accordingly, Defendants' Motion for Summary Judgment on the second and third Gingles preconditions is denied.

3. *Proportionality*

Finally, Defendants argue that because Black Democratic candidates are elected in a proportional number of districts to the overall Black Georgian population, Plaintiffs Section 2 claim must fail. The Court also rejects Defendants' proportionality argument.

Defendants specifically cite that in the 2022 election cycle, under the Enacted Plan, five Black Democratic candidates were elected in the 14 congressional districts, which totals 35.7% of Georgia's congressional delegation. Doc. No. [175-1], 32. Black Georgians encompass 31.73% of Georgia's voting age population. Doc. No. [188], ¶ 13.

Plaintiffs argue that a grant of summary judgment on proportionality is inappropriate because proportionality is not dispositive and is relevant only for the totality of the circumstances analysis. Doc. No. [189], 34. Additionally, Plaintiffs dispute Defendants' metric for establishing proportionality because it evaluates the proportion of the Black voting age population and the number of Black candidates elected to Congress, not the proportion of the Black voting age population and the number of Black-opportunity districts. *Id.* at 35–36.

The Court agrees that as a matter of law proportionality is an insufficient basis to dismiss a Section 2 case. The Supreme Court has expressly rejected proportionality as a safe harbor for Section 2 violations. *De Grandy*, 512 U.S. at 1017–18 (“Proportionality . . . would thus be a safe harbor for any districting scheme. The safety would be in derogation of the statutory text and its considered purpose, however, and of the ideal that the Voting Right Act of 1965 attempts to

foster.”). While evidence of proportionality may be useful in the totality of the circumstances inquiry, it cannot serve as the basis for granting summary judgment.

Even if proportionality could function as a safe harbor, Defendants’ test is incorrect. In De Grandy, the Supreme Court found that there was no Section 2 violation where “minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters’ respective shares in the voting-age population.” 512 U.S. at 1000; see also LULAC, 548 U.S. at 436 (allowing courts to “compar[e] the percentage of total *districts* that are [Black] opportunity districts with the [Black] share of the citizen voting-age population” (emphasis added)). In short, courts can look at the proportion of majority-minority *districts* as it relates to the proportion of minority voters to determine if the voting systems are equally open to minority voters.

Under the proper proportionality assessment, therefore, 28.57% of the districts in the Enacted Plan (4 of 14 congressional districts) are majority-minority districts and 31.73% of Georgia’s voting age population is AP Black. Doc. No. [174-1], ¶¶ 18, 73. It is undisputed that the Enacted Plan has “four majority-Black districts based on percentage non-Hispanic DOJ Black citizen voting-age

population.”³² Doc. Nos. [188], ¶ 214; [174-1], ¶ 73. Using this metric, the number of majority-minority districts is not directly proportional to the percentage of the APBVAP.³³ Thus, under the proper proportionality metric, Defendants are not entitled to summary judgment based on proportional representation.³⁴

³² “Georgia’s [Enacted Plan] [also] includes two majority-Black districts based on percentage Black voting-age population, [and] three majority-Black districts based on percentage non-Hispanic voting age population” Doc. Nos. [188], ¶ 214; [174-1], ¶ 73.

³³ It is true that when comparing the race of the candidate rather than the number of districts (as Defendants suggest), Georgia’s Black Democrat congressional delegation is proportional to the APBVAP—35.7% of Georgia’s congressional delegation is made up of Black Democrats and Georgia’s APBVAP is 31.73%. *Id.* (citing Doc. No. [189-1], ¶ 60). Again, this is the wrong metric for the proportionality inquiry.

³⁴ To be clear, proportionality cannot be used as a safe harbor, *and* it may not be used as a benchmark for determining whether there was a Section 2 violation. 52 U.S.C. § 10301(b) (“*Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.”); *see also* Gingles, 478 U.S. at 84 (O’Connor, J., concurring) (“[Section] 2 unequivocally disclaims the creation of a right to proportional representation.”); Allen, 143 S. Ct. at 1532 (Thomas, J., dissenting) (“[W]hat benchmark did the District Court find that Alabama’s enacted plan was dilutive? The answer is as simple as it is unlawful: The District Court applied a benchmark of proportional control based on race.”); S. Rep. 97-417, at 31 (“This disclaimer is entirely consistent with the above mentioned [S]upreme [C]ourt and [C]ourt[s] of [A]ppeals precedents, which contain similar statements regarding the absence of any right of proportional representation. It puts to rest any concerns that have been voiced about racial quotas.”).

In sum, by rejecting the Defendants’ proportionality argument, the Court is in no way suggesting that a lack of proportional representation constitutes a violation of Section 2, or that Section 2 affirmatively requires proportional representation. Nor is the Court using proportionality as a benchmark for determining whether Georgia’s electoral process is equally open to minority voters.

4. *Conclusions on Defendants' Motion for Summary Judgment*

Consequently, the Court **DENIES** Defendants' Motion for Summary Judgment. The Court finds that there are triable issues of fact as it relates to standing and the Gingles preconditions. With respect to proportionality, Defendants rely on the incorrect test and seek to employ it at the improper stage of the analysis.³⁵ Accordingly, the Court denies Defendants' Motion for Summary Judgment.

B. Plaintiffs' Motion for Summary Judgment

Plaintiffs likewise move for summary judgment on their Section 2 claims. Doc. No. [173]. For Plaintiffs to be successful they must affirmatively meet their burden of proof and show they are entitled to summary judgment on all three Gingles preconditions, as well as show the election process is not equally open to Black voters under the Enacted Plan based on the totality of the circumstances Senate Factors. The Court now addresses each of these requirements and

³⁵ Defendants did not move for summary judgment on the Senate Factors. The Court, however, discusses the disputes of fact on the totality of the circumstances inquiry in greater detail below. See Section III(B)(4) infra.

ultimately concludes that questions of fact, outstanding credibility determinations, and weighing of evidence precludes granting Plaintiffs' Motion.

1. *Plaintiffs' Standing to Bring Their Section 2 Case*

Preliminarily, the Court addresses Defendants' contention that Plaintiffs have failed to provide summary judgment Record evidence of their standing to bring this Section 2 case. Defendants specifically argue Plaintiffs failed to provide adequate proof of their respective residences for purposes of establishing a district-specific injury, which is required for Section 2 cases. Doc. No. [187], 11-12. Defendants reject usage of the stipulated facts from the preliminary injunction phase as evidence of standing on summary judgment. *Id.* at 12 n.4. Plaintiffs reply that they have shown they are registered voters in the western Atlanta region where the additional majority-minority district would be drawn. Doc. No. [200], 4. Plaintiffs submit declarations from the named Plaintiffs about their residences in the western Atlanta area. Doc. Nos. [201-1]-[201-6].

The Court determines that Plaintiffs' submitted declarations are sufficient for showing an injury for purposes of standing on summary judgment. Generally, the Court "should not consider [] new evidence without giving the [opposing party] an opportunity to respond." Atl. Specialty Ins. v. Digit Dirt

Worx, Inc., 793 F. App'x 896, 901 (11th Cir. 2019) (quoting Provenz v. Miller, 102 F.3d 1478, 1483 (9th Cir. 1996)). This principle applies to “new evidence . . . submitted . . . in a reply brief.” Id.

Here, Defendants had the opportunity to oppose the Court's consideration of Plaintiffs' reply brief evidence, both by filing a motion to strike or by raising it at the Summary Judgment Hearing. Defendants did neither. They also had the opportunity to submit supplemental briefing following the Supreme Court's Allen decision and did not raise any concern about the Plaintiffs' evidence. Defendants, moreover, did not move to file a sur-reply, which is not expressly prohibited by the Court's Local Rules and is within the Court's discretion to grant. Cf. Dynamic Depth, Inc. v. Captaris, Inc., No. 1:07-CV-1488-CAP, 2009 WL 10671407, at *1 (N.D. Ga. June 9, 2009) (“[T]he court will not allow such sur-replies as a routine practice and will only permit them in exceptional circumstances.”); Chemence Med. Prod., Inc. v. Medline Indus., 119 F. Supp. 3d 1376, 1383 (N.D. Ga. 2015). (“Generally, surreplies are not authorized and may only be filed under unusual circumstances, *such as when a party raises new arguments in a reply brief.*” (emphasis added)). Indeed, a district court's consideration of new evidence in a reply brief has been affirmed when the

opposing party failed to move the court for permission to file a sur-reply.
Cf. United States v. Carter, 506 F. App'x 853, 860 (11th Cir. 2013).

Accordingly, considering the evidence contained in Plaintiffs' declarations, the Court is satisfied that the Plaintiffs have shown district-specific injury for their Section 2 case.³⁶

2. *First Gingles Precondition*

As Plaintiffs bear the burden of proof, they must show undisputed evidence that the minority population is sufficiently numerous and compact to create an additional majority-minority district. Alpha Phi Alpha, 587 F. Supp. 3d at 1252 ("[T]he first Gingles precondition requires showings that the relevant minority population is 'sufficiently large and geographically compact to constitute a majority in a single-member district[.]'" (quoting LULAC, 548 U.S. at 425)). Plaintiffs, moreover, must put forth an Illustrative Plan that meets these requirements which could, as a legal matter, be a remedial map. Nipper, 39 F.3d at 1530 ("[T]he issue of remedy is part of the plaintiff's prima facie case in [S]ection 2 vote dilution cases."); see also Section III(A)(2)(a)(3) supra.

³⁶ Furthermore, Defendants' Statement of Material Facts also indicates that the named Plaintiffs live in the affected districts. See Doc. No. [189-1], ¶¶ 17, 24, 28, 30, 33.

Defendants responded by arguing that Plaintiffs failed to prove compactness as a matter of law.³⁷ For compactness, Plaintiffs must show that it is “possible to design an electoral district[] consistent with traditional redistricting principles” Davis, 139 F.3d at 1425. Even if a group is sufficiently large, “there is no [Section] 2 right to a district that is not reasonably compact.” Singleton, 582 F. Supp. 3d at 956 (quoting LULAC, 548 U.S. at 430).

The Parties do not dispute that the Court can look to Georgia’s General Assembly redistricting guidelines to determine if Plaintiffs have met their burden to prove compactness on undisputed facts. Doc. No. [188], ¶ 46; see also Alpha Phi Alpha, 587 F. Supp. 3d at 1257. These guidelines, as entered into the Record, include population equality, compliance with the VRA Section 2,

³⁷ While the first Gingles precondition ultimately requires Plaintiffs to show both numerosity and compactness, because the Court determines that a question of fact precludes granting summary judgment on compactness, it reserves any ruling on numerosity because the numerosity inquiry can be intertwined with the compactness inquiry, and at trial, the Court will best be able to develop a full and complete record on the issue. Cf. Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs, 775 F.3d 1336, 1343 (11th Cir. 2015) (“We have found it particularly ‘important in voting dilution cases that the district court scrupulously comply with the requirements of [Rule 52(a)] and make findings of fact and conclusions of law in sufficient detail that the court of appeals can fully understand the factual and legal basis for the court’s ultimate conclusion.’” (quoting McIntosh Cnty. Branch of the NAACP v. City of Darien, 605 F.2d 753, 757 (5th Cir. 1979))).

compliance with the Georgia and Federal Constitutions, contiguity, county and precinct splits, compactness, communities of interest, and avoiding pairing of incumbents.³⁸ Doc. Nos. [174-11], 3; [174-12], 3.

The Parties dispute whether Mr. Cooper, in crafting Illustrative CD-6, followed these traditional redistricting principles, adequately balanced the required considerations, and did not allow race to predominate.³⁹ Doc. No. [188], ¶¶ 43, 45. In support of their position, Defendants broadly argue that Mr. Cooper cannot (and does not) indicate that he adhered to traditional redistricting principles. Doc. No. [187], 13–15.

³⁸ The Georgia Redistricting Guidelines are also consistent with the traditional redistricting principles outlined in Supreme Court precedent. See Reynolds, 377 U.S. at 598 (population equality); LULAC, 548 U.S. at 433 (communities of interest); Vera, 517 U.S. at 959–60 (contiguity, eyeball test); Cooper, 581 U.S. at 291, 312 (political subdivisions, partisan advantage, empirical compactness measures).

³⁹ The Court is unconvinced by Defendants’ argument that Mr. Cooper failed to explain why he proposed Illustrative CD-6 in metro Atlanta, rather than placing a majority-minority district in east Georgia. Doc. No. [187], 13–14. Mr. Cooper clearly asserted why he chose to put the additional minority-majority Black district in metro Atlanta when he stated that “the dramatic increase in Georgia’s Black population in metro Atlanta during this century [made] the obvious focal point for determining . . . an additional majority-Black district . . . in . . . Metro Atlanta.” Doc. No. [174-1], ¶ 35. Mr. Cooper’s deposition testimony corroborates this assertion. Cooper Dep. Tr. 43:4–13.

Defendants cite to Mr. Cooper's deposition where he admits that the "threshold" for "objective number of county splits that make[] a plan consistent with the traditional principle" of avoiding county-splits is "difficult" and "could vary." Cooper Dep. Tr. 28:7-15. He goes on to admit that the Enacted Plan is not inconsistent with traditional redistricting principles because it splits one more county than the Illustrative Plan. Id. at 28:23-29:2. Similarly, the compactness analysis "ends up being so much [more] subjective [than objective] in terms of how you interpret it." Id. at 29:17-19.

Defendants specifically take issue with Plaintiffs' evidence regarding communities of interest in the Illustrative Plan. Doc. No. [187], 14. The "traditional principle of historical and cultural connections," (i.e., communities of interest) Mr. Cooper admitted was "subjective" and without "specific definition." Cooper Dep. Tr. 32:9-22. While not a challenged district,⁴⁰

⁴⁰ Plaintiffs, in their reply, contend that Defendants' arguments and evidence relating to the unchallenged districts in the Illustrative Plan should not be considered in the communities of interest inquiry. Doc. No. [200], 6-7. Whether communities of interest must be shown for all districts in an illustrative map (or, conversely, just the challenged district/area), is a disagreement common to both Plaintiffs and Defendants' Motions. See Section III(A)(2)(a)(2)(c) supra. As noted above, neither Nipper nor Supreme Court precedent seems to require that districts outside of the remedial district be compact.

Mr. Cooper acknowledged a community of interest was admittedly absent in Illustrative CD-10. Id. at 70:70:16–22 (“They are different. And so I am open to other suggestions for how one might draw District 10.”). He further admitted that Illustrative CD-13 combines urban areas (in Clayton County) with rural areas (in Fayette, Spalding, Butts, and Jasper Counties). Id. at 73:13–17; see also id. at 64:1–16 (discussing issues with communities of interest considerations in Illustrative CD-14).

Plaintiffs argue that Defendants mischaracterize Mr. Cooper’s testimony and ignore the fact that Illustrative CD-6 includes counties which are all part of the “core counties” of Atlanta and the MSA. Doc. No. [200], 8 (citing Cooper Dep. Tr. 54:6–20). Plaintiffs maintain that Defendants’ own expert, Mr. Morgan, failed to undermine the relatively superior performance of the Illustrative Plan (as far as compactness and traditional redistricting principles go) in relation to the Enacted Plan. Doc. No. [173-1], 16–19.

See Section III(A)(2)(a)(2)(c) supra. Regardless of whether the Court considers only Illustrative CD-6 or all the of the districts in the Illustrative Plan, there is a dispute of fact that precludes summary judgment, and so the Court will not linger further than it already has on the applicability of evidence for the unchallenged districts. See Section III(A)(2)(a)(2)(c) supra.

Ultimately, the Court cannot conclude that the evidence of communities of interest in the Illustrative Plan is undisputed. As the above discussion illustrates, Defendants’ and Plaintiffs’ interpretations of Mr. Cooper’s testimony regarding communities of interest differ significantly and cannot be resolved without weighing testimony and assessing credibility – an inappropriate inquiry for the summary judgment stage.

As with Defendants’ Motion, the Court certainly acknowledges that Plaintiffs have submitted different pieces of undisputed evidence that Mr. Cooper’s Illustrative Plan satisfies some traditional redistricting principles under the first Gingles precondition. It is undisputed that Mr. Cooper’s Illustrative Plans’ districts are contiguous and achieve population equality. Doc. Nos. [188], ¶ 49; [174-1], ¶ 52; Morgan Dep. Tr. 62:16–17. The compactness scores from the Reock and Polsby-Popper analyses are undisputed and show the Illustrative Plan outperforms the Enacted Plan under these quantitative measures of compactness.⁴¹ Doc. Nos. [188], ¶¶ 53–55; [174-1], ¶ 79; Morgan Dep.

⁴¹ The Court may also engage in an “eyeball test” to determine if an illustrative map is compact or not. See Alpha Phi Alpha, 587 F. Supp. 3d at 1259; Hearing Tr. 39:9–12

Tr. 56:5–60:12. Defendants’ expert, Mr. Morgan, testified that there was no reason to dispute that the Illustrative Plan split one fewer county, fewer cities and towns, and fewer voting districts than the Enacted Plan.⁴² *Id.* at 44:15–22, 45:15–46:16.

Despite these concessions, however, Plaintiffs’ evidentiary support for the Illustrative Plan is not without material dispute; thus, the Court cannot grant summary judgment on the first Gingles precondition.

3. *Second and Third Gingles Preconditions*

The Court now turns to assessing Plaintiffs’ arguments and evidence relating to the second and third Gingles preconditions. In short, the Court

(Plaintiffs’ contending that Defendants “do not even dispute that the eyeball test tells us that illustrative District 6 is compact.”). No clear concession on the “eyeball test” has been made in the summary judgment Record or briefing on Plaintiffs’ Motion, however, and the Court defers any determination about the “eyeball test” for trial. *See, e.g., Ala. State Conf.*, 612 F Supp. 3d at 1266; *Fair and Balanced Map*, 835 F. Supp. 2d at 570; *see also* Section III(A)(2)(a)(2)(a) *supra*.

⁴² Mr. Morgan emphasizes the “discontinuity” between the Illustrative Plan and the prior 2010 Enacted Plan. Doc. No. [174-7], ¶ 18. This “core retention” point is less persuasive in the light of the recent *Allen* decision, where the Supreme Court rejected Alabama’s argument that having a high degree of core retention was insufficient to defeat a Section 2 claim. *Allen*, 143 S. Ct. at 1505 (“[T]his Court has never held that a State’s adherence to a previously used districting plan can defeat a § 2 claim. If that were the rule, a State could immunize from challenge a new racially discriminatory redistricting plan simply by claiming that it resembled an old racially discriminatory plan.”).

concludes an outstanding credibility determination on the experts' testimony precludes summary judgment.

The second Gingles precondition analysis requires showing that Black voters in the affected area are politically cohesive. Gingles, 478 U.S. at 49. The Court looks to see if Black voters vote cohesively to "show[] that [B]lack[s] prefer certain candidates whom they could elect in a single-member, [B]lack majority district." Id. at 68. "The second [precondition] shows that a representative of its choice would in fact be elected." Allen, 143 S. Ct. at 1503.

"The third precondition, focused on racially polarized voting, 'establish[es] that the challenged districting thwarts a distinctive minority vote' at least plausibly on account of race." Id. Put slightly differently, this analysis looks at whether "the white majority votes sufficiently as a bloc . . . usually to defeat the minority's preferred candidate." Gingles, 478 U.S. at 51 (citations omitted). Thus, the second Gingles precondition focuses on the voting preferences of the minority group, while the third looks at preferences of the majority.

Plaintiffs submit Dr. Palmer as an expert on politically cohesive voting in Georgia. Dr. Palmer utilized statistical methods to assess the significance of

voters' racial polarization in the Enacted CD-3, 6, 11, 13, and 14. Doc. No. [188], ¶¶ 69–70.

Defendants do not dispute that Dr. Palmer's analysis concluded that "Black voters in Georgia are extremely cohesive" *Id.* ¶ 73. Defendants' expert, Dr. Alford, likewise admits as much. Alford Dep. Tr. 37:13–15 (agreeing that "[B]lack Georgians are politically cohesive"). Specifically, in the congressional districts assessed, Dr. Palmer's analysis shows—and Defendants do not dispute—Black voters supported the Black-preferred candidate 98.4% of the time, and thus show as a group they have a clear candidate of choice. Doc. Nos. [188], ¶¶ 75–76; [174-3], ¶¶ 7, 16. This conclusion held across each of the districts at issue. Doc. Nos. [188] ¶ 77; [174-3] ¶ 19.

Dr. Palmer furthermore concluded, and Defendants do not dispute, that white Georgia voters are "highly cohesive" in voting in opposition to the Black-preferred candidate. Doc. Nos. [188], ¶¶ 78, 79 (showing, on average, only 12.4% of white voters voted for Black-preferred candidates in the congressional districts at issue); [174-3], ¶¶ 7, 17. These low percentages of white voters' support for Black-preferred candidates also holds in each congressional district assessed. Doc. No. [188], ¶ 80; [174-3], ¶ 20. Dr. Alford admits that "white voters

are generally voting in a different direction . . . than [B]lack voters.” Alford Dep. Tr. 39:5–6. In fact, the results from Dr. Palmer’s analysis show Black-preferred candidates were only successful in majority-Black congressional districts. Doc. Nos. [188], ¶ 84; [174-3], ¶¶ 8, 21; [174-4], ¶ 4.

Defendants argue, however, that this data alone presents an incomplete assessment. Doc. No. [187], 21 (“[T]he polarization that Dr. Palmer found tells us little (if anything) about the existence and extent of *racial* polarization in Georgia elections.” (emphasis in original)). Defendants contend that while Black and white Georgians tend to vote for opposing candidates, this result can be attributed to partisanship. *Id.* at 22–24.

In an effort to explain this data and the empirical results at issue, Defendants first cite to the fact that Dr. Palmer only assesses general, not primary, elections. Doc. Nos. [200-1], ¶ 16; [168] (Palmer Dep. Tr.) Tr. 59:23–60:1. Defendants argue that primary elections would be the best method of controlling for partisanship in order to determine if race is causing the split between white and Black voters.⁴³ Doc. No. [200-1], ¶ 17; Alford Dep. Tr. 156:1–13 (encouraging

⁴³ Plaintiffs dispute that assessing primaries would have adequately controlled for partisanship and isolated race as the controlling variable. Doc. No. [200-1], ¶¶ 17, 40.

an analysis to disentangle the partisanship effect from the race effect by “look[ing] at some elections where that party signal is not going to be such as a strong driver,” such as in primary elections).

Defendants also make a variety of legal claims in support of their partisanship argument. As far as Defendants’ legal arguments are concerned, the Court has already rejected that the cause of polarization is not relevant to the second and third Gingles preconditions. The Court has also already rejected Defendants’ suggestion that the VRA as applied by Plaintiffs’ is unconstitutional. See Section III(A)(2)(b)(1)(b) supra.

Despite the rejection of Defendants’ legal arguments, Dr. Alford’s criticisms of Dr. Palmer’s conclusions and Defendants’ overall contention that “Dr. Palmer’s data is lacking in several key respects” (Doc. No. [187], 22), nevertheless presents a credibility determination that requires the Court to assess the weight of Dr. Palmer’s conclusions. See Alford Dep. Tr. 156:1–57:22 (stating that Dr. Palmer’s conclusions would be stronger if he had used a different data set that included primary elections evidence); Doc. No. [187], 22 (arguing that Dr. Palmer’s analysis is incomplete because it fails to consider the United States Senate race between two Black candidates). These criticisms demand the Court

assess the weight and credibility of both Dr. Alford's and Dr. Palmer's opinions; thus the Court defers such determinations for trial. Cf. Ga. State Conf., 775 F.3d at 1343 (encouraging "scrupulous[]" compliance with Rule 52(a)'s fact finding requirement in bench trials because "sifting through the conflicting evidence and legal arguments and applying the correct legal standards is for the district court in the first instance" (alteration adopted) and in Section 2 cases, the deferential clear error review is afforded to the district court's findings (quoting McIntosh NAACP, 605 F.2d at 759)). Accordingly, the Court denies Plaintiffs' Motion for Summary Judgment on the second and third Gingles preconditions.⁴⁴

4. *Totality of the Circumstances: Senate Factors*

Plaintiffs also submit that they are entitled to summary judgment on the Senate Factors. In a Section 2 case, after evaluating the Gingles preconditions, the final assessment to determine whether vote dilution has actually occurred requires "assess[ing] the impact of the contested structure or practice on minority

⁴⁴ While summary judgment may not be granted on the second and third Gingles preconditions, the Parties may still stipulate to the numerous undisputed facts regarding cohesion among Black voters and bloc voting by white voters, for purposes of trial. Cf. also Fed. R. Civ. P. 65(a)(2) ("[E]vidence that is received on the [preliminary injunction] motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.").

electoral opportunities on the basis of objective factors.” Gingles, 478 U.S. at 44 (citations omitted). To do so, the Court looks at the VRA’s 1982 Amendments’ Senate Report, which specifies the factors relevant for a Section 2 analysis. “The totality of circumstances inquiry recognizes that application of the Gingles factors is ‘peculiarly dependent upon the facts of each case.’” Allen, 143 S. Ct. at 1503 (quoting Gingles, 478 U.S. at 79). The totality of the circumstances’ inquiry is fact intensive and requires weighing and balancing various facts and factors, which is generally inappropriate on summary judgment. See Rose v. Raffensperger, 1:20-cv-2921-SDG, 2022 WL 670080, at *2 (N.D. Ga. Mar. 7, 2022) (“[T]he Court . . . cannot appropriately evaluate the totality of the circumstances before trial.”). The Court now turns to Plaintiffs’ evidence on the Senate Factors, and ultimately concludes that resolution of the totality of the circumstances inquiry is improper for summary judgment.

a) Senate Factor 1: historical evidence of discrimination

The first Senate Factor is Georgia’s history of official, voting-related discrimination. See Alpha Phi Alpha, 587 F. Supp. 3d at 1314. The Court previously determined that the evidence submitted at the preliminary injunction

hearing was sufficient to show a likelihood of success of proving Georgia had a history of discrimination. Id.

Defendants do not contest Georgia's long history of discrimination against minorities, and namely Georgia's Black population. Doc. No. [187], 25. Defendants however argue that Plaintiffs failed to submit evidence showing that this discrimination is not conflated with "partisan incentives." Id. Defendants, moreover, argue that Plaintiffs' evidence ignores the more recent 2011 DOJ preclearance of Georgia's congressional plan, which was granted on Georgia's first attempt. Id. Defendants finally assert that some of Plaintiffs' evidence is improper since the allegedly discriminatory regulations are either not at the

behest of the State (i.e., polling-place closures⁴⁵) or have been determined to be legal (i.e., voter list maintenance⁴⁶). Id. at 26.

In assessing the historical evidence at issue, the Court is mindful of the Eleventh Circuit's guidance about the scope of evidence to assess to support a finding historical discrimination. See League of Women Voters of Fla. Inc. v. Fla.

⁴⁵ Defendants cite this Court's opinion and order in Fair Fight, 2021 WL 9553855, at *12 in support of this argument. Doc. No. [187], 26. There the Court held that the plaintiffs did not have standing to challenge the moving and closing of polling places against the named state defendants because "[s]tate law explicitly assigns responsibility for determining and changing precincts and polling places to the county superintendents." Id. (citing O.C.G.A. §§ 21-2-70(4), -261(a), -262(c)-(d), -265(a)-(b), -265(e)).

The Court, however, does not find this prior holding to be determinative in assessing the Section 2 Senate Factor. The Court's Fair Fight decision determined that the State's "authority to prescribe rules and provide guidance to the county superintendents [did] not make this issue *traceable* to Defendants." Id. (emphasis added). The authority and guidance given to counties, however, could still bear more generally on minority discrimination despite being insufficient for standing's redressability and traceability requirements.

⁴⁶ Likewise, Defendants cite to the Court's order in Fair Fight Action Inc. v. Raffensperger, No. 1:18-CV-5391-SCJ, 2021 WL 9553856, at *15-18 (N.D. Ga. Mar. 31, 2021) in support of voter list maintenance previously being declared legal. Doc. No. [187], 26. There the Court found that the state defendant's list maintenance procedures did not violate the First and Fourteenth Amendments, under the Anderson-Burdick framework. Id. This legal determination, however, does not preclude the Court from considering the State's voter list maintenance procedures as potential evidence of discrimination in this Section 2 totality of the circumstances inquiry. Though, of course, as a matter of the evidence's weight, the Court—when acting as a trier of fact—could consider the State's interest and the federal legal authority to oversee voter lists.

Sec’y of State, 66 F.4th 905, 922–23 (11th Cir. 2023). Specifically, the Court in no way wishes to suggest that its review of Georgia’s long history of racial discrimination is being used to infer that “a racist past is evidence of current intent.” Id. at 923 (quoting Greater Birmingham Ministries, 992 F.3d at 1325).

The Court is also careful to avoid conflating discrimination based on general party affiliation with racial discrimination. Id. at 924. To be sure, the correct assessment for historical discrimination looks to the “circumstances surrounding the passing of the law in question.” Id. at 923 (quotation and citation omitted).

The Court nevertheless notes some tension in the recent Eleventh Circuit case and the Supreme Court’s affirmance of the 3-judge court in Allen, 143 S. Ct. at 1506 (determining that “[w]e see no reason to disturb the District Court’s careful factual findings” which included a conclusion that “Alabama’s extensive history of repugnant racial and voting-related discrimination is undeniable and well documented.” (citations and quotations omitted)). In fact, a look at the lower court decision shows that the three-judge court did not “fully discount Alabama’s shameful history” despite the “instruction” that past discrimination is not indicative of present unlawful discrimination. Singleton, 582 F. Supp. 3d at 1020;

see id. (“If Alabama’s history of jailing Black persons for voting and marching in support of their voting rights is sufficiently recent for a plaintiff to recall firsthand how that history impacted his childhood, then it seems insufficiently distant for us to completely disregard it in a step of our analysis that commands us to consider history.”); id. at 1020–21 (considering that, in the decades following the VRA, that the DOJ has sent hundreds of election observers to Alabama and that numbers of proposed changes to the voting systems in Alabama had been blocked). However, the lower court in Singleton also engaged with recent evidence of discrimination, precisely the successful racial gerrymandering challenges to state legislative districts after the 2010 census and the fact that federal courts have “recently ruled against or altered local at-large voting systems” Id.

Section 2 requires a “searching practical evaluation of the past and present reality” of “racially discriminatory actions taken by the state.” Allen, 143 S. Ct. at 1504, 1507 (citations omitted). The Court takes this principle to mean that Georgia’s long history of race discrimination is relevant, but the Court cannot rely on the wrongs of the past to find racial discrimination in the present.

Plaintiffs must show that Georgia, presently and in its recent history, continues to have racial discrimination that permeates its election fabric.

With these legal considerations and limitations in mind, the Court turns to Plaintiffs' evidence. Plaintiffs, in support of the history of discrimination in Georgia, submit the report of Dr. Burton.⁴⁷ Doc. No. [174-5]. Dr. Burton's report recounts the history of discriminatory practices against Black voters since the Civil War. *Id.* at 12-36. The report also discusses Georgia's efforts to stifle Black political participation following the VRA. *Id.* at 36-47. In this assessment, Dr. Burton specifically emphasizes Georgia's lengthy and harsh history of discrimination, even in comparison to other southern states. *See, e.g.*, Doc. Nos. [188], ¶ 95; [174-5], 10.

As for more recent discrimination – i.e., since Shelby County's elimination of preclearance – Plaintiffs cite evidence that Georgia has adopted all five of the

⁴⁷ Defendants raise numerous objections to Plaintiffs' Statement of Material Facts under Local Rule 56.1(B)(1) for not being "separately numbered." The Court acknowledges that several of Plaintiffs facts include many different facts that likely should have been split into separate paragraphs. The Court, however, does not find Plaintiffs' factual assertions are so complicated or convoluted that Defendants could not substantively address each fact in their response. Accordingly, the Court looks to the Record evidence presently available in resolving Plaintiffs' Motion.

“most common restrictions that impose roadblocks to the franchise of minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures.”⁴⁸ Doc. No. [174-5], 49–50. Dr. Burton contends that polling place closures are primarily in Black neighborhoods and have resulted in much longer wait times

⁴⁸ Defendants object that this fact (1) is non-compliant with the Local Rules (i.e., not separately numbered), (2) is factually incorrect given prior cases’ determinations on these “roadblocks,” and (3) is hearsay. Doc. No. [188], ¶ 111. The Court previously considered and overruled objections (1) and (2) the separate numbering and the factual inaccuracies. See notes 45–47 supra.

As for the third objection, to the evidence being inadmissible hearsay, the Court determines that Dr. Burton’s reliance on the U.S. Commission on Civil Rights’ statements on minority voting can be considered as summary judgment evidence because it could be reduced to an admissible form at trial. Expert witnesses may base their opinions on inadmissible evidence if other experts would reasonably rely on that evidence in forming an opinion. See Fed. R. Evid. 703; Knight through ex rel. Kerr v. Miami-Dade Cnty., 856 F.3d 795, 809 (11th Cir. 2017) (“[A]n expert may rely on hearsay evidence as part of the foundation for his [or her] opinion so long as the hearsay evidence is ‘the type of evidence reasonably relied upon by experts in the particular field in forming opinions or inferences on the subject.’” (quoting United States v. Scrima, 819 F.2d 996, 1002 (11th Cir. 1987))).

Here, Dr. Burton recounted in his report that he “employed the standard methodology used by historians and other social scientists in investigating the adoption, operations, and maintenance of election laws,” which included examining “relevant scholarly studies, newspaper coverage of events, reports of local, state or federal governments, relevant court decisions, and the record in court cases” Doc. No. [174-5], 9. In the Court’s view, the U.S. Commission on Civil Rights statement constitutes a “report[] of . . . [the] federal government[,]” and thus falls within the gamut of Rule 703 and can be considered to resolve this Motion.

to vote.⁴⁹ Id. at 51. Burton further cites to “voter purges and challenges” from 2012 until 2018, which all “particularly disadvantaged minority voters and candidates.”⁵⁰ Id.

Defendants contest the relevancy of this evidence in the light of the redistricting plans entered in the instant case. While the Court has overruled Defendants objections to the Court’s *consideration* of this evidence, supra notes 45–48, the Court nevertheless cannot *assess* the relevance or assign any weight to this evidence on summary judgment. Evaluating Georgia’s discrimination efforts in recent years, and particularly in its passage of the redistricting plans at issue is necessarily a question of fact, and requires weighing evidence and appraising credibility. Thus, this factor is not determinative at summary judgment.

⁴⁹ Defendants again object to Dr. Burton’s citation of an online newspaper forum as hearsay evidence. Doc. No. [188], ¶¶ 114–15. Just as with the Court’s conclusion in note 48 supra, Dr. Burton’s use of the online newspaper source is within the standard methods and considerations for historical research that can be reducible to admissible form at trial under Rule 703. See Doc. No. [174-5], 9 (indicating Burton’s “standard methodology” included examining “newspaper coverage of events”).

⁵⁰ Defendants’ hearsay objection to the support for this statement (Doc. No. [188], ¶ 115) is overruled for the same reasons as the prior hearsay objections. See notes 48–49 supra. Defendants’ objections about the separate numbering of the relevant facts and their conflict with the Court’s prior findings on the list-maintenance process are overruled for the same reasons as articulated in notes 45–46, supra.

b) Senate Factor 2: racial polarization

The second Senate Factor assesses “the extent to which voting in the elections of the State or political subdivision is racially polarized.” Wright, 979 F.3d at 1305 (quoting LULAC, 548 U.S. at 426). The Court in its preliminary injunction order noted that “the Court’s analysis on the second and third Gingles preconditions controls here.” Alpha Phi Alpha, 587 F. Supp. 3d at 1316.

While the Court agrees with its prior resolution of this Senate Factor under the second and third Gingles preconditions, pursuant to persuasive authority and given the argument presented in the summary judgment filings, it finds it prudent to also consider Defendants’ polarization argument. See Section III(A)(2)(b)(1)(a) supra; see also Nipper, 39 F.3d at 1524 (plurality opinion) (finding that Defendants may rebut evidence of polarization by showing racial bias is based on non-racial circumstances); Uno, 72 F.3d at 983 (racial polarization “will endure *unless* and *until* the defendant adduces credible evidence tending to prove the detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system.” (emphasis in original)).

In the light of these prior statements and on the summary judgment standard the Court must apply to resolve Plaintiffs' Motion, the Court determines that there remains a dispute of fact on this factor. As already indicated, Defendants contest the rigor of Dr. Palmer's data—and thereby the strength of his overall conclusion—on the polarization of Georgia voters. Doc. No. [187], 26–27. Specifically, Defendants contend that Dr. Palmer's failure to consider primary election evidence impugns and weakens his analysis of racial polarization because he fails to control for partisanship. Doc. No. [200-1], ¶ 16–17, 40; Alford Dep. Tr. 29:11–30:1, 156:1–157:22.

As it did for the second and third Gingles preconditions—and with higher potential consequences in the totality of the circumstances inquiry—the Court determines that any assessment of racial polarization requires the weighing of evidence and Dr. Alford's and Dr. Palmer's credibility. This inquiry is inappropriate for summary judgment. See Section III(B)(3) supra.

c) Senate Factor 3: Georgia's voting practices

For the third Senate Factor, the Court considers “the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as

unusually large election districts, majority vote requirements, and prohibitions against bullet voting.” Gingles, 478 U.S. at 44–45. The evidence supporting this factor is not distinct, nor must it be, from the first Senate Factor assessing Georgia’s discriminatory practices. Cf. Singleton, 582 F. Supp. 3d at 1020 (“We analyze these [] Senate Factors together because much of the evidence that is probative of one of them is probative of more than one of them.”).

In support of this Senate Factor, Plaintiffs specifically cite evidence of discrimination relating to malapportionment, polling place closures, voter purges, and shifting from counties voting by district to voting at-large. Doc. No. [173-1], 31. Defendants dispute that this evidence supports Plaintiffs’ Motion, mainly because, in their view, county-level decisions on voting practices are not transferrable to the State. Doc. No. [187], 27.

Given the overlap in evidence submitted, the Court reaffirms its analysis from Senate Factor 1 for Senate Factor 3. There is a material dispute over these discriminatory practices, and thus, the Court cannot form the basis to grant summary judgment.

d) Senate Factor 5:⁵¹ socioeconomic disparities

As the Court's prior preliminary injunction order specified, the Eleventh Circuit's precedent "recognize[s]" that "disproportionate educational, employment, income level, and living conditions arising from past discrimination tend to depress minority political participation." Wright, 979 F.3d at 1294 (quoting United States v. Marengo Cnty. Comm'n, 731 F.2d 1546, 1568 (11th Cir. 1984) (citing and quoting 1982 Senate Report at 29 n.114)). "Where these conditions are shown, and where the level of [B]lack participation is depressed, plaintiffs need not prove any further causal nexus between their disparate socio-economic status and the depressed level of political participation." Id. (quoting Marengo Cnty., 731 F.2d at 1568–69); see also Marengo Cnty., 731 F.2d at 1569 (approving Fifth Circuit precedent requiring that "when there is clear evidence of present socioeconomic or political disadvantage resulting from past discrimination...the burden is not on the plaintiffs to prove that this disadvantage is causing reduced political participation, but rather is on those

⁵¹ Senate Factor 4—a history of candidate slating for congressional elections—is not at issue because Georgia's congressional elections do not use a slating process. Doc. No. [173-1], 32; see also Alpha Phi Alpha, 587 F. Supp. 3d at 1317.

who deny the causal nexus to show that the cause is something else.” (citing Cross v. Baxter, 604 F.2d 875, 881–82 (5th Cir. 1979))).

Here, Plaintiffs submitted evidence of the disproportionate socioeconomic conditions between Black and white Georgians through the expert report and testimony of Dr. Loren Collingwood. Doc. Nos. [174-6]; [186]. Dr. Collingwood expressly concludes that “Black Georgians face clear and significant disadvantages in [education, employment, and health] that reduce their ability to participate in the political process.” Doc. No. [174-6], 4. Dr. Collingwood specifically opines that the unemployment rate of Black Georgians is double that of white Georgians, and that Black Georgians are more likely to live below the poverty line and less likely to have high school or college degree. Id. at 5. Dr. Collingwood’s findings extend across Georgia and are present in most counties. Id. at 7. Moreover, Dr. Collingwood connected these socioeconomic disparities with political science research that causally connects these disparities to depressed voter turnout. Id. at 8. Dr. Collingwood finally determined that white Georgians were more likely than their Black peers to participate in most political activities. Id. at 36, 39.

Defendants do not meaningfully contest these findings and conclusions, but instead suggest that the cause of these differences is not socioeconomically driven, but rather on account of the “motivation” of Black voters. Doc. Nos. [200-1], ¶ 51; [186] (Collingwood Dep. Tr.) Tr. 64:1–19. In support of their “motivation” theory, Defendants cite to the 2012 Presidential Election of President Obama and the 2018 Gubernatorial election with Stacey Abrams as a candidate – where the difference in voter turnout between Black and white voters was much narrower. Doc. Nos. [200-1], ¶ 52–53; [187], 27–28.

The Court is mindful of the Eleventh Circuit precedent that does not require Plaintiffs prove what is causing depressed political participation when socioeconomic disparities have been shown. See, e.g., Wright, 979 F.3d at 1294; Marengo Cnty., 731 F.2d at 1569. The Court is also aware of the prior rejection of a district court’s speculation that “if the [B]lacks could overcome voter apathy and turn out their votes, they could succeed in spite of polarization.” Id. at 1568 (quoting Clark v. Marengo Cnty., 469 F. Supp. 1150, 1163 (S.D. Ala. 1979)).

Nevertheless, Defendants have placed the credibility of Dr. Collingwood’s testimony and conclusions at issue. Thus, while the Court agrees with Plaintiffs’ contentions regarding the law, the Court still cannot resolve this Senate Factor on

summary judgment because it would require the Court to assess Dr. Collingwood's credibility.

e) Senate Factor 6: racial appeals

Next, the Court considers "whether political campaigns in the area are characterized by subtle or overt racial appeals." Wright, 979 F.3d at 1296 (quoting Gingles, 478 U.S. at 45). Plaintiffs submit expert evidence of racial appeals in Georgia's campaigns through Dr. Burton's expert report. Doc. No. [174-5].

In his report, Dr. Burton assesses mainly implicit racial appeals in campaigns throughout Georgia's history, with a specific focus on the Gubernatorial races in 2018 and 2022, and the 2020 Senate race. Id. at 68-71. Defendants argue that Dr. Burton's evidence of racial appeals is insufficient because (1) there is no evidence of racial appeals in congressional races (i.e., the relevant elections challenged by Plaintiff), (2) in several of the statewide races with evidence of racial appeals the candidate making the racial appeal lost the election, and (3) Plaintiffs' evidence is inadmissible hearsay. Doc. No. [187], 28-29.

On the latter point, the Court has already determined that an expert can use otherwise inadmissible hearsay evidence, as long as it is of a variety generally

relied upon in the field for expert testimony. Fed. R. Evid. 703; see also note 48 supra. The newspapers, academic papers, and other sources regarding the history and use of racial appeals in Georgia used by Dr. Burton fall within this exception. Doc. No. [174-5], 9 (articulating that this analysis used the “standard methodology” of historians, which included “examin[ing] relevant scholarly studies, newspaper coverage of events, reports of local, state or federal governments, relevant court decisions, and the record in court cases . . .”). Thus, Dr. Burton’s recounting of these statements may be admissible at trial, and thereby can be considered in resolving the instant Motion.

As for Defendants’ contention that the evidence of racial appeals must relate to the challenged election, the Court finds no support for this point in the cited caselaw. In Rose, which Defendants cite in support (Doc. No. [187], 29), the district court assessed “political campaign advertisements in Georgia generally” and furthermore stated that “the type of campaign to which they relate is relevant to the weight this evidence carries.” 619 F. Supp. 3d at 1266. The district court then went on to find plaintiffs’ evidence of racial appeals to be insufficient – i.e., to “not carry the weight [p]laintiffs seek to place on them” – because “while there was some evidence of racial appeals made during political campaigns in

statewide Georgia races generally, there was no evidence of such appeals in [the elections at issue].” Id. Thus, to the extent Rose is a guide, the Court can consider evidence of racial appeals in Georgia elections generally and thereafter determine the weight of such evidence in the light of the elections specifically challenged. This weighing, however, cannot be completed on summary judgment. Nor can the Court consider the weight to give racial appeals when the candidate making the appeal loses his or her election. Doc. No. [185] (Burton Dep. Tr.) Tr. 127:2–23. Thus, the Court cannot resolve this factor on summary judgment.

f) **Senate Factor 7: underrepresentation and success outside of majority-minority districts of Black candidates**

The Court next considers “the extent to which members of the minority group have been elected to public office in the jurisdiction.” Wright, 979 F.3d at 1295 (quoting LULAC, 548 U.S. at 426). Once again, Plaintiffs rely on Dr. Burton’s report, which specifies that, historically, Black candidates have not been successful in majority white districts. Doc. No. [174-5], 42. Dr. Burton indicates that this difficulty persists to the present, where “most Black candidates in Georgia are only able to win in districts which are majority Black.” Id. at 56.

Defendants do not meaningfully contest this evidence but instead submit that this factor requires a factual inquiry inappropriate for summary judgment. Doc. No. [187], 29–30. The Court agrees. Plaintiffs cite to evidence of Georgia House and Senate elections, as well as statewide federal elections. Doc. No. [173-1], 39–40. The applicability (i.e., weight) of this evidence with regards to *federal congressional elections*, however, requires an assessment that the Court cannot instantly undertake. Thus, this factor cannot be weighed for purposes of summary judgment.

g) **Senate Factor 8: Georgia’s unresponsiveness to Black residents**

“[U]nresponsiveness is of limited importance under section 2” Marengo Cnty., 731 F.2d at 1572. In fact, the Eleventh Circuit has said that “unresponsiveness would be relevant only if the plaintiff chose to make it so” Id.

For this factor, Plaintiffs primarily cite the same expert-based socioeconomic disparities evidence from Senate Factor 5, and Dr. Collingwood’s opinion specifically that “it follows” from these disparities that Georgia is generally unresponsive to Black Georgians. Doc. Nos. [188], ¶ 208; [174-6], 5. Defendants contend that citing to socioeconomic disparities alone is insufficient

for this factor to weigh in favor of Plaintiffs. Doc. No. [187], 30. It is true that a sister district court has held “Senate Factor 8 focuses on a lack of responsiveness, not disproportionate effect, and . . . that it requires something more than an outsized effect correlated with race.” Rose, 619 F. Supp. 3d at 1267. The Court evaluated this evidence at the preliminary injunction phase. Alpha Phi Alpha, 587 F. Supp. 3d at 1320. The Court finds that at least a question of fact and a weighing of evidence is required to assess the presence of socioeconomic disparities and whether they indicate unresponsiveness. Thus, summary judgment on this factor is inapposite.

h) Senate Factor 9: justification for Enacted Plan

Finally, the Court assesses the justification for the Enacted Plan. See Singleton, 582 F. Supp. 3d at 1024 ; Alpha Phi Alpha, 587 F. Supp. 3d at 1320. Plaintiffs submit that the Illustrative Plan, which creates an additional majority-minority district, shows that Defendants lacked justification for the Enacted Plan. Doc. No. [173-1], 41–42. Defendants respond that the real motivation behind the Enacted Plan was not race, but partisanship, and that Plaintiffs have failed to engage with this alternative explanation. Doc. No. [187], 30–31. At this stage in the proceedings, the Court cannot assess the motivations

behind Defendants' enactment of the current map. While the partisanship argument is certainly relevant for the Court's assessment of this factor, such a determination requires weighing facts and assessing credibility. Thereby, this factor likewise cannot be resolved or considered for summary judgment.

5. *Proportionality*

Defendants briefly, at the conclusion of their response to Plaintiffs' Summary Judgment Motion, reraise their proportionality argument and assert that Plaintiffs' Motion has failed to address proportionality. Doc. No. [187], 31. The Court has already rejected Defendants' proportionality argument, see Section III(A)(3) supra, and reiterates that the outstanding questions of fact and credibility precludes summary judgment resolution of the matter.

6. *Conclusion on Plaintiffs' Summary Judgment Motion*

Plaintiffs failed to show that there were no material disputes of fact and that they are entitled to summary judgment as a matter of law. Plaintiffs have not prevailed on summary judgment at any of the three Gingles preconditions or on the totality of the circumstances inquiry. Thus, the Court denies Plaintiffs' Motion. Doc. No. [173].

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendants' Motion for Summary Judgment. Doc. No. [175]. The Court also **DENIES** Plaintiffs' Motion for Summary Judgment. Doc. No. [173]. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to either Party. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial.

Accordingly, the case will proceed to a coordinated trial with Alpha Phi Alpha Fraternity, Inc., et al. v. Brad Raffensperger, No. 1:21-cv-5339-SCJ and Annie Lois Grant et al. v. Brad Raffensperger et al., No. 1:22-cv-122-SCJ. The Second Amended Scheduling Order shall govern the forthcoming proceedings. Doc. No. [210].

IT IS SO ORDERED this 17th day of July, 2023.


HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

Pendergrass Doc. 302

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

COAKLEY PENDERGRASS, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

DEFENDANT'S NOTICE OF APPEAL

Notice is hereby given that, pursuant to 28 U.S.C. §§ 1291 and 1292, Defendant Secretary of State Brad Raffensperger hereby appeals to the U.S. Court of Appeals for the Eleventh Circuit in the above-captioned case from the final judgment entered in this case and from Court's Opinion and Memorandum of Decision entered after trial on October 26, 2023 [Doc. 286], the Court's Order denying Defendants' Motion for Summary Judgment [Doc. 215], and the Court's Order denying Defendants' Motion to Dismiss [Doc. 50].

Respectfully submitted this 22nd day of November, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Notice of Appeal has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

C

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:22-cv-00122-SCJ**

Grant et al v. Raffensperger et al **FILING RESTRICTION PER [122] AND [125] ORDERS**

Assigned to: Judge Steve C. Jones

Case in other court: USCA - 11th Circuit, 23-13921-AA

USCA- 11th Circuit, 24-10241-A

Cause: 52:10301 Denial or abridgement of right to vote on account of race or color

Date Filed: 01/11/2022

Date Terminated: 10/26/2023

Jury Demand: None

Nature of Suit: 441 Civil Rights: Voting

Jurisdiction: Federal Question

Date Filed	#	Docket Text
01/11/2022	1	COMPLAINT filed by Elbert Solomon, Quentin T. Howell, Dexter Wimbish, Elroy Tolbert, Annie Lois Grant, Eunice Sykes, Theron Brown and Triana Arnold James. (Filing fee \$402.00, receipt number AGANDC-11510043) (Attachments: # 1 Civil Cover Sheet) (eop) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 01/11/2022)
01/11/2022	2	Electronic Summons Issued as to Brad Raffensperger. (eop) (Entered: 01/11/2022)
01/11/2022	3	Electronic Summons Issued as to Sara Tindall Ghazal. (eop) (Entered: 01/11/2022)
01/11/2022	4	Electronic Summons Issued as to Anh Le. (eop) (Entered: 01/11/2022)
01/11/2022	5	Electronic Summons Issued as to Edward Lindsey. (eop) (Entered: 01/11/2022)
01/11/2022	6	Electronic Summons Issued as to Matthew Mashburn. (eop) (Entered: 01/11/2022)
01/11/2022	7	Certificate of Interested Persons by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert and Dexter Wimbish. (eop) (Entered: 01/11/2022)
01/11/2022	8	MOTION for Leave to File Excess Pages with Memorandum of Law In Support by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert and Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(eop) (Entered: 01/11/2022)
01/11/2022	9	APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511098).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/11/2022)
01/11/2022	10	APPLICATION for Admission of Christina A. Ford Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511099).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/11/2022)

01/11/2022	<u>11</u>	APPLICATION for Admission of Jonathan P. Hawley Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511100).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/11/2022)
01/12/2022		Submission of <u>8</u> MOTION for Leave to File Excess Pages, to District Judge Steve C. Jones. (eop) (Entered: 01/12/2022)
01/12/2022	<u>12</u>	ORDER granting <u>8</u> Plaintiffs' Motion for Leave to File Excess Pages. Plaintiffs may file an additional ten pages, for a total of 35 pages, to the memorandum in support of their forthcoming motion for preliminary injunction. Signed by Judge Steve C. Jones on 1/12/2022. (ddm) (Entered: 01/12/2022)
01/12/2022		NOTICE OF VIDEO PROCEEDING: RULE 16 CONFERENCE set for 1/12/2022 at 01:30 PM via Zoom via Zoom before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg. Topic: Rule 16 Conference: 1:21-cv-05337-SCJ; 1:21-cv-05338-SCJ-SDG-ELB; 1:21-cv-05339-SCJ, 1:22-0090-ELB-SCJ-SDG; 1:22-CV-0122-SCJ. Connection Instructions: Please click the link below to join the webinar: https://ganduscourts.zoomgov.com/j/1605120572 Passcode: 851671 Or One tap mobile : US: +16692545252,,1605120572#,,,,*851671# or +16468287666,,1605120572#,,,,*851671# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666 or +1 551 285 1373 or +1 669 216 1590 Webinar ID: 160 512 0572 Passcode: 851671 International numbers available: https://ganduscourts.zoomgov.com/u/abdGvu42dG Or an H.323/SIP room system: H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East) Meeting ID: 160 512 0572 Passcode: 851671 SIP: 1605120572@sip.zoomgov.com Passcode: 851671 You must follow the instructions of the Court for remote proceedings available here . The procedure for filing documentary exhibits admitted during the proceeding is available here . <i>Photographing, recording, or broadcasting of any judicial proceedings, including proceedings held by video teleconferencing or telephone conferencing, is strictly and absolutely prohibited.</i> (pdw) (Entered: 01/12/2022)
01/12/2022	<u>13</u>	ORDER granting <u>8</u> Plaintiffs' Motion for Leave to File Excess Pages. Plaintiffs may file an additional ten pages, for a total of 35 pages, to the memorandum in support of their forthcoming motion for preliminary injunction. Signed by Judge Steve C. Jones on 1/12/2022. (ddm) (Entered: 01/12/2022)
01/12/2022	<u>14</u>	ORDER setting motion(s) and briefing schedule: Defendants shall file their motion to dismiss, if any, by no later than 5:00 PM EST on January 14,2022.Plaintiffs shall file their response, if any, by no later than 5:00 PM onJanuary 18, 2022. Defendants shall file their reply/ if any, by no later than 5:00 PM on January 20, 2022. Signed by Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)
01/12/2022	<u>15</u>	ORDER setting motion(s) and briefing schedule: Plaintiffs shall file their amended motion for a preliminary injunction, if any, by no later than 2:00 PM EST on January 13,2022. Defendant shall file their response, if any, by no later than 5:00 PM EST on January 18, 2022. Plaintiffs shall file their reply, if any, by no later than 5:00 PM EST on January 20, 2022. Signed Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)
01/12/2022	<u>57</u>	Minute Entry for proceedings held before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg: Rule 16 conference held via Zoom in Alpha Phi Alpha v. Raffensperger, 1:21-cv-5337-SCJ; Georgia State Conference of the NAACP et al v. State of Georgia, 1:21-cv-05338-SCJ-SDG-ELB; Pendergrass v. Raffensperger, 1:21-CV-5339-SCJ; Common Cause et al v. Raffensperger, 1:22-cv-00090-SCJ-SDG-ELB; Grant v.

		Raffensperger, L. 22-CV-122-SCJ (Court Reporter Viola Zerowski) (pdw) (Entered: 02/07/2022)
01/13/2022		APPROVAL by Clerks Office re: 10 APPLICATION for Admission of Christina A. Ford Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511099). Attorney Christina Ashley Ford added appearing on behalf of Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (cdg) (Entered: 01/13/2022)
01/13/2022		APPROVAL by Clerks Office re: 9 APPLICATION for Admission of Kevin J. Hamilton Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511098). Attorney Kevin J. Hamilton added appearing on behalf of Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (cdg) (Entered: 01/13/2022)
01/13/2022		APPROVAL by Clerks Office re: 11 APPLICATION for Admission of Jonathan P. Hawley Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11511100). Attorney Jonathan Patrick Hawley added appearing on behalf of Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (cdg) (Entered: 01/13/2022)
01/13/2022	16	APPLICATION for Admission of Abha Khanna Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11515172).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/13/2022)
01/13/2022	17	APPLICATION for Admission of Daniel C. Osher Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11515237).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/13/2022)
01/13/2022	18	APPLICATION for Admission of Graham W. White Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11515268).by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/13/2022)
01/13/2022	19	MOTION for Preliminary Injunction with Brief In Support by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Brief in Support of Plaintiffs' Motion for Preliminary Injunction, # 2 Text of Proposed Order Granting Plaintiffs' Motion for Preliminary Injunction)(Sparks, Adam) (Entered: 01/13/2022)
01/13/2022	20	<i>Declaration of Jonathan P. Hawley</i> in Support of 19 MOTION for Preliminary Injunction by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1A - Expert Report of Blakeman B. Esselstyn, # 2 Exhibit 2 - Expert Report of Dr. Maxwell Palmer, # 3 Exhibit 3 - Expert Report of Dr. Orville Vernon Burton, # 4 Exhibit 4 - Expert Report of Dr. Loren Collingwood, # 5 Exhibit 5 - Declaration of Annie Lois Grant, # 6 Exhibit 6 - Declaration of Quentin T. Howell, # 7 Exhibit 7 - Declaration of Elroy Tolbert, # 8 Exhibit 8 - Declaration of Theron Brown, # 9 Exhibit 9 - Declaration of Triana Arnold James, # 10 Exhibit 10 - Declaration of Eunice Sykes, # 11 Exhibit 11 - Declaration of Elbert Solomon, # 12 Exhibit 12 - Declaration of Dexter Wimbish, # 13 Exhibit 13 - GPB Article (11/09/21), # 14 Exhibit 14 - Athens Banner-Herald Article (11/15/21), # 15 Exhibit 15 - GPB Article (11/10/21), # 16 Exhibit 16 - GPB Article (11/12/21), # 17

		Exhibit 17 - Albany Herald Article (11/09/21), # 18 Exhibit 18 - U.S. News & World Report (11/09/21), # 19 Exhibit 19 - Albany Herald Article (11/11/21), # 20 Exhibit 20 - AJC Article (12/30/21), # 21 Exhibit 21 - 2021 Committee Guidelines, # 22 Exhibit 22 - 2021-2022 Guidelines House LCRC, # 23 Exhibit 23 - Dunne Letter (03/20/92), # 24 Exhibit 24 - Reynolds Letter (02/11/82), # 25 Exhibit 25 - AJC Article (09/30/16), # 26 Exhibit 26 - CNN Article (05/02/17), # 27 Exhibit 27 - Appen Media Group Article (03/15/17), # 28 Exhibit 28 - AJC Article (04/15/17), # 29 Exhibit 29 - AJC Article (01/16/17), # 30 Exhibit 30 - Washington Post Article (11/05/18), # 31 Exhibit 31 - Slate Article (11/06/2018), # 32 Exhibit 32 - USA Today Article (05/10/2018), # 33 Exhibit 33 - Salon Article (01/04/21), # 34 Exhibit 34 - ABC News Article (07/28/20), # 35 Exhibit 35 - CNN Article (10/17/20), # 36 Exhibit 36 - AJC Article (10/26/21), # 37 Exhibit 37 - 2021-2022 GLBC Members Webpage, # 38 Exhibit 38 - Governing Article (01/13/21), # 39 Exhibit 39 - NCSL Article (12/01/20), # 40 Exhibit 40 - NGA - Former GA Governors, # 41 Exhibit 41 - AJC Article (12/01/21), # 42 Exhibit 42 - U.S. Senate Webpage - Georgia Senators, # 43 Exhibit 43 - WUGA Article (11/19/2021), # 44 Exhibit 44 - House Study Committee on Maternal Mortality Final Report, # 45 Exhibit 45 - AJC Article (12/01/21), # 46 Exhibit 46 - 2022 State Elections & Voter Registration Calendar, # 47 Exhibit 1B - Attachments to Expert Report of Blakeman B. Esselstyn)(Sparks, Adam) Modified on 1/13/2022 to edit docket text (ddm). (Entered: 01/13/2022)
01/13/2022	21	NOTICE of Appearance by Bryan P. Tyson on behalf of Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Tyson, Bryan) (Entered: 01/13/2022)
01/13/2022	22	NOTICE of Appearance by Charlene S McGowan on behalf of Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (McGowan, Charlene) (Entered: 01/13/2022)
01/14/2022	23	MOTION to Dismiss <i>Plaintiffs' Complaint</i> with Brief In Support by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendants' Motion to Dismiss)(Tyson, Bryan) (Entered: 01/14/2022)
01/18/2022	24	RESPONSE in Opposition re 23 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 01/18/2022)
01/18/2022	25	RESPONSE in Opposition re 19 MOTION for Preliminary Injunction filed by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of John Morgan, # 2 Exhibit B - Dec. of Michael Barnes)(Tyson, Bryan) (Entered: 01/18/2022)
01/18/2022	26	ORDER granting 9 Application for Admission Pro Hac Vice of Kevin J. Hamilton. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	27	ORDER granting 10 Application for Admission Pro Hac Vice of Christina A. Ford. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	28	ORDER granting 11 Application for Admission Pro Hac Vice of Jonathan P. Hawley. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at

		http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	29	ORDER granting 16 Application for Admission Pro Hac Vice of Abha Khanna. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/19/2022	30	COORDINATED ORDER advising that for any and every case in which the Court does not grant the motion to dismiss and does not thereafter grant a request for interlocutory appeal or a request to stay, the Court will hold a coordinated, in-person preliminary injunction hearing regarding the pending motions for preliminary injunction in those cases. If any preliminary injunction hearing occurs, the parties collectively will have up to six (6) days to present evidence and arguments. The presenting parties may choose not to use all six days. If any preliminary injunction hearing occurs, it will take place in the Richard B. Russell Federal Building and United States Courthouse (courtroom to be determined) and begin at 9:00 A.M. (EST) on MONDAY, FEBRUARY 7, 2022. If the parties opt to use all six days, the hearing will take place each following business day from 9:00 A.M. to 5:00 P.M. until the overall conclusion of the hearing at 5:00 P.M. on MONDAY, FEBRUARY 14, 2022. The parties shall file with the Court a consolidated presentation schedule by no later than 5:00 P.M. (EST) on WEDNESDAY, JANUARY 26, 2022. If any preliminary injunction hearing occurs, the parties in cases with still-pending motions for preliminary injunction shall file proposed findings of fact and conclusions of law by no later than 5:00 P.M. (EST) on MONDAY, FEBRUARY 21, 2022. The proposed findings of fact and conclusions of law shall be specific to each case and motion. Signed by Judge Steve C. Jones on 1/19/2022. (ddm) (Entered: 01/19/2022)
01/19/2022	31	Unopposed MOTION for Leave to File Excess Pages by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 01/19/2022)
01/19/2022	32	ORDER granting 31 Motion for Leave to File Excess Pages. Plaintiffs may file an additional five pages, for a total of 20 pages, in their forthcoming reply in support of their motion for preliminary injunction. Signed by Judge Steve C. Jones on 01/19/2022. (rsg) (Entered: 01/19/2022)
01/20/2022		APPROVAL by Clerks Office re: 17 APPLICATION for Admission of Daniel C. Osher Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11515237).. Attorney Daniel C Osher added appearing on behalf of Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (nmb) (Entered: 01/20/2022)
01/20/2022		APPROVAL by Clerks Office re: 18 APPLICATION for Admission of Graham W. White Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11515268).. Attorney Graham W. White added appearing on behalf of Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (nmb) (Entered: 01/20/2022)
01/20/2022	33	NOTICE of Appearance by Bryan Francis Jacoutot on behalf of Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Jacoutot, Bryan) (Entered: 01/20/2022)
01/20/2022	34	NOTICE of Appearance by Loree Anne Paradise on behalf of Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Paradise, Loree Anne) (Entered: 01/20/2022)

01/20/2022	35	REPLY to Response to Motion re 19 MOTION for Preliminary Injunction filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 01/20/2022)
01/20/2022	36	<i>Second Declaration of Jonathan P. Hawley</i> in Support of 19 Plaintiffs' Motion for Preliminary Injunction filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1 - Suppl. Expert Report of Blakeman B. Esselstyn, # 2 Exhibit 2 - Suppl. Expert Report of Dr. Orville Vernon Burton)(Sparks, Adam) Modified on 1/21/2022 to edit docket entry (ddm). (Entered: 01/20/2022)
01/20/2022	37	REPLY to Response to Motion re 23 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 01/20/2022)
01/21/2022	38	NOTICE of Appearance by Frank B. Strickland on behalf of Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Strickland, Frank) (Entered: 01/21/2022)
01/25/2022	39	NOTICE Of Filing of Supplemental Authority by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 19 MOTION for Preliminary Injunction , 24 Response in Opposition to Motion, (Attachments: # 1 Exhibit 1 - Caster v. Merrill Order (01/24/22))(Sparks, Adam) (Entered: 01/25/2022)
01/26/2022	40	NOTICE Of Filing PARTIES CONSOLIDATED PRESENTATION SCHEDULE by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 30 Order,,,,,, Set Deadlines/Hearings,,,,,, Set Submission Deadline,,,,,, (Lewis, Joyce) (Entered: 01/26/2022)
01/27/2022	41	ORDER granting 17 Application for Admission Pro Hac Vice of Daniel C. Osher. Signed by Judge Steve C. Jones on 1/27/ 2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/27/2022	42	ORDER granting 18 Application for Admission Pro Hac Vice of Graham W. White. Signed by Judge Steve C. Jones on 1/27/1022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/28/2022	43	ORDER denying 23 Defendants' Motion to Dismiss Plaintiffs' Complaint. Defendants' request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is denied. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)
01/28/2022	44	COORDINATED ORDER issued for purposes of perfecting the record as to the February 7-14, 2022 coordinated in-person hearing on the Motion for Preliminary Injunction. See Order for specifics on pre-hearing deadlines, stipulations, hearing schedule and covid-19 mitigation protocols. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)
01/31/2022	45	Witness List by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Lewis, Joyce) (Entered: 01/31/2022)

01/31/2022	46	NOTICE Of Filing Defendants' Lists of Witnesses and Exhibits by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re 44 Order, (Attachments: # 1 Exhibit 7, # 2 Exhibit 9, # 3 Exhibit 10, # 4 Exhibit 11, # 5 Exhibit 12, # 6 Exhibit 13, # 7 Exhibit 14 Part 1, # 8 Exhibit 14 Part 2, # 9 Exhibit 15, # 10 Exhibit 16, # 11 Exhibit 17, # 12 Exhibit 18, # 13 Exhibit 19, # 14 Exhibit 20, # 15 Exhibit 21, # 16 Exhibit 22, # 17 Exhibit 23, # 18 Exhibit 24, # 19 Exhibit 25, # 20 Exhibit 26, # 21 Exhibit 27, # 22 Exhibit 28, # 23 Exhibit 29, # 24 Exhibit 30, # 25 Exhibit 31, # 26 Exhibit 32, # 27 Exhibit 33, # 28 Exhibit 34, # 29 Exhibit 35, # 30 Exhibit 36, # 31 Exhibit 37)(Tyson, Bryan) (Entered: 01/31/2022)
02/01/2022	47	RESPONSE to 39 <i>Plaintiffs' Notice of Supplemental Authority</i> filed by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Amicus Brief Joined by Georgia in Merrill v. Milligan) (Tyson, Bryan) Modified on 2/1/2022 to edit docket text (ddm). (Entered: 02/01/2022)
02/02/2022	48	NOTICE Of Filing Defendants' Objections to Plaintiffs' Witnesses and Exhibits by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re 44 Order, (Tyson, Bryan) (Entered: 02/02/2022)
02/02/2022	49	NOTICE Of Filing <i>Plaintiffs' Objections to Defendants' Lists of Witnesses and Exhibits</i> by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Lewis, Joyce) Modified on 2/3/2022 to edit docket text (ddm). (Entered: 02/02/2022)
02/03/2022	50	ORDER ALLOWING AUDIO/VISUAL EQUIPMENT IN THE COURTROOM on 2/04/2022 - 2/14/2022 at 9:00 AM: Graham W. White, Michael B. Jones, Kevin J. Hamilton, Abha Khanna Adam M. Sparks, Joyce Gist Lewis, and Jonathan. P. Hawley, and their accompanying staff, Patricia Marino, Benjamin Winstead and Patina Clarke. Signed by Judge Steve C. Jones on 2/3/2022. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022		Submission of 19 MOTION for Preliminary Injunction , to District Judge Steve C. Jones. (pdw) (Entered: 02/03/2022)
02/03/2022		DOCKET ORDER AMENDMENT to 50 Order Allowing Audio/Visual Equipment in the Courtroom: the parties will NOT be permitted to bring additional tables into the Courtroom. Entered by Judge Steve C. Jones on 2/3/2022. (pdw)(pdw) (Entered: 02/03/2022)
02/03/2022	51	ORDER directing Defendants to file on the docket expert reports by Lynn Bailey, Gina Wright, and Dr. John Alford by no later than 12:00 p.m. (EST) on Friday, February 4,2022. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/03/2022	52	COORDINATED ORDER regarding Defendants' Objections to Plaintiffs' witnesses and exhibits 48 . The Court declines to rule on these objections prior to the preliminary injunction hearing. The Court instructs Defendants to raise their objections to a specific exhibit when Plaintiffs move to introduce the exhibit into evidence. At that time, the Court will rule on the Defendants' objection to that particular exhibit. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/04/2022	53	Expert Report of John R. Alford, Ph.D. by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	54	Expert Report of Lynn Bailey by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	55	Expert Report of Gina Wright by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)

02/04/2022		COURT'S NOTICE REGARDING THE PRELIMINARY INJUNCTION HEARING SCHEDULED TO COMMENCE ON FEBRUARY 7, 2022 AT 9:00 AM IN COURTROOM 1907: As part of the Court's COVID-19 safety protocols, a maximum of 24 non-party observers will be permitted to attend. A maximum of 7 members of press will be permitted to sit in the jury box; however, entrance to and egress from the jury box will be limited to prior to start of court and during breaks only. COURTROOM 2105 WILL BE USED FOR OVERFLOW SEATING, WITH A LIVE AUDIO STREAM PROVIDED.(pdw) (Entered: 02/04/2022)
02/04/2022	56	STIPULATION re 44 Order, <i>Joint Stipulated Facts for Preliminary Injunction Proceedings</i> by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 02/04/2022)
02/07/2022	58	COURT'S NOTICE Of Filing INSTRUCTIONS FOR CASES ASSIGNED TO THE HONORABLE STEVE C. JONES. (pdw) (Entered: 02/07/2022)
02/07/2022	59	ORDER - In light of the Supreme Court's decision this Court hereby ORDERS the parties to arrive to court tomorrow morning prepared to discuss whether this Court should continue to hold the current hearing regarding Plaintiffs' motions for preliminary injunctions. Signed by Judge Steve C. Jones on 2/7/2022. (pdw) (Entered: 02/07/2022)
02/07/2022	84	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing held on 2/7/2022 re 19 MOTION for Preliminary Injunction. Preliminary Injunction hearing began. Opening statements heard. Pendergrass/Grant plaintiffs' exhibits 1-26, 38-40,53, 55-58, 60, 62, 66 admitted. Alpha plaintiffs' exhibits A1-A18, A22, A37, A46-A49 admitted. Pendergrass/Grant witness Dr. William Cooper sworn and testified. Dr. William Cooper recalled by Alpha plaintiffs. Alpha plaintiffs' exhibit 47 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/08/2022	85	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued 2/8/2022 re 19 MOTION for Preliminary Injunction. The Court heard argument regarding SCOTUS ruling issued 2/7/2022 in Alabama cases. Court adjourned for three hours to allow counsel time to prepare for presentation of evidence. Defendants witness Mark Barnes sworn and testified. Pendergrass/Grant witness Blakeman Esselstyn sworn and testified. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/09/2022	60	RESPONSE re 59 Order, filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 02/09/2022)
02/09/2022	61	<i>Declaration of Jonathan P. Hawley</i> in Support of 60 Response filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1 - B. Esselstyn 2nd Supplemental Expert Report)(Sparks, Adam) Modified on 2/9/2022 to edit docket text (ddm). (Entered: 02/09/2022)
02/09/2022	86	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/9/2022 re 19 MOTION for Preliminary Injunction. Defendants' witness Lynn Bailey sworn and testified. Defendants' exhibits 38 and 7 admitted. Pendergrass/Grant witnesses Richard Barron and Nancy Boren sworn and testified. Pendergrass/Grant exhibit 68 admitted. Alpha Plaintiffs' witness Bishop Jackson sworn and testified. Blakeman Esselstyn recalled by Pendergrass/Grant Plaintiffs. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/10/2022	62	Unopposed MOTION for Judicial Notice by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter

		Wimbush. (Attachments: # 1 Exhibit 1 - 2012 Districting Maps and Data, # 2 Exhibit 2 - 2014 Districting Maps and Data, # 3 Exhibit 3 - 2015 Districting Maps and Data)(Sparks, Adam) (Entered: 02/10/2022)
02/10/2022	63	Consent MOTION for Extension of Time to File Answer re 1 Complaint, by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/10/2022)
02/10/2022	87	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/10/2022 re 19 MOTION for Preliminary Injunction. Pendergrass/Grant witness sworn and testified via Zoom. Pendergrass/Grant witness Dr. Maxwell Palmer sworn and testified. Alpha witness Lisa Handley sworn and testified. Alpha exhibit A52 admitted. Pendergrass/Grant witness Jason Carter sworn and testified. Alpha witness Adrienne Jones sworn and testified. Alpha exhibit A5 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/11/2022	64	DOCKET ORDER granting 62 Unopposed Motion for Judicial Notice. Entered by Judge Steve C. Jones on 2/11/2022. (pdw) (Entered: 02/11/2022)
02/11/2022	65	ORDER granting the 63 Defendants' Motion to Extend the Time to Answer Plaintiffs' Complaint. Defendants' answers to Plaintiffs' Complaint is due on or before February 25, 2022. Signed by Judge Steve C. Jones on 02/11/2022. (ddm) (Entered: 02/11/2022)
02/11/2022	88	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/11/2022 re 19 MOTION for Preliminary Injunction. Defendants' witness Gina Wright sworn and testified. Defendants' exhibits 1-37, 38, 41 admitted. Pendergrass/Grant exhibits 69 and 70 admitted. Defendants exhibit 41 admitted. Defendants witness John Morgan sworn and testified. Defendants' witness John Alford sworn and testified via Zoom. Defendants' exhibit 42 admitted Alpha exhibit 207.6 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/14/2022	66	COORDINATED ORDER directing the parties to file proposed findings of fact and conclusions of law no later than 5:00 P.M. (EST) on FRIDAY, FEBRUARY 18, 2022. Parties are further ORDERED to file their proposed findings of fact and conclusions of law to CM/ECF and e-mail a word copy the Court's Courtroom Deputy (see order for contact information). Signed by Judge Steve C. Jones on 02/14/2022. (ddm) (Entered: 02/15/2022)
02/14/2022	89	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing concluded on 2/14/2022 re 19 MOTION for Preliminary Injunction. Alpha exhibit A53 admitted. John Morgan recalled, testified via Zoom. Defendants exhibits 43-47 admitted. Pendergrass/Grant exhibits 27-37, 41-54, 59, 61, 63-67 admitted. Alpha exhibits 50 and 51 admitted. Closing arguments heard. The matter was taken under advisement by the Court with ruling to follow. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/15/2022	67	Notice for Leave of Absence for the following date(s): March 24-25, 2022, April 4-8, 2022, May 23-27, 2022, and July 5-8, 2022, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 02/15/2022)
02/16/2022	68	TRANSCRIPT of Proceedings held on February 7, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript

		Restriction set for 5/17/2022. (Attachments: # <u>1</u> Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	<u>69</u>	TRANSCRIPT of Proceedings held on February 8, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	<u>70</u>	TRANSCRIPT of Proceedings held on February 11, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # <u>1</u> Appendix Notice of Filing) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	<u>71</u>	TRANSCRIPT of Proceedings held on February 9, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # <u>1</u> Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	<u>72</u>	TRANSCRIPT of Proceedings held on February 10, 2020, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # <u>1</u> Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	<u>73</u>	TRANSCRIPT of Proceedings held on February 14, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # <u>1</u> Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/17/2022	<u>74</u>	TRANSCRIPT of Preliminary Injunction Proceedings held on 2/7/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at

		<p>www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/17/2022)</p>
02/17/2022	75	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/8/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/17/2022)</p>
02/17/2022	76	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/9/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/17/2022)</p>
02/17/2022	77	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/10/2022, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/17/2022)</p>
02/17/2022	78	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/11/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/17/2022)</p>
02/17/2022	79	<p>TRANSCRIPT of Proceedings Injunction Proceedings held on 2/14/2022 - P.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be</p>

		obtained through PACER. Redaction Request due 3/10/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/18/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) (Entered: 02/17/2022)
02/18/2022	80	NOTICE by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger <i>of Supplemental Authority</i> (Attachments: # 1 Exhibit A - Order in Arkansas State Conf. of the NAACP v. Arkansas Board of Apportionment)(Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	81	Proposed Findings of Fact by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	82	Proposed Findings of Fact by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 02/18/2022)
02/25/2022	83	ANSWER to 1 COMPLAINT by Sara Tindall Ghazal, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. Discovery ends on 7/25/2022.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 02/25/2022)
02/28/2022	90	SCHEDULING ORDER. See Order for all specific deadlines. The parties are encouraged to abide by their previously expressed commitments to coordinate with the parties in all of the redistricting cases (currently pending in the Northern District of Georgia) in terms of discovery, so as to limit redundancies and diminish discovery burdens. Except as modified herein, the Federal Rules of Civil Procedure and the Local Rules of this Court, shall govern any remaining deadlines. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
02/28/2022	91	ORDER denying the 19 Motion for Preliminary Injunction. Having determined that a preliminary injunction should not issue, the Court cautions that this is an interim, non-final ruling that should not be viewed as an indication of how the Court will ultimately rule on the merits at trial. Under the specific circumstances of this case, the Court finds that proceeding with the Enacted Maps for the 2022 election cycle is the right decision. But it is a difficult decision. And it is a decision the Court did not make lightly. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
03/28/2022	92	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 03/28/2022)
03/28/2022	93	CERTIFICATE OF SERVICE <i>of Plaintiffs' Initial Disclosures</i> by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 03/28/2022)
03/29/2022	94	MOTION for Leave to File Amended Complaint with Brief In Support by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit Exhibit - 1 Proposed Amended Complaint, # 2 Exhibit Exhibit - 2 Proposed Order)(Sparks, Adam) (Entered: 03/29/2022)
03/29/2022	95	ORDER granting 94 Plaintiff's Consent Motion for Leave to Amend Complaint. Defendants shall have 14 days from the entry of this order to respond to the amended complaint. Signed by Judge Steve C. Jones on 03/29/2022. (ddm) (Entered: 03/29/2022)
03/29/2022	96	AMENDED COMPLAINT against All Defendants filed by Mary Nell Conner, Quentin T. Howell, Dexter Wimbish, Jacqueline Faye Arbuthnot, Annie Lois Grant, Theron Brown, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Jacquelyn Bush, Elroy Tolbert,

		Eunice Sykes.(ddm) Please visit our website at http://www.gand.uscourts.gov commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 03/29/2022)
03/31/2022	<u>97</u>	CERTIFICATE OF SERVICE <i>for Defendants' Initial Disclosures</i> by Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/31/2022)
04/13/2022	<u>98</u>	<i>Defendants'</i> ANSWER to <u>96</u> Amended Complaint by Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 04/13/2022)
05/12/2022	<u>99</u>	Notice for Leave of Absence for the following date(s): May 23-27, 2022, July 5-8, 2022, September 2-6, 2022, September 16-19, 2022, September 30, 2022, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 05/12/2022)
05/16/2022	<u>100</u>	ORDER advising the parties that the Court declines the parties' request for another scheduling conference. The Court also DENIES Plaintiffs' requests to alter the previously issued scheduling orders. Said scheduling orders remain the Order of the Court. Signed by Judge Steve C. Jones on 05/16/2022. (ddm) (Entered: 05/16/2022)
05/23/2022	<u>101</u>	Request for Leave of Absence for the following date(s): 6/13/22 - 6/24/22; 6/27/22 - 7/1/22; 7/5/22 - 7/15/22, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 05/23/2022)
07/27/2022		ORDER (by docket entry only): The parties are hereby ORDERED to file a joint status report no later than 12:00 PM on August 2, 2022 setting forth the following information: 1.) the current posture of the litigation; and 2.) if the parties will be prepared to proceed to trial either in late April or the month of May, 2023. Entered by Judge Steve C. Jones on 7/27/2022. (pdw) (Entered: 07/27/2022)
08/02/2022	<u>102</u>	STATUS REPORT <i>Joint Status Report</i> by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 08/02/2022)
08/04/2022	<u>103</u>	ORDER advising the parties that, after having read and considered the parties' Joint Status Report in response to the Court's order of July 27, 2022, the Court exercises its discretion to leave the scheduling order (dated February 28, 2022) in place. No changes will be made at this time. Signed by Judge Steve C. Jones on 08/04/2022. (ddm) (Entered: 08/04/2022)
08/04/2022	<u>104</u>	CERTIFICATE OF SERVICE <i>of Discovery</i> by Theron Brown, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Lewis, Joyce) (Entered: 08/04/2022)
08/05/2022	<u>105</u>	CERTIFICATE OF SERVICE <i>for Defendants' First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission</i> by Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 08/05/2022)
08/24/2022	<u>106</u>	Joint MOTION for Protective Order by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # <u>1</u> Text of Proposed Order [Proposed] Stipulated Protective Order)(Lewis, Joyce) (Entered: 08/24/2022)
08/25/2022	<u>107</u>	STIPULATED PROTECTIVE ORDER. Signed by Judge Steve C. Jones on 08/25/2022.

09/02/2022	108	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) (Entered: 09/02/2022)
09/13/2022	109	MOTION to Withdraw Loree Anne Paradise as Attorneyby Sara Tindall Ghazal, Janice Johnston, Anh Le, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Paradise, Loree Anne) (Entered: 09/13/2022)
09/14/2022	110	APPLICATION for Admission of Makeba Rutahindurwa Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12068072).by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/14/2022)
09/15/2022	111	ORDER granting 109 Motion to Withdraw as Attorney filed by Loree Anne Paradise. Signed by Judge Steve C. Jones on 09/15/2022. (ddm) (Entered: 09/15/2022)
09/19/2022		APPROVAL by Clerks Office re: 110 APPLICATION for Admission of Makeba Rutahindurwa Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12068072). Attorney Makeba Rutahindurwa added appearing on behalf of Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (pdt) (Entered: 09/19/2022)
09/19/2022	112	ORDER granting 110 Application for Admission Pro Hac Vice filed by Makeba Rutahindurwa. Signed by Judge Steve C. Jones on 09/19/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(ddm) (Entered: 09/19/2022)
10/07/2022	113	STIPULATION AND ORDER REGARDING DISCOVERY. (See Order for specific deadlines.) Signed by Judge Steve C. Jones on 10/07/2022. (ddm) (Entered: 10/07/2022)
10/17/2022	114	Consent MOTION to Add Party <i>Judge William S. Duffey, Jr. as a Defendant in His Official Capacity</i> by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 10/17/2022)
10/17/2022	115	ORDER granting 114 Plaintiffs' Consent Motion to add Judge William S. Duffey, Jr. as a Defendant. Plaintiffs are ORDERED to file their amended complaint within ten days of the entry of this Order. Signed by Judge Steve C. Jones on 10/17/2022. (ddm) (Entered: 10/18/2022)
10/18/2022	116	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 10/18/2022)
10/25/2022	117	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 10/25/2022)
10/28/2022	118	Second AMENDED COMPLAINT against All Defendants filed by Mary Nell Conner, Quentin T. Howell, Jacqueline Faye Arbuthnot, Annie Lois Grant, Theron Brown, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Jacquelyn Bush, Elroy Tolbert, Eunice

		Sykes. (Sparks, Adam) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 10/28/2022)
10/31/2022	119	MOTION to Intervene as Plaintiff filed by Marvis McDaniel Ivey. (ddm) (Entered: 11/01/2022)
10/31/2022	120	MOTION for Temporary Restraining Order by Marvis McDaniel Ivey. (ddm) (Entered: 11/01/2022)
11/01/2022	121	ORDER denying 119 Marvis McDaniel Ivey's Motion to Intervene and denying as moot 120 Marvis McDaniel Ivey's Motion for TRO. Signed by Judge Steve C. Jones on 11/01/2022. (ddm) (Entered: 11/01/2022)
11/01/2022		Clerk's Certificate of Mailing as to Marvis McDaniel Ivey re 121 Order. (ddm) (Entered: 11/01/2022)
11/02/2022	122	ORDER directing the Clerk to not docket any future filings by Ms. Ivey in the case sub judice. The Clerk shall instead hold said matters in abatement in a miscellaneous case file and submit said filings to the undersigned for review. The Court will thereafter determine the proper disposition of the filing. Ms. Ivey is hereby warned that any future filings in cases in which she is not a named party that are deemed frivolous by the presiding judge may (after notice and reasonable opportunity to respond) lead to sanctions. Signed by Judge Steve C. Jones on 11/02/2022. (ddm) Modified on 11/2/2022 to edit docket text (ddm). (Entered: 11/02/2022)
11/02/2022		Clerk's Certificate of Mailing as to Marvis McDaniel Ivey re 122 Order. (ddm) (Entered: 11/02/2022)
11/08/2022	123	WAIVER OF SERVICE Returned Executed by Mary Nell Conner, Quentin T. Howell, Dexter Wimbish, Jacqueline Faye Arbuthnot, Annie Lois Grant, Theron Brown, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Jacquelyn Bush, Elroy Tolbert, Eunice Sykes. William S. Duffey, Jr waiver mailed on 11/3/2022, answer due 1/3/2023. (Sparks, Adam) (Entered: 11/08/2022)
11/14/2022	124	ANSWER to 118 Amended Complaint by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 11/14/2022)
11/18/2022	125	Copy of Order from 122mi68 - Pursuant to the Court's inherent authority to control its docket and in the interest of avoiding confusion, Ms. Ivey is ORDERED to style/label each future-filed motion with one case name/caption and one case number and to not file omnibus motions that contains multiple case listings in the header. The Clerk shall file Ms. Ivey's corrected document(s)/motion(s) in the designated case numbers, with the exception of any filings for 1:22-cv-0122. The Court hereby provides CLARIFICATION to the Clerk that its November 2, 2022 order only concerned Case No. 1:22-CV-122, Grant v. Raffensperger and no other case. All other future motions filed by Marvis McDaniel Ivey (not concerning Civil Action No. 1:22-CV-122) shall be docketed in their respective cases absent further order of the Court. This Order should also not be construed as restricting Ms. Ivey's ability to file a new civil action concerning the issues that she is attempting to raise. If Ms. Ivey wishes to file a new civil action, she must comply with Judge Thrash's 2015 Order and the applicable rules and procedures for initiating a new case. Signed by Judge Steve C. Jones on 11/18/2022. (rsg) (Entered: 11/18/2022)

11/23/2022	126	CERTIFICATE OF SERVICE <i>for Defendants' First Set of Requests for Admission</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn.(Tyson, Bryan) (Entered: 11/23/2022)
11/29/2022	127	Notice for Leave of Absence for the following date(s): December 30, 2022 - January 5, 2023, February 15-20, 2023, March 22-24, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 11/29/2022)
12/06/2022	128	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 12/06/2022)
12/06/2022	129	CERTIFICATE OF SERVICE <i>for State Defendants' Responses to Plaintiffs' Second Set of Discovery Requests</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/06/2022	130	CERTIFICATE OF SERVICE <i>for Defendants' Notices of Deposition of Dexter Wimbish, Eunice Sykes and Triana Arnold James</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/06/2022	131	CERTIFICATE OF SERVICE <i>for the Expert Report of John B. Morgan</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/09/2022	132	CERTIFICATE OF SERVICE <i>for Defendants' Notices to take the Depositions of Annie Lois Grant, Quentin T. Howell, Jacqueline Faye Arbuthnot, Garrett Reynolds and Elbert Solomon</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 12/09/2022)
12/13/2022	133	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 12/13/2022)
12/15/2022	134	Joint MOTION to Amend 113 Order with Brief In Support by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1 - Amended Proposed Stipulation and Order) (Sparks, Adam) (Entered: 12/15/2022)
12/22/2022	135	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 12/22/2022. (ddm) (Entered: 12/22/2022)
01/03/2023	136	CERTIFICATE OF SERVICE <i>for Notice to take the Deposition of Eunice Sykes</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/03/2023)
01/06/2023	137	MOTION for Leave to Withdraw as Counsel - Graham W. White by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 01/06/2023)
01/09/2023	138	Notice for Leave of Absence for the following date(s): 4/3/23 - 4/7/23, 5/22/23 - 5/26/23, 10/5/23 - 10/19/23 and 11/9/23 - 11/10/23, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 01/09/2023)

01/19/2023	139	NOTICE of Appearance by Donald P. Boyle, Jr on behalf of William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Boyle, Donald) (Entered: 01/19/2023)
01/20/2023	140	CERTIFICATE OF SERVICE <i>for Defendants' Notice of Deposition of Jacquelyn Bush and Amended Notices of Deposition of Jacqueline Faye Arbuthnot and Garrett Reynolds</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/20/2023)
01/24/2023	141	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 01/24/2023)
01/25/2023	142	MOTION to Withdraw Kevin J. Hamilton as Attorneyby Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Hamilton, Kevin) (Entered: 01/25/2023)
01/26/2023	143	NOTICE of Appearance by Diane Festin LaRoss on behalf of William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (LaRoss, Diane) (Entered: 01/26/2023)
01/30/2023		Submission of 137 MOTION for Leave to Withdraw as Counsel - Graham W. White , to District Judge Steve C. Jones. (pdw) (Entered: 01/30/2023)
01/30/2023	144	ORDER granting 137 Motion to Withdraw as Counsel filed by Graham W. White. Signed by Judge Steve C. Jones on 01/30/2023. (ddm) (Entered: 01/30/2023)
01/30/2023		Clerk's Certificate of Mailing to Graham W. White re 144 Order. (ddm) (Entered: 01/30/2023)
01/31/2023	145	CERTIFICATE OF SERVICE <i>for Defendants' expert disclosure of John Morgan's Report</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023	146	CERTIFICATE OF SERVICE <i>for Defendant Secretary of State Brad Raffensperger's Supplemental Objections and Responses to Plaintiffs' First Set of Interrogatories</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
02/01/2023	147	CERTIFICATE OF SERVICE <i>for Defendants' Notice to take the Expert Deposition of Blakeman Esselstyn</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/01/2023)
02/02/2023	148	CERTIFICATE OF SERVICE <i>for Defendants' notices to take the Depositions of Elroy Tolbert, Mary Nell Conner and Theron Brown</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 02/02/2023)
02/06/2023	149	CERTIFICATE OF SERVICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 02/06/2023)

02/06/2023	150	CERTIFICATE OF SERVICE for the Expert Report of John R. Alford, Ph.D. by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/06/2023)
02/13/2023	151	ORDER granting the 142 Motion to Withdraw as Attorney filed by Kevin J. Hamilton. Signed by Judge Steve C. Jones on 02/13/2023. (ddm) (Entered: 02/13/2023)
02/15/2023	152	Certification of Consent to Substitution of Counsel. Elizabeth Marie Wilson Vaughan replacing attorney Charlene S McGowan. (Vaughan, Elizabeth) (Entered: 02/15/2023)
02/17/2023	153	Joint MOTION for Extension of Time to Complete Discovery for Limited Purpose of Taking Depositions by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/17/2023)
02/17/2023	154	CERTIFICATE OF SERVICE for Defendants' Notices of Depositions of Drs. Orville Vernon Burton, Maxwell Palmer and Loren Collingwood, Fenika Miller and Representatives Derrick Jackson and Erick Allen by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 02/17/2023)
02/17/2023	155	ORDER granting the parties' 153 Joint Motion to Extend Discovery Deadline for Limited Purpose of Taking Depositions. The discovery deadline is extended through and including March 9, 2023 for the limited purpose of conducting depositions. Signed by Judge Steve C. Jones on 02/17/2023. (ddm) (Entered: 02/17/2023)
02/17/2023	156	CERTIFICATE OF SERVICE of Joint Notices of Deposition by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) (Entered: 02/17/2023)
02/28/2023	157	CERTIFICATE OF SERVICE for Defendants' Amended Notice to take the Expert Deposition of Loren Collingwood, Ph.D. and Defendants' Notices to take the Depositions of Marion Warren and Diane Evans, Ph.D. by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 02/28/2023)
03/06/2023	158	NOTICE by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish Plaintiffs' and Defendants' Notice Regarding Alternative Dispute Resolution (Lewis, Joyce) (Entered: 03/06/2023)
03/09/2023	159	(DOCUMENT RESTRICTED PER [213]) CERTIFICATE OF SERVICE for Defendants' Notice to take the Expert Deposition of Benjamin Schmeer, Ph.D. by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) Modified on 5/2/2023 (ddm). (Entered: 03/09/2023)
03/10/2023	160	STIPULATION and Consent Motion for Voluntary Dismissal of Plaintiff Theron Brown by Jacqueline Faye Arbuthnot, Theron Brown, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) Modified on 3/10/2023 to edit docket entry (ddm). (Entered: 03/10/2023)
03/10/2023	161	MOTION to Strike 159 Certificate of Service, by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/10/2023)

03/10/2023	<u>162</u>	ORDER granting the parties' <u>160</u> Stipulation and Consent Motion for Voluntary Dismissal of Plaintiff Theron Brown. Plaintiff Theron Brown only shall be dismissed, with the parties to bear their own respective attorneys' fees, expenses, and costs. This Order does not apply to the claims of the remaining Plaintiffs or Defendants' defenses to those claims. Signed by Judge Steve C. Jones on 03/10/2023. (ddm) (Entered: 03/10/2023)
03/13/2023	<u>163</u>	Consent MOTION for Leave to File Excess Pages by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # <u>1</u> Text of Proposed Order Granting Plaintiffs' Consent Motion for Leave to File Excess Pages)(Sparks, Adam) (Entered: 03/13/2023)
03/15/2023	<u>164</u>	Consent MOTION for Leave to File Excess Pages <i>for Summary Judgment Briefing</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # <u>1</u> Text of Proposed Order) (Tyson, Bryan) (Entered: 03/15/2023)
03/15/2023	<u>165</u>	ORDER granting the <u>164</u> Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 03/15/2023. (ddm) (Entered: 03/16/2023)
03/17/2023	<u>166</u>	DEPOSITION of Jacqueline Arbuthnot taken on 1/24/23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>167</u>	DEPOSITION of Jacquelyn Bush taken on 1.24.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>168</u>	DEPOSITION of Mary Nell Conner taken on 2.09.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>169</u>	DEPOSITION of Annie Lois Grant taken on 12.14.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>170</u>	DEPOSITION of Quentin T. Howell taken on 12.14.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>171</u>	DEPOSITION of Triana Arnold James taken on 12.07.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>172</u>	DEPOSITION of Garrett Reynolds taken on 1.25.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>173</u>	DEPOSITION of Elbert Solomon taken on 12.09.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>174</u>	DEPOSITION of Eunice Sykes taken on 12.14.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	<u>175</u>	DEPOSITION of Elroy Tolbert taken on 2.09.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.

03/17/2023	176	DEPOSITION of Dexter Wimbish taken on 12.06.22 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	177	DEPOSITION of John B. Morgan taken on 2/13/2023 by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 03/17/2023)
03/17/2023	178	(FILED UNDER SEAL) DEPOSITION of Dr. John Alford taken on 2/23/2023 by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.(Sparks, Adam) Modified on 3/17/2023 (ddm). (Entered: 03/17/2023)
03/17/2023	179	DEPOSITION of Blakeman Esselstyn taken on 2.16.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Blakeman Esselstyn Deposition, # 2 Supplement Part 3 of Blakeman Esselstyn Deposition, # 3 Supplement Part 4 of Blakeman Esselstyn Deposition)(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	180	ORDER granting the 163 Consent Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 03/17/2023. (ddm) (Entered: 03/17/2023)
03/17/2023	181	MOTION for Leave to File Matters Under Seal re: 178 Deposition, <i>of Dr. John Alford</i> by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit Exhibit - Deposition of Dr. John Alford, # 2 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 03/17/2023)
03/17/2023	182	ORDER granting 181 Plaintiffs' Motion for Leave to File Matters Under Seal. Signed by Judge Steve C. Jones on 03/17/2023. (ddm) (Entered: 03/20/2023)
03/20/2023	183	DEPOSITION of Maxwell Palmer taken on 2.22.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	184	DEPOSITION of Gina Wright taken on 1.26.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	185	COORDINATED ORDER in anticipation of the Parties' filing their motions for summary judgment. The Court will hold a hearing on the Parties' motions for summary judgment on May 18, 2023 at 10:00 AM. The Court will hold a pretrial conference on August 15, 2023 at 10:00 AM. The Court specially sets the above-listed Actions for a coordinated trial to begin on September 5, 2023. All proceedings will be in person and held in Courtroom No. 1907, in the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. Unless otherwise notified, all proceedings will begin at 9:00 AM. The Court will not permit counsel to argue or witnesses to offer live testimony via Zoom. The Court will permit a witness to testify via video deposition, per a prior agreement between the Parties. Signed by Judge Steve C. Jones on 03/20/2023. (ddm) (Entered: 03/20/2023)
03/20/2023	186	DEPOSITION of John F. Kennedy taken on 1.20.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad

03/20/2023	187	DEPOSITION of Bonnie Rich taken on 1.18.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Bonnie Rich Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	188	DEPOSITION of Derrick Jackson taken on 2.20.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Derrick Jackson Deposition, # 2 Supplement Part 3 of Derrick Jackson Deposition, # 3 Supplement Part 4 of Derrick Jackson Deposition, # 4 Supplement Part 5 of Derrick Jackson Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	189	MOTION for Partial Summary Judgment with Brief In Support by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Brief Brief in Support of Plaintiffs' Motion for Partial Summary Judgment, # 2 Statement of Material Facts Statement of Undisputed Material Facts in Support of Plaintiffs' Motion for Partial Summary Judgment, # 3 Text of Proposed Order)(Sparks, Adam) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.-- (Entered: 03/20/2023)
03/20/2023	190	MOTION for Summary Judgment with Brief In Support by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendants' Motion for Summary Judgment)(Tyson, Bryan) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.- (Entered: 03/20/2023)
03/20/2023	191	<i>Declaration of Jonathan P. Hawley</i> in Support of 189 MOTION for Partial Summary Judgment filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1 - Expert Report of Blakeman B. Esselstyn, # 2 Exhibit 2 - Expert Report of Dr. Maxwell Palmer, # 3 Exhibit 3 - Supplemental Expert Report of Dr. Maxwell Palmer, # 4 Exhibit 4 - Expert Report of Dr. Orville Vernon Burton, # 5 Exhibit 5 - Expert Report of Dr. Loren Collingwood, # 6 Exhibit 6A - Expert Report of John B. Morgan Pt. 1, # 7 Exhibit 6B - Expert Report of John B. Morgan Pt. 2, # 8 Exhibit 6C - Expert Report of John B. Morgan Pt. 3, # 9 Exhibit 6D - Expert Report of John B. Morgan Pt. 4, # 10 Exhibit 7 - Expert Report of Dr. John R. Alford, # 11 Exhibit 8 - Excerpts from John B. Morgan Deposition, # 12 Exhibit 9 - Excerpts from Dr. John R. Alford Deposition, # 13 Exhibit 10 - 1982.02.11 Letter from Assistant AG W. Reynolds, # 14 Exhibit 11 - 1992.03.20 Letter from Assistant AG J. Dunne, # 15 Exhibit 12 - 2016.09.30 AJC Article, # 16 Exhibit 13 - 2017.05.02 CNN Article, # 17 Exhibit 14 - 2017.03.15 Appen Media Group Article, # 18 Exhibit 15 - 2017.04.15 AJC Article, # 19 Exhibit 16 - 2017.01.16 AJC Article, # 20 Exhibit 17 - 2018.11.05 Washington Post Article, # 21 Exhibit 18 - 2018.11.06 Slate Article, # 22 Exhibit 19 - 2018.05.10 USA Today Article, # 23 Exhibit 20 - Exhibit Ex. 22 - 2021.01.04 Salon Article, # 24 Exhibit 21 - 2020.07.28 ABC Article, # 25 Exhibit 22 - 2020.10.17 CNN Article, # 26 Exhibit 23 - 2021.10.26 AJC Article) (Sparks, Adam) Modified on 3/21/2023 to edit docket text (ddm). (Entered: 03/20/2023)
03/20/2023	192	Statement of Material Facts re 190 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Expert Report of Blakeman Esselstyn, # 2 Exhibit B - SEB Responses to Interrogatories, # 3 Exhibit C - Expert

		Report of John Morgan (Part 1), # 4 Exhibit C - Expert Report of John Morgan (Part 2), # 5 Exhibit C - Expert Report of John Morgan (Part 3), # 6 Exhibit D - Expert Report of Cooper in Alpha Phi Alpha, # 7 Exhibit E - Esselstyn Deposition Excerpts, # 8 Exhibit F - Wright Deposition Excerpts, # 9 Exhibit G - Kennedy Deposition Excerpts, # 10 Exhibit H - Rich Deposition Excerpts, # 11 Exhibit I - Jackson Deposition Excerpts, # 12 Exhibit J - Grant Deposition Excerpts, # 13 Exhibit K - Howell Deposition Excerpts, # 14 Exhibit L - Tolbert Deposition Excerpts, # 15 Exhibit M - James Deposition Excerpts, # 16 Exhibit N - Sykes Deposition Excerpts, # 17 Exhibit O - Solomon Deposition Excerpts, # 18 Exhibit P - Wimbish Deposition Excerpts, # 19 Exhibit Q - Reynolds Deposition Excerpts, # 20 Exhibit R - Arbuthnot Deposition Excerpts, # 21 Exhibit S - Bush Deposition Excerpts, # 22 Exhibit T - Conner Deposition Excerpts, # 23 Exhibit U - Palmer Deposition Excerpts, # 24 Exhibit V - Alford Deposition Excerpts)(Tyson, Bryan) (Entered: 03/20/2023)
03/30/2023		Submission of 161 MOTION to Strike 159 Certificate of Service, , to District Judge Steve C. Jones. (pdw) (Entered: 03/30/2023)
04/03/2023	193	NOTICE by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 177 Deposition, <i>Signed Errata Sheet to Deposition Transcript of John B. Morgan</i> (Sparks, Adam) (Entered: 04/03/2023)
04/12/2023	194	Consent MOTION for Leave to File Excess Pages by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 04/12/2023)
04/12/2023	195	ORDER granting 194 Plaintiffs' Consent Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 04/12/2023. (ddm) (Entered: 04/12/2023)
04/17/2023	196	NOTICE by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 178 Deposition, <i>Signed Errata Sheet to Deposition Transcript of Dr. John Alford</i> (Sparks, Adam) (Entered: 04/17/2023)
04/17/2023	197	Consent MOTION for Leave to File Excess Pages by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 04/17/2023)
04/17/2023	198	ORDER granting the 197 Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 04/17/2023. (ddm) (Entered: 04/17/2023)
04/18/2023	199	Notice for Leave of Absence for the following date(s): June 12-15, 2023, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 04/18/2023)
04/19/2023	200	MOTION for Leave to Withdraw Appearance Pro Hac Vice of Daniel C. Osher by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 04/19/2023)
04/19/2023	201	DEPOSITION of Orville Burton, Ph.D. taken on 2.17.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 04/19/2023)
04/19/2023	202	DEPOSITION of Loren Collingwood, Ph.D. taken on 2.28.23 by William S. Duffey, Jr, Sara Tindall Ghazal, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.(Tyson, Bryan) (Entered: 04/19/2023)

04/19/2023	203	RESPONSE in Opposition re 189 MOTION for Partial Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Statement of Material Facts Defendants' Statement of Additional Material Facts, # 2 Exhibit A - Expert Report of John Morgan, # 3 Exhibit B - Expert Report of Blakeman Esselstyn, # 4 Exhibit C - Expert Report of Loren Collingwood, # 5 Exhibit D - Esselstyn Deposition Excerpts, # 6 Exhibit E - Palmer Deposition Excerpts, # 7 Exhibit F - Alford Deposition Excerpts, # 8 Exhibit G - Burton Deposition Excerpts, # 9 Exhibit H - Collingwood Deposition Excerpts)(Tyson, Bryan) Modified on 4/19/2023 to edit docket text (ddm). (Entered: 04/19/2023)
04/19/2023	204	Response to Statement of Material Facts re 189 MOTION for Partial Summary Judgment <i>Defendants' Response to Plaintiffs' Statement of Undisputed Material Facts</i> filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Esselstyn Deposition Excerpts, # 2 Exhibit B - Burton Deposition Excerpts)(Tyson, Bryan) (Entered: 04/19/2023)
04/19/2023	205	RESPONSE in Opposition re 190 MOTION for Summary Judgment filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Statement of Material Facts Plaintiffs' Response to Defendants' Statement of Undisputed Material Facts, # 2 Statement of Material Facts Plaintiffs' Statement of Additional Material Facts)(Sparks, Adam) (Entered: 04/19/2023)
04/19/2023	206	DECLARATION of Jonathan P. Hawley in Opposition of 190 MOTION for Summary Judgment filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit Ex. 1 Expert Report of Blakeman B. Esselstyn, # 2 Exhibit Ex. 2 Expert Report of Dr. Maxwell Palmer, # 3 Exhibit Ex. 3 Supplemental Expert Report of Dr. Maxwell Palmer, # 4 Exhibit Ex. 4 Expert Report of Dr. Orville Vernon Burton, # 5 Exhibit Ex. 5 Rebuttal Expert Report of John B. Morgan, # 6 Exhibit Ex. 6 Expert Report of Dr. John R. Alford, # 7 Exhibit Ex. 7 Deposition Excerpts of Blakeman B. Esselstyn, # 8 Exhibit Ex. 8 Deposition Excerpts of Dr. Maxwell Palmer, # 9 Exhibit Ex. 9 Deposition Excerpts of John B. Morgan, # 10 Exhibit Ex. 10 Deposition Excerpts of Dr. John R. Alford)(Sparks, Adam) Modified on 4/20/2023 to edit docket entry (ddm). (Entered: 04/19/2023)
04/20/2023	207	ORDER advising the parties that the Court requests two courtesy copies of the documents filed relating to the parties' summary judgment motions. Counsel shall have said courtesy copies delivered to the Court's Atlanta Chambers, 1967 United States Courthouse, 75 Ted Turner Drive, S.W. by 10 A.M., THURSDAY, MAY 4, 2023. Signed by Judge Steve C. Jones on 04/20/2023. (ddm) (Entered: 04/21/2023)
04/28/2023	208	Consent MOTION for Leave to File Excess Pages by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 04/28/2023)
04/28/2023	209	ORDER outlining the schedule for the May 18, 2023 hearing on the Parties' Motions for Summary Judgment. The Court notes that it reserves the right to amend the schedule of the argument. (Please read Order for specific timing of these hearings.) Signed by Judge Steve C. Jones on 04/28/2023. (ddm) (Entered: 05/01/2023)

05/01/2023	210	ORDER granting 208 Plaintiffs Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 05/01/2023. (ddm) (Entered: 05/01/2023)
05/01/2023	211	Consent MOTION for Leave to File Excess Pages by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 05/01/2023)
05/01/2023	212	ORDER granting 211 Defendants' Motion for Leave to File Excess Pages. Signed by Judge Steve C. Jones on 05/01/2023. (ddm) (Entered: 05/02/2023)
05/02/2023	213	ORDER DENYING Defendants' Motion to Strike (Doc. No. 161). However, the Court, in an effort to perfect the Docket, DIRECTS the Clerk that access to (Doc. No. 159) shall be restricted to Court users. The Clerk shall also modify the CM/ECF docket text to show the document as RESTRICTED. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/02/2023	214	CLARIFICATION ORDER specifying the preferred format for the courtesy copies to be provided to the Court. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/03/2023	215	<i>Defendants' Reply in Support of</i> 190 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	216	<i>Defendants' Responses and Objections to Plaintiffs' Statement of Additional Material Facts</i> re 190 MOTION for Summary Judgment filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Esselstyn Deposition Excerpts, # 2 Exhibit B - Alford Deposition Excerpts)(Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	217	<i>Reply in Support of</i> 189 MOTION for Partial Summary Judgment filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Plaintiffs' Response to Defendants' Statement of Additional Material Facts)(Sparks, Adam) Modified on 5/4/2023 to edit docket entry (ddm). (Entered: 05/03/2023)
05/03/2023	218	<i>Second Declaration of Jonathan P. Hawley in Support</i> 189 MOTION for Partial Summary Judgment filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 24 - Declaration of Annie Lois Grant, # 2 Exhibit 25 - Declaration of Quentin T. Howell, # 3 Exhibit 26 - Declaration of Elroy Tolbert, # 4 Exhibit 27 - Declaration of Triana Arnold James, # 5 Exhibit 28 - Declaration of Eunice Sykes, # 6 Exhibit 29 - Declaration of Elbert Solomon, # 7 Exhibit 30 - Declaration of Dexter Wimbish, # 8 Exhibit 31 - Declaration of Garrett Reynolds, # 9 Exhibit 32 - Declaration of Jacqueline Faye Arbuthnot, # 10 Exhibit 33 - Declaration of Jacquelyn Bush, # 11 Exhibit 34 - Deposition Transcript Excerpts of Annie Lois Grant, # 12 Exhibit 35 - Deposition Transcript Excerpts of Quentin T. Howell, # 13 Exhibit 36 - Deposition Transcript Excerpts of Elroy Tolbert, # 14 Exhibit 37 - Deposition Transcript Excerpts of Triana Arnold James, # 15 Exhibit 38 - Deposition Transcript Excerpts of Eunice Sykes, # 16 Exhibit 39 - Deposition Transcript Excerpts of Elbert Solomon, # 17 Exhibit 40 - Deposition Transcript Excerpts of Dexter Wimbish, # 18 Exhibit 41 - Deposition Transcript Excerpts of Garrett Reynolds, # 19 Exhibit 42 - Deposition Transcript Excerpts of Jacqueline Faye Arbuthnot, # 20 Exhibit 43 - Deposition Transcript Excerpts of Jacquelyn Bush, # 21 Exhibit 44 - Deposition

		Transcript Excerpts of Mary Nell Conner, # 22 Exhibit 45 - Deposition Transcript Excerpts of Blakeman B. Esselstyn, # 23 Exhibit 46 - Deposition Transcript Excerpts of Dr. John R. Alford, # 24 Exhibit 47 - Deposition Transcript Excerpts of Dr. Maxwell Palmer)(Sparks, Adam) Modified on 5/4/2023 to edit docket entry (ddm). (Entered: 05/03/2023)
05/08/2023	219	ORDER granting 200 Plaintiffs' Motion for Leave to Withdraw the Appearance Pro Hac Vice of Daniel C. Osher as counsel of record. Signed by Judge Steve C. Jones on 05/08/2023. (ddm) (Entered: 05/08/2023)
05/15/2023	220	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order Exhibit A - Proposed Order)(Sparks, Adam) (Entered: 05/15/2023)
05/15/2023	221	ORDER allowing counsel Abha Khanna, Jonathan P. Hawley, Adam M. Sparks, and Joyce Gist Lewis and accompanying staff to bring electronic equipment into the courthouse in conjunction with a hearing scheduled to begin at 10:00 a.m. on Thursday, May 18, 2023, in Courtroom 1907. Counsel and accompanying staff named herein may also bring this equipment on Wednesday, May 17, 2023, to test prior to the hearing as scheduled with Judge Jones's chambers. Signed by Judge Steve C. Jones on 05/15/2023. (ddm) (Entered: 05/15/2023)
05/16/2023		Submission of 189 MOTION for Partial Summary Judgment , 190 MOTION for Summary Judgment , to District Judge Steve C. Jones. (pdw) (Entered: 05/16/2023)
05/18/2023	222	Minute Entry for proceedings held before Judge Steve C. Jones: Hearing held on the parties' Motions for Summary Judgment 189 190 , together with argument in civil actions 1:21-cv-5339-SCJ and 1:21-cv-5337-SCJ. The Court heard oral argument and took the matter under advisement. (Court Reporter Viola Zborowski)(ddm) (Entered: 05/19/2023)
05/19/2023	223	(ORDER VACATED PER 225) AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 05/19/2023. (ddm) Modified on 6/8/2023 (ddm). (Entered: 05/19/2023)
06/01/2023	224	TRANSCRIPT of Proceedings held on 5/18/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/22/2023. Redacted Transcript Deadline set for 7/3/2023. Release of Transcript Restriction set for 8/30/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 06/01/2023)
06/08/2023	225	SECOND AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 06/08/2023. (ddm) (Entered: 06/08/2023)
06/20/2023	226	Notice for Leave of Absence for the following date(s): July 3-7, 2023, August 31-September 2, 2023, September 29, 2023, November 22-27, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 06/20/2023)
06/22/2023	227	<i>Supplemental Brief in Support of Plaintiffs' Motion for Partial Summary Judgment</i> 189 filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit 1 - 2023.05.18

		Transcript of Summary Judgment Proceedings) (Sparks, Adam) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/22/2023	228	<i>Supplemental Brief Regarding Summary Judgment Briefing Based on Allen v. Milligan</i> 190 filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
07/17/2023	229	ORDER denying 189 Motion for Partial Summary Judgment; denying 190 Motion for Summary Judgment. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to either Party. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial. Accordingly, the case will proceed to a coordinated trial with Alpha Phi Alpha Fraternity Inc., et al. v. Brad Raffensperger, (1:21-cv-5337) and Coakley Pendergrass et al. v. Brad Raffensperger et al., (1:21-cv-5339). The Second Amended Scheduling Order (Doc. No. 225) shall govern the forthcoming proceedings. Signed by Judge Steve C. Jones on 7/17/23. (rsg) (Entered: 07/17/2023)
07/21/2023	230	ORDER: Having read and considered Plaintiffs' proposal regarding amending the existing pretrial deadlines and learned of Defendants' agreement thereto, it is hereby ORDERED that exhibit lists and deposition designations shall be exchanged by all Parties and filed with the Court no later than JULY 31, 2023 and objections to the same shall be exchanged by all Parties and filed with the Court no later than AUGUST 4, 2023.1 Except as amended herein, the remainder of the Court's Second Amended Scheduling Order remains in effect, this includes the July 25, 2023 and August 1, 2023 deadlines for filing and responding to motions in limine and Daubert motions. Signed by Judge Steve C. Jones on 07/21/2023. (rsg) (Entered: 07/21/2023)
07/25/2023	231	<i>Joint Pretrial Order</i> by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Modified on 7/26/2023 to edit docket text (ddm). (Entered: 07/25/2023)
07/31/2023	232	NOTICE Of Filing Defendants' Trial Exhibit List and Defendants' Deposition Designations by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger (Attachments: # 1 Exhibit A - Defendants' Trial Exhibit List, # 2 Exhibit B - Defendants' Deposition Designations) (Tyson, Bryan) (Entered: 07/31/2023)
07/31/2023	233	<i>Plaintiffs' Trial Exhibit List</i> by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.. (Sparks, Adam) Modified on 8/1/2023 to edit docket text (ddm). (Entered: 07/31/2023)
07/31/2023	234	Joint Exhibit List by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish.. (Sparks, Adam) (Entered: 07/31/2023)
07/31/2023	235	NOTICE Of Filing Plaintiffs' Deposition Designations by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (Sparks, Adam) (Entered: 07/31/2023)
08/04/2023	236	NOTICE Of Filing Plaintiffs' Deposition Designations with Responses by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T.

		Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 235 Notice of Filing, (Sparks, Adam) (Entered: 08/04/2023)
08/04/2023	237	NOTICE Of Filing Objections to Exhibits and Deposition Designations by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re 230 Scheduling Order,, (Attachments: # 1 Exhibit A - APA Plaintiffs' Exhibit List with Defendant's Objections, # 2 Exhibit B - Grant Plaintiffs' Exhibit List with Defendants' Objections, # 3 Exhibit C - Pendergrass Plaintiffs' Exhibit List with Defendants' Objections, # 4 Exhibit D - Defendant's Deposition Designations and Objections to APA Plaintiffs, # 5 Exhibit E - Defendants' Deposition Designations and Objections to Pendergrass and Grant Plaintiffs)(Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	238	MOTION for Order <i>Taking Judicial Notice</i> by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Attachments: # 1 Exhibit A - Census Table 4b CPS 2018, # 2 Exhibit B - Census Table 4b CPS 2020, # 3 Exhibit C - Census Table 4b CPS 2022, # 4 Exhibit D - Members of the Georgia State Senate, # 5 Exhibit E - Members of the Georgia House of Representatives, # 6 Exhibit F - 2022 US Senate Primary Election Results by County, # 7 Exhibit G - 2022 PSC Primary Election Results, # 8 Exhibit H - 2018 District 6 Election Results, # 9 Exhibit I - Biography of Commissioner John King, # 10 Exhibit J - 2022 Commissioner of Insurance Election Results, # 11 Exhibit K - Justice Carla McMillian Biography) (Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	239	NOTICE Of Filing Plaintiffs' Objections to Defendants' Trial Exhibits by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish (Attachments: # 1 Exhibit A - Plaintiffs' Objections to Defendants' Trial Exhibits)(Sparks, Adam) (Entered: 08/04/2023)
08/11/2023	240	RESPONSE re 238 MOTION for Order <i>Taking Judicial Notice Plaintiffs' Partial Opposition to Defendants' Motion for Judicial Notice</i> filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) (Entered: 08/11/2023)
08/14/2023	241	NOTICE by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish <i>Regarding Pretrial Conference Attendance and Unopposed Request for Remote Participation</i> (Sparks, Adam) (Entered: 08/14/2023)
08/14/2023	242	ORDER DENYING Plaintiffs' Notice regarding tomorrow's pretrial conference and request for remote participation 241 . Signed by Judge Steve C. Jones on 08/14/2023. (ddm) (Entered: 08/14/2023)
08/15/2023	243	PRETRIAL ORDER. Signed by Judge Steve C. Jones on 08/15/2023. (ddm) (Entered: 08/15/2023)
08/15/2023	258	Minute Entry for proceedings held before Judge Steve C. Jones: Pretrial Conference held on 8/15/2023. Bench trial to proceed on September 5, 2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/18/2023	244	LOGISTICS ORDER entered in preparation for the trial. The Court ORDERS the Parties to provide the Court with courtesy copies of the deposition transcripts that they intend to introduce into evidence at the Trial. The Court ORDERS these courtesy copies be delivered to the Court no later than THURSDAY, AUGUST 24, 2023. The Court will discuss trial presentation of evidence with the Parties at a conference call to be held on

		Tuesday, August 22, 2023 at 2:00 P.M. Signed by Judge Steve C. Jones on 08/18/2023. (ddm) (Entered: 08/18/2023)
08/18/2023	245	REPLY BRIEF re 238 MOTION for Order <i>Taking Judicial Notice</i> filed by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 08/18/2023)
08/22/2023	259	Minute Entry for proceedings held before Judge Steve C. Jones: Telephone Conference held on 8/22/2023 regarding presentation of witness testimony during bench trial beginning 9/05/2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/23/2023	246	ORDER DENYING Defendants' 238 Motion to Take Judicial Notice with regard to the data contained in Census Bureau Table 4b for the 2018, 2020 and 2022 elections. The Court GRANTS the remainder of the Motion. Signed by Judge Steve C. Jones on 08/23/2023. (ddm) (Entered: 08/23/2023)
08/24/2023	247	TRANSCRIPT of Pretrial Proceedings held on 8/15/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/14/2023. Redacted Transcript Deadline set for 9/25/2023. Release of Transcript Restriction set for 11/22/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/24/2023)
08/24/2023	248	ORDER perfecting the Record on trial logistics and advising the parties how the presentation of evidence will proceed. The Court notes that at the telephone conference, the Plaintiffs indicated that they would like to come to an agreement on the order in which the Plaintiffs will present their cases-in-chief, i.e., Alpha Phi Alpha first, Pendergrass second, and Grant third, or some other order. For purposes of judicial efficiency and to ensure that all Parties are adequately prepared, the Court requires Plaintiffs to submit a notice of the order in which they will present their cases-in-chief on or before 5:00 PM on SEPTEMBER 1, 2023. The Parties are ordered to comply with this Order when presenting the evidence in the coordinated cases at trial. The Court reserves the right to amend or alter this Order in the future. Signed by Judge Steve C. Jones on 08/24/2023. (ddm) (Entered: 08/24/2023)
08/25/2023	249	ORDER directing Defendants to respond to the Alpha Phi Alpha Plaintiffs' Motion to Take Judicial Notice, Alpha Phi Alpha Doc. No. 283 by 5:00 PM on August 28, 2023. If the Pendergrass or Grant Plaintiffs wish to respond they are also ORDERED to do so by 5:00PM on August 28, 2023. Signed by Judge Steve C. Jones on 08/25/2023. (ddm) (Entered: 08/25/2023)
08/28/2023	250	<i>Defendants' Response in Opposition to APA Plaintiffs' Motion for Judicial Notice</i> filed 249 Order by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) Modified on 8/29/2023 to edit docket text (ddm). (Entered: 08/28/2023)
08/29/2023	251	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 08/29/2023)
08/30/2023	252	ORDER granting Plaintiffs' Use of Electronic Equipment during trial. It is ordered that attending counsel Abha Khanna, Michael B. Jones, Makeba Rutahindurwa, Joyce Gist Lewis, and Adam M. Sparks, and their accompanying staff, Aidan Denver-Moore,

		Benjamin Winstead, and Patina Clarke may each bring and use electronic equipment in conjunction with a bench trial before Judge Steve C. Jones, scheduled for Tuesday, September 5, 2023 through Monday, September 18, 2023. The above listed counsel and staff may also bring and use this equipment on Friday, September 1, 2023 for the purpose of arranging, installing, and testing said equipment and trial exhibits as scheduled with Judge Jones's chambers. Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/30/2023)
08/30/2023	253	ORDER DENYING Alpha Phi Alpha Plaintiffs' Motion to Take Judicial Notice (Alpha Phi Alpha, Doc. No. 283). Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/30/2023)
08/30/2023	254	ORDER resolving the Parties' outstanding objections to the depositions that they wish to introduce into evidence at trial. Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/31/2023)
08/31/2023	255	TRANSCRIPT of Conference Call held on 8/22/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/21/2023. Redacted Transcript Deadline set for 10/2/2023. Release of Transcript Restriction set for 11/29/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/31/2023)
08/31/2023	256	MOTION for Clarification re: 248 Order,,,, Set Submission Deadline,,, by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Exhibit Exhibit A - B. Tyson Email, # 2 Text of Proposed Order [Proposed] Order)(Sparks, Adam) (Entered: 08/31/2023)
08/31/2023	257	ORDER issued to Clarify its August 24, 2023 Order (Alpha Phi Alpha Doc. No. 286 ; Pendergrass Doc. No. 236 ; Grant Doc. No. 248). The August 24, 2023 Orders are amended in so far as to comply with this Order. Signed by Judge Steve C. Jones on 08/31/2023. (ddm) (Entered: 09/01/2023)
09/05/2023	260	Minute Entry for proceedings held before Judge Steve C. Jones: Bench trial began. Opening statements heard. Plaintiffs' case began. Alpha Plaintiffs' (1:21-cv-5337-SCJ) witness William Cooper sworn and testified as expert. Alpha exhibits 1, 327, 53, 54, 325 admitted. Joint Exhibits 1 and 2 admitted. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/06/2023. (Court Reporter Viola Zborowski & Penny Coudriet)(ddm) (Entered: 09/06/2023)
09/06/2023	261	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/6/2023. Testimony of expert witness William Cooper concluded. Alpha Plaintiffs' exhibits 328-339 admitted. Alpha Phi Alpha witness Bishop Reginald Jackson sworn and testified. Pendergrass and Grant Plaintiffs' expert witness Dr. Maxwell Palmer sworn and testified. Grant exhibits 2 and 3, and Pendergrass exhibits 2 and 3 admitted. Grant expert witness Blakeman Esselstyn sworn and testified. Grant exhibits 1 and 6 admitted. Defendants' exhibits 89 and 92 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/07/2023. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/07/2023)
09/07/2023	262	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/7/2023. Grant witness Dr. Diane Evans sworn and testified. Grant witness Fenika Miller sworn and testified. Grant and Pendergrass expert witness Dr. Loren Collingwood sworn

		and testified. Grant exhibit 5 and Pendergrass exhibit 5 admitted. William Cooper recalled by Pendergrass plaintiffs as expert witness. Pendergrass exhibit 1 admitted. Defendants' exhibits 21 and 154 admitted. Alpha Phi Alpha ("APA") expert witness Dr. Lisa Handley sworn and testified. APA exhibits 5 and 10 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/08/2023. (Court Reporter Viola Zborowski)(ddm) (Entered: 09/08/2023)
09/08/2023	263	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/8/2023. Testimony of Alpha Phi Alpha expert witness Dr. Lisa Handley concluded. Grant and Pendergrass witness Jason Carter sworn and testified. Grant and Pendergrass witness Erik Allen sworn and testified. APA witness Dr. Traci Burch sworn and testified as expert. APA exhibit 6 admitted. APA witness Dr. Adrienne Jones sworn and testified as expert. APA exhibits 2, 3, 340, 31, 266 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/11/2023. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/11/2023)
09/11/2023	264	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/11/2023. APA exhibits 31 and 266, and direct and cross testimony of Dr. Adrienne Jones admitted into the Grant and Pendergrass records. Testimony of APA expert witness Dr. Adrienne Jones concluded. Defendants' exhibit 59 admitted. APA witness Sherman Lofton sworn and testified. APA witness Dr. Jason Ward sworn and testified as expert. APA exhibit 4 admitted. Grant and Pendergrass expert witness Dr. Orville Burton sworn and testified. Pendergrass exhibit 4 and Grant exhibit 4 admitted. Pendergrass exhibit 14 and Grant exhibit 15 admitted over objection (these exhibits, as well as testimony of Dr. Burton also admitted as part of the APA record.) Defendants' exhibit 107 admitted. All Plaintiffs rested. Oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). Oral argument heard. Matter taken under advisement. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/12/2023. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/12/2023)
09/11/2023		ORAL MOTION by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). (ddm) (Entered: 09/13/2023)
09/12/2023	265	Notice for Leave of Absence for the following date(s): September 29, 2023, October 12-13, 2023, November 22-27, 2023, December 14-21, 2023, by Joyce Gist Lewis. (Lewis, Joyce) (Entered: 09/12/2023)
09/12/2023	266	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/12/2023. The Court issued a verbal order denying Defendants' oral motion for Judgment on Partial Findings Pursuant to Fed.R.Civ.P. 52(c) as made on 9/11/2023. Defendants' case began. Witness Gina Wright sworn and testified. Defendants' exhibits 186, 187, 185 admitted. John Morgan sworn and testified as expert witness. Defendants' exhibits 1, 2, 5 admitted in re: APA plaintiffs; exhibits 1, 3, 6 admitted in re: Grant plaintiffs; and exhibits 4 and 7 admitted in re: Pendergrass plaintiffs. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/13/2023. (Court Reporter V. Zborowski & P. Coudriet) (ddm) (Entered: 09/13/2023)
09/13/2023	267	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/13/2023. Testimony of John Morgan continued and concluded. Dr. John Alford sworn and testified as expert witness for Defendants. Defendants' exhibit 8 (exclusive of pages 2-9) and exhibit 97 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/14/2023. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/14/2023)
09/14/2023		Renewed ORAL MOTION by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). (ddm) (Entered: 09/15/2023)

09/14/2023	268	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial concluded on 9/14/2023. Testimony of Dr. John Alford continued and concluded. Ryan Germany sworn and testified. APA cross examination of witness German incorporated into Pendergrass and Grant records. Defendants rested. Renewed oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). The Court issued a verbal order denying Defendants' motion. Closing arguments heard. This matter was taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/15/2023)
09/15/2023	269	Witness List filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (ddm) (Entered: 09/15/2023)
09/15/2023	270	Witness List filed by William S. Duffey, Jr., Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (ddm) (Entered: 09/15/2023)
09/15/2023	271	The Parties' Joint Exhibit List. (ddm) (Entered: 09/15/2023)
09/15/2023	272	Trial Exhibit List filed by William S. Duffey, Jr., Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger.. (ddm) (Entered: 09/15/2023)
09/15/2023	273	Grant Plaintiffs' Exhibit List. (ddm) (Entered: 09/15/2023)
09/15/2023	274	Pendergrass Plaintiffs' Exhibit List. (ddm) (Entered: 09/15/2023)
09/15/2023	275	Alpha Phi Alpha Plaintiffs' Exhibit List. (ddm) (Entered: 09/15/2023)
09/18/2023	276	<i>Plaintiffs' Notice of Submitting Proposed Corrections to Trial Transcript</i> filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Modified on 9/19/2023 to edit docket text (ddm). (Entered: 09/18/2023)
09/25/2023	277	Proposed Findings of Fact by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Tyson, Bryan) (Entered: 09/25/2023)
09/25/2023	278	Proposed Findings of Fact by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Khanna, Abha) (Entered: 09/25/2023)
09/27/2023	279	NOTICE by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger <i>Notice of Resignation of William S. Duffey, Jr.</i> (Tyson, Bryan) (Entered: 09/27/2023)
10/04/2023	280	ORDER certifying to the United States Attorney General that the constitutionality of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301(b) has been called into question as affirmative defenses in the Pretrial Order. The Attorney General is requested to submit his position as to intervention in reference to this issue no later than 60 DAYS of the date of this Certification Order. Signed by Judge Steve C. Jones on 10/04/2023. (ddm) (Entered: 10/04/2023)
10/04/2023	281	ORDER directing Defendants to promptly comply with the requirements of compliance with Rule 5.1 (on CM/ECF) on or before Tuesday, October 10, 2023. Signed by Judge Steve C. Jones on 10/04/2023. (ddm) (Entered: 10/04/2023)
10/04/2023		Clerk's Certificate of Mailing to Honorable Merrick Garland re 280 Order. (ddm) (Entered: 10/04/2023)

10/06/2023	<u>282</u>	MOTION to Withdraw Elizabeth Marie Wilson Vaughan as Attorney by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger. (Vaughan, Elizabeth) (Entered: 10/06/2023)
10/10/2023	<u>283</u>	NOTICE by William S. Duffey, Jr, Sara Tindall Ghazal, Janice W. Johnston, Edward Lindsey, Matthew Mashburn, Brad Raffensperger re <u>281</u> Order, Set Submission Deadline of <i>Constitutional Question</i> (Tyson, Bryan) (Entered: 10/10/2023)
10/17/2023	<u>284</u>	ORDER advising that if the Parties have any additional concerns/questions as to the corrected transcripts, they shall notify the court reporters by 5:00 P.M., THURSDAY, OCTOBER 19, 2023. After said deadline, the Court will request that the court reporters finalize the transcripts. Signed by Judge Steve C. Jones on 10/17/2023. (ddm) (Entered: 10/17/2023)
10/18/2023	<u>285</u>	Notice for Leave of Absence for the following date(s): January 9, 2024 - January 19, 2024, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 10/18/2023)
10/25/2023		DOCKET ORDER granting <u>282</u> Motion to Withdraw as Attorney. Attorney Elizabeth Marie Wilson Vaughan terminated as counsel for Defendants. Entered by Judge Steve C. Jones on 10/25/2023. (pdw) (Entered: 10/25/2023)
10/25/2023	<u>286</u>	TRANSCRIPT of Bench Trial Proceedings held on 9/5/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # <u>1</u> Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	<u>287</u>	TRANSCRIPT of Bench Trial Proceedings held on 9/6/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # <u>1</u> Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	<u>288</u>	TRANSCRIPT of Bench Trial Proceedings held on 9/7/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # <u>1</u> Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	<u>289</u>	TRANSCRIPT of Bench Trial Proceedings held on 9/8/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4 P.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	290	TRANSCRIPT of Bench Trial Proceedings held on 9/11/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	291	TRANSCRIPT of Bench Trial Proceedings held on 9/12/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	292	TRANSCRIPT of Bench Trial Proceedings held on 9/13/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 7 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	293	TRANSCRIPT of Bench Trial Proceedings held on 9/14/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 8 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/26/2023	294	OPINION AND MEMORANDUM OF DECISION advising of the Court's findings and conclusions following a non-jury trial and consideration of the evidence. It is ordered that the Pendergrass and Grant Plaintiffs lack standing to bring suit against the members of the State Election Board; thus, Sarah Tindall Ghazal, Janice W. Johnston, Edward Lindsey, and Matthew Mashburn are DISMISSED from this case. Alpha Phi Alpha Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 34, 43, 44, and Enacted House Districts 74 and 78.138 Alpha Phi Alpha Plaintiffs have not met their burden as to the remaining challenged districts. Pendergrass Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plan, SB 2EX, as to the following

		<p>enacted district areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. Grant Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 44, and Enacted House Districts 61, 64, 78, 117, 133, 142, 143, 145, 147, and 149.¹³⁹ Grant Plaintiffs have not met their burden as to the remaining challenged districts. This Court further concludes that declaratory and permanent injunctive relief are appropriate. The Court, therefore, DECLARES the rights of the parties as follows. SB 2EX violates Section 2 of the Voting Rights Act as to the following districts/areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. SB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 43, and 44. HB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted House Districts 61, 64, 74, 78, 117, 133, 142, 143, 145, 147, and 149. The Court PERMANENTLY ENJOINS Defendant Raffensperger, as well as his agents and successors in office, from using SB 2EX, SB 1EX, and HB 1EX in any future election. The Court's injunction affords the State a limited opportunity to enact new plans that comply with the Voting Rights Act by DECEMBER 8, 2023. This timeline balances the relevant equities and serves the public interest by providing the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one as the Court will not allow another election cycle on redistricting plans that the Court has determined on a full trial record to be unlawful. The Court is confident that the General Assembly can accomplish its task by DECEMBER 8, 2023: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced nearly 22 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult. The Clerk is DIRECTED to enter judgment in favor of the Alpha Phi Alpha Plaintiffs (in Civil Action No. 1:21-cv-05337), Pendergrass Plaintiffs (in Civil Action No. 1:21-cv-05339), and Grant Plaintiffs (in Civil Action No. 1:22-cv-00122) and against Brad Raffensperger. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. After entry of judgment, the Clerk is DIRECTED to close these three cases. The Court will retain jurisdiction over these matters for oversight and further remedial proceedings, if necessary. The Court reiterates that Georgia has made great strides since 1965 towards equality in voting. However, the evidence before this Court shows that Georgia has not reached the point where the political process has equal openness and equal opportunity for everyone. Accordingly, the Court issues this Order to ensure that Georgia continues to move toward equal openness and equal opportunity for everyone to participate in the electoral system. Signed by Judge Steve C. Jones on 10/26/2023. (ddm) (Entered: 10/26/2023)</p>
10/26/2023	295	CLERK'S JUDGMENT entered in favor of PLAINTIFFS and against remaining Defendants in accordance with this Court's Order of October 26, 2023. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. (ddm)--Please refer to http://www.ca11.uscourts.gov to obtain an appeals jurisdiction checklist-- (Entered: 10/26/2023)
10/26/2023		Civil Case Terminated. (ddm) (Entered: 10/26/2023)
11/03/2023	296	NOTICE by United States of America <i>Notice of Intervention Pursuant to 28 U.S.C. § 2403(a)</i> (Attachments: # 1 Brief)(Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	297	NOTICE of Appearance by Daniel J. Freeman on behalf of United States of America (Freeman, Daniel) (Entered: 11/03/2023)

11/03/2023	298	NOTICE of Appearance by Michael Elliot Stewart on behalf of United States of America (Stewart, Michael) (Entered: 11/03/2023)
11/08/2023	299	Unopposed MOTION for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees with Brief In Support by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 11/08/2023)
11/09/2023	300	ORDER GRANTING 299 Plaintiffs' Unopposed Motion for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees. Plaintiffs shall have until 30 days after the Court receives the Eleventh Circuit's mandate in Defendant's appeal to file a motion for attorneys' fees and expenses and a bill of costs. If Defendant does not appeal, Plaintiffs shall have until 30 days following the expiration of Defendant's time to appeal to file a motion for attorneys' fees and expenses. Signed by Judge Steve C. Jones on 11/09/2023. (ddm) (Entered: 11/09/2023)
11/17/2023	301	<i>Response to United States on Constitutionality of Section 2 of the Voting Rights Act</i> 296 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 11/20/2023 to edit docket text (ddm). (Entered: 11/17/2023)
11/22/2023	302	NOTICE OF APPEAL as to 43 Order on Motion to Dismiss, 295 Clerk's Judgment, 229 Order on Motion for Partial Summary Judgment,,,, Order on Motion for Summary Judgment,,, 294 Order,,,,,,,,,,,,,,,,,,,,, by Brad Raffensperger. Filing fee \$ 505, receipt number AGANDC-13050600. Transcript Order Form due on 12/6/2023 (Tyson, Bryan) (Entered: 11/22/2023)
11/28/2023	303	ORDER perfecting the trial record in this case and providing the parties with the case name and docket location of the depositions used at trial. Signed by Judge Steve C. Jones on 11/28/2023. (ddm) (Entered: 11/28/2023)
11/28/2023	304	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 302 Notice of Appeal, filed by Brad Raffensperger. (pjm) (Entered: 11/28/2023)
11/28/2023	305	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Judgment, Orders and Docket Sheet to US Court of Appeals re: 302 Notice of Appeal. (pjm) (Entered: 11/28/2023)
11/30/2023	310	EXHIBITS (Parties Joint Exhibits 1 and 2) admitted and retained at the 264 Bench Trial - Continued, 261 Bench Trial - Continued, 260 Bench Trial - Begun, 268 Order on Motion for Judgment on Partial Findings, Bench Trial - Concluded, 266 Order on Motion for Judgment on the Pleadings, Bench Trial - Continued, 262 Bench Trial - Continued, 263 Bench Trial - Continued, 267 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Joint Ex. 1, # 2 Joint Ex. 2)(sct) (Entered: 12/07/2023)
11/30/2023	313	EXHIBITS (Grant Plaintiff's Exhibits: 1,2,3,4,5,6,15) admitted and retained at the 264 Bench Trial - Continued, 261 Bench Trial - Continued, 260 Bench Trial - Begun, 268 Order on Motion for Judgment on Partial Findings, Bench Trial - Concluded, 266 Order on Motion for Judgment on the Pleadings, Bench Trial - Continued, 262 Bench Trial - Continued, 263 Bench Trial - Continued, 267 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Pltf Ex. 1, # 2 Pltf Ex. 2, # 3 Pltf Ex. 3, # 4 Pltf Ex. 4, # 5 Pltf Ex. 5, # 6 Pltf Ex. 6, # 7 Pltf Ex. 15)(sct) (Entered: 12/11/2023)
11/30/2023	318	EXHIBITS (Defendant's Exhibits: 1-8,21,59,89,92,97,107,154,185-187) admitted and retained at the 264 Bench Trial - Continued, 261 Bench Trial - Continued, 260 Bench Trial - Begun, 268 Order on Motion for Judgment on Partial Findings, Bench Trial -

		Concluded, 266 Order on Motion for Judgment on the Pleadings, Bench Trial - Continued, 263 Bench Trial - Continued, 267 Bench Trial - Continued, 262 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Deft Ex. 1, # 2 Deft Ex. 2 (pages 1-181), # 3 Deft Ex. 2 (pages 181-220), # 4 Deft Ex. 2 (pages 221-362), # 5 Deft Ex. 3, # 6 Deft Ex. 4, # 7 Deft. Ex 5, # 8 Deft Ex. 6, # 9 Deft Ex. 7, # 10 Deft. Ex 8, # 11 Deft Ex. 21, # 12 Deft Ex. 59, # 13 Deft Ex. 89, # 14 Deft Ex. 92, # 15 Deft Ex. 97, # 16 Deft Ex. 107, # 17 Deft Ex. 154, # 18 Deft Ex. 185, # 19 Deft Ex. 186, # 20 Deft Ex. 187)(sct) (Additional attachment(s) added on 12/28/2023: # 21 Deft Ex. 3 part 2, # 22 Deft Ex. 3 part 3) (kdw). (Entered: 12/13/2023)
12/04/2023	306	MOTION for Entry of Remedial Scheduling Order 294 Order,,,,,,,,,,,,,,,,,,,,, with Brief In Support by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order) (Sparks, Adam) (Entered: 12/04/2023)
12/05/2023		DOCKET ORDER re 306 MOTION for Entry of Remedial Scheduling Order filed by Plaintiffs. Defendants are ORDERED to file an expedited response no later than 9:00 AM on 12/06/2023, to include Defendants' proposed schedule. Entered by Judge Steve C. Jones on 12/05/2023. (pdw) (Entered: 12/05/2023)
12/05/2023	307	USCA Acknowledgment of 302 Notice of Appeal, filed by Brad Raffensperger. Case Appealed to USCA- 11th Circuit. Case Number 23-13921-B. (pjm) (Entered: 12/05/2023)
12/06/2023	308	RESPONSE re 306 MOTION for Entry of Remedial Scheduling Order 294 Order,,,,,,,,,,,,,,,,,,,,, filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/06/2023)
12/06/2023	309	ORDER granting 306 Plaintiffs' Joint Motion for Entry of Remedial Scheduling Order. However, because time is of the essence in this matter, the Court finds it necessary to enter a more compressed schedule than that proposed by either Party. See order for new deadlines. A hearing, set for December 20, 2023, at 9:00 a.m., will be held at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia, in Courtroom 1907. Each set of Plaintiffs will have one hour to present evidence and argument and may proceed in any order they prefer. Defendant will have one hour to present evidence and argument directly following each set of Plaintiffs. To be clear, the presentations will be ordered as follows: One set of Plaintiffs will begin and will have up to one hour to present; Defendant will respond to that presentation and will have up to one hour to do so. The next set of Plaintiffs will make their presentation (up to one hour) and Defendant will then have up to one hour to respond. Finally, the final set of Plaintiffs will present (up to one hour), and Defendant will have up to one hour to respond. Signed by Judge Steve C. Jones on 12/06/2023. (ddm) (Entered: 12/06/2023)
12/07/2023	311	NOTICE TO COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held September 5th, 2023 through September 14th, 2023 pursuant to Local Rule 79.1D. Re: 310 Exhibits, (sct) (Entered: 12/07/2023)
12/08/2023	312	NOTICE by Brad Raffensperger of <i>Adoption of Remedial Plans</i> (Tyson, Bryan) (Entered: 12/08/2023)
12/11/2023	314	NOTICE TO PLAINTIFF'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 313 Exhibits, (sct) (Entered: 12/11/2023)
12/11/2023	315	ADMINISTRATIVE ORDER NO. 23-08: IN RE USE OF CELLULAR TELEPHONES AND ELECTRONIC EQUIPMENT ON THE 19TH FLOOR OF THE RICHARD B.

		RUSSELL BUILDING ON DECEMBER 20, 2023. Signed by Judge Timothy C. Batten, Sr. on 12/11/2023.(pdw) (Entered: 12/11/2023)
12/12/2023	316	Appellant's BRIEF by Georgia State Conference of the NAACP, et al.. (Attachments: # 1 Exhibit A Amici Curiae Brief, # 2 Exhibit B Declaration of Dr. Moon Duchin)(Kastorf, Kurt) (Entered: 12/12/2023)
12/12/2023	317	NOTICE Of Filing Plaintiffs Objections To The Georgia General Assemblys Remedial State Legislative Plans by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish re 294 Order,,,,,,,,,,,,, 309 Order on Motion for Miscellaneous Relief,,,, (Attachments: # 1 Exhibit 1 - Remedial Expert Report of Blakeman Esselstyn, # 2 Exhibit 2 - Remedial Expert Report of Dr. Maxwell Palmer, # 3 Exhibit 3 - Appendix to Ex. 2, # 4 Exhibit 4 - C.V. for Dr. Palmer) (Sparks, Adam) (Entered: 12/12/2023)
12/13/2023	319	NOTICE TO DEFENDANT'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 318 Exhibits. (sct) (Entered: 12/13/2023)
12/14/2023	320	ORDER GRANTING the Motion for Leave to File Brief as Amici Curiae in Opposition to Defendant's Proposed Remedial Maps. Alpha Doc. No. 353 , Grant Doc. No. 316 , Pendergrass Doc. No. 316 . The Clerk is DIRECTED to refile Alpha Doc. Nos. [353-1], Grant Doc. No. [316-1], and Pendergrass Doc. No. [316-1] as a new docket entry in each case on CM/ECF. Signed by Judge Steve C. Jones on 12/14/2023. (ddm) (Entered: 12/14/2023)
12/14/2023	321	AMICUS CURIAE BRIEF in opposition to Defendants' Proposed Remedial Maps filed by Georgia State Conference of the NAACP, et al. (Attachments: # 1 Declaration of Dr. Moon Duchin)(ddm) (Entered: 12/14/2023)
12/15/2023	322	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Attachments: # 1 Text of Proposed Order)(Sparks, Adam) (Entered: 12/15/2023)
12/15/2023	323	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>During Remedial Hearing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 12/15/2023)
12/18/2023	324	ORDER allowing counsel for the Plaintiffs and accompanying staff to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	325	ORDER allowing counsel for the Defendant to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)

12/18/2023	326	USCA11 Case: 23-13914 Document: 37-3 Date Filed: 02/13/2024 Page: 188 of 250 <i>Consolidated Response to Plaintiffs' Objections Regarding Remedial Plans 317</i> filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of Gina Wright, # 2 Exhibit B - Report of Dr. Michael Barber, # 3 Exhibit C - Senate Committee Hearing (11/29/2023), # 4 Exhibit D - House Committee Hearing (11/29/2023), # 5 Exhibit E - House Committee Hearing (11/30/2023), # 6 Exhibit F - Senate Committee Hearing (12/4/2023), # 7 Exhibit G - Senate Floor Debate (12/1/2023), # 8 Exhibit H - House Floor Debate (12/1/2023), # 9 Exhibit I - House Floor Debate (12/7/2023), # 10 Exhibit J - 2024 State Election Calendar)(Tyson, Bryan) Modified on 12/19/2023 to edit docket text (ddm). (Entered: 12/18/2023)
12/19/2023	327	Plaintiffs' Reply in Support of Objections to Remedial Plans 317 by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. (Sparks, Adam) Modified on 12/20/2023 to edit docket text (ddm). (Entered: 12/19/2023)
12/20/2023	328	Minute Entry for proceedings held before Judge Steve C. Jones: Evidentiary Hearing held on 12/20/2023 pursuant to the Court's Order of 12/06/2023 regarding the remedial phase of these proceedings following the anticipated enactment of remedial state legislative and congressional plans by the Georgia General Assembly. The Court heard oral argument from counsel. Gina Wright called by Defendants, sworn and testified. These matters were taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 12/20/2023)
12/21/2023	329	TRANSCRIPT of Remedial Hearing Proceedings held on 12/20/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1 - A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/11/2024. Redacted Transcript Deadline set for 1/22/2024. Release of Transcript Restriction set for 3/20/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 12/21/2023)
12/27/2023	330	TRANSCRIPT of Proceedings held on 12/20/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/17/2024. Redacted Transcript Deadline set for 1/29/2024. Release of Transcript Restriction set for 3/26/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 12/27/2023)
12/27/2023	331	Notice for Leave of Absence for the following date(s): 1/9/24 - 1/31/24; 4/1/24 - 4/5/24; 5/20/24 - 5/24/24; 6/3/24 - 6/14/24; 11/14/24 - 11/16/24, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 12/27/2023)
12/28/2023	332	NOTICE TO COURT regarding RECLAMATION AND DISPOSITION OF UNCLAIMED EXHIBITS pursuant to Local Rule 79.1D(2) filed by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. Exhibits to be Retrieved.. (Sparks, Adam) (Entered: 12/28/2023)
12/28/2023	333	ORDER finding that the General Assembly fully complied with this Court's order requiring the creation of Black-majority districts in the regions of the State where vote dilution was found. The Court further finds that the elimination of crossover districts did

		not violate the October 26, 2023 Order. Hence, the Court OVERRULES Plaintiffs objections (Doc. No. 317) and HEREBY APPROVES SB 1EX and HB 1EX. Signed by Judge Steve C. Jones on 12/28/2023. (ddm) (Entered: 12/28/2023)
01/16/2024	334	Appeal Remark: Pursuant to FRAP 3(b)(2) and 11th Cir. R. 12-2, and absent any party filing written objections within 14 days, this case will be consolidated with: 23-13914 and 23-13916 re 302 Notice of Appeal. Case Appealed to USCA - 11th Circuit. Case Number 23-13921-AA. (rlh) (Entered: 01/16/2024)
01/22/2024	335	NOTICE OF APPEAL as to 333 Order, by Jacqueline Faye Arbuthnot, Jacquelyn Bush, Mary Nell Conner, Annie Lois Grant, Quentin T. Howell, Triana Arnold James, Garrett Reynolds, Elbert Solomon, Eunice Sykes, Elroy Tolbert, Dexter Wimbish. Case Appealed to USCA - 11th Circuit. Filing fee \$ 605, receipt number AGANDC-13172595. Transcript Order Form due on 2/5/2024 (Lewis, Joyce) (Entered: 01/22/2024)
01/23/2024	336	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 335 Notice of Appeal, filed by Jacquelyn Bush, Dexter Wimbish, Jacqueline Faye Arbuthnot, Garrett Reynolds, Eunice Sykes, Annie Lois Grant, Triana Arnold James, Elroy Tolbert, Mary Nell Conner, Quentin T. Howell, and Elbert Solomon. (pjm) (Entered: 01/23/2024)
01/23/2024	337	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to USCA - 11th Circuit re: 335 Notice of Appeal. (pjm) (Entered: 01/23/2024)
01/26/2024	338	USCA Acknowledgment of 335 Notice of Appeal, filed by Jacquelyn Bush, Dexter Wimbish, Jacqueline Faye Arbuthnot, Garrett Reynolds, Eunice Sykes, Annie Lois Grant, Triana Arnold James, Elroy Tolbert, Mary Nell Conner, Quentin T. Howell, Elbert Solomon. Case Appealed to USCA- 11th Circuit. Case Number 24-10241-A. (pjm) (Entered: 01/26/2024)
02/05/2024	339	TRANSCRIPT ORDER FORM for proceedings held on 12/20/2023 (Evidentiary Hrg) before Judge Steve C. Jones, re: 335 Notice of Appeal. Court Reporter: Viola Zborowski & Penny Coudriet. (Khanna, Abha) Modified on 2/6/2024 to update text (pjm). (Entered: 02/05/2024)
02/06/2024		Set Deadline re: 335 Notice of Appeal: Financial Arrangements due on 2/20/2024. (pjm) (Entered: 02/06/2024)

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Grant Doc. 43

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

ANNIE LOIS GRANT et al.,

Plaintiff,

v.

BRAD RAFFENSPERGER et al.,

Defendants.

CIVIL ACTION FILE

No. 1:22-CV-00122-SCJ

ORDER

This matter appears before the Court on Defendants' Motion to Dismiss Plaintiffs' Complaint.¹ Doc. No. [23].

I. BACKGROUND

Annie Lois Grant, Quentin T. Howell, Elroy Tobert, Theron Brow, Triana Arnold James, Eunice Sykes, Elbert Solomon, and Dexter Wimbish (collectively, the "Plaintiffs") filed their Complaint for Declaratory and Injunctive Relief against Defendants Brad Raffensperger, in his official capacity as Secretary of

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

State, Sara Tindall Ghazal, in her official capacity as a member of the State Election Board, Ahn Le, in her official capacity as a member of the State Election Board, Edward Lindsey in his official capacity as a member of the State Election Board, and Matthew Mashburn, in his official capacity as a member of the State Election Board, (collectively, the “Defendants”). Doc. No. [1]. In their Complaint, Plaintiffs challenge the State of Georgia’s newly adopted legislative maps, specifically Senate Bill 1EX (“S.B. 1EX”) and House Bill 1EX (“H.B. 1EX”) on the grounds that they violate Section 2 of the Voting Rights Act of 1965 (“VRA”), 52 U.S.C. § 10301. *Id.* at 1. Specifically, Plaintiffs allege that “the Georgia General Assembly diluted the growing electoral strength of the state’s Black voters and other communities of color.” *Id.* ¶ 2.

On January 14, 2022, Defendants filed their Motion to Dismiss, pursuant to the Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), in which they seek the dismissal of all Plaintiffs’ claims against them. Doc. No. [23]. Specifically, Defendants argue that Plaintiffs fail to request a three-judge court for an action involving “the apportionment of congressional districts or the apportionment of any statewide legislative body,” *see* 28 U.S.C. § 2284(a), and that this Court, therefore, lacks subject matter jurisdiction over Plaintiffs’ claims against them.

Doc. No. [23-1], 2. Defendants also assert that even if this case is properly before a single-judge court, Plaintiffs' Complaint fails to state a claim against Defendants for declaratory relief because Congress has not expressed an intent to provide a private right of action under Section 2. Id. at 13. Lastly, Defendants request certification of any denial of their motion for immediate review to the Eleventh Circuit Court of Appeals. Id. at 15-17. Plaintiffs subsequently filed a response to the motion, to which Defendants filed a reply. Doc. Nos. [24], [37]. Plaintiffs have also filed a Notice of Supplemental Authority in Support of Their Opposition to the Motion to Dismiss. Doc. No. [39]. This matter is now ripe for review and the Court rules as follows.

II. LEGAL STANDARD

A. Motion to Dismiss

Defendants move to dismiss this action for lack of subject matter jurisdiction and failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6).

"Subject matter jurisdiction defines the court's authority to hear a given type of case; it represents the extent to which a court can rule on the conduct of persons or status of things." Carlsbad Tech., Inc. v. HIF Bio, Inc., 556 U.S. 635, 639

(2009) (internal quotations and citations omitted). A party may therefore challenge the Court's subject matter jurisdiction by filing a motion pursuant to Federal Rule of Civil Procedure 12(b)(1). See Fed. R. Civ. P. 12(b)(1).

A motion to dismiss for lack of subject matter jurisdiction may be either a "facial" or "factual" attack. Morrison v. Amway Corp., 323 F.3d 920, 924 n.5 (11th Cir. 2003) (citation omitted). "Facial attacks challenge subject matter jurisdiction based on the allegations in the complaint, and the district court takes the allegations as true in deciding whether to grant the motion." Id. "Factual attacks challenge subject matter jurisdiction in fact, irrespective of the pleadings." Id. When resolving a factual challenge to subject matter jurisdiction, the Court may consider extrinsic evidence such as testimony and affidavits. Id. In this case, the challenge is based on the allegations of the Complaint and the Court deems Defendants to have brought a facial attack on subject matter jurisdiction.

"The burden for establishing federal subject matter jurisdiction rests with the party bringing the claim," here Plaintiffs. Sweet Pea Marine, Ltd. v. API Marine, Inc., 411 F.3d 1242, 1247 (11th Cir. 2005).

A defendant may also move to dismiss a complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

A complaint has failed to state a claim if the facts as pled, accepted as true, do not state a claim for relief that is plausible on its face. Ashcroft v. Iqbal, 555 U.S. 662, 687 (2009); Twombly, 550 U.S. at 561–62, 570. Labels, conclusions, and formulaic recitations of the elements of the cause of action “will not do.” Twombly, 550 U.S. at 555. To state a plausible claim, a plaintiff need only plead “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678.

B. Interlocutory Appeal

28 U.S.C. § 1292(b) provides that a district court may certify an order for interlocutory appeal if the following three elements are met: (1) the subject order “involves a controlling question of law”; (2) there must be a “substantial ground for difference of opinion” regarding the controlling question of law; and (3) an immediate appeal from the subject order “may materially advance the ultimate termination of the litigation.” However, “[t]he proper division of labor between the district courts and the court of appeals and the efficiency of judicial resolution

of cases are protected by the final judgment rule and are threatened by too expansive use of the § 1292(b) exception to it.” McFarlin v. Consecro Servs., LLC, 381 F.3d 1251, 1259 (11th Cir. 2004). Therefore, an interlocutory appeal under 28 U.S.C. § 1292(b) is reserved for “exceptional” cases. Caterpillar, Inc. v. Lewis, 519 U.S. 61, 74 (1996).

III. ANALYSIS

The Court first addresses Defendants’ Motion to Dismiss and then turns to their request for an interlocutory appeal.

A. Defendants’ Motion to Dismiss Is Due to Be Denied

The Court finds that Defendants’ Motion to Dismiss is due to be denied. First, Section 2284 does not require a plaintiff to request a three-judge court to hear purely statutory challenges to the apportionment of a statewide legislative body. Second, Plaintiffs can assert these claims because for the past forty-five years the Supreme Court and lower courts have allowed private individuals to assert challenges under Section 2 of the VRA. See Thornburg v. Gingles, 478 U.S. 30 (1986).

1. *Three-Judge Court*

a) The statutory text does not require a three-judge court

Defendants ask the Court to dismiss this action because Plaintiffs did not seek a three-judge court under 28 U.S.C. § 2284(a). Doc. No. [43-1], 2.² Defendants argue that Section 2284(a) requires plaintiffs challenging the apportionment of a statewide legislative body to request a three-judge court. *Id.* at 3–12. First, Defendants argue that the Court must read the statute’s “shall” language to require referral to a three-judge court whenever Section 2284(a) is triggered. *Id.* at 3–4. Defendants then contend that Section 2284(a) is triggered here, arguing that the statute requires a three-judge court to be convened when any action challenges “the apportionment of any statewide legislative body,” regardless of whether that challenge is constitutional or statutory in nature. *Id.* at 5–7. Defendants point to the statute’s text to support their argument, stating that “the prepositive modifier requiring a challenge be ‘constitutional’ in nature before triggering the three-judge panel is interrupted by a determiner, which means the

² The statute reads: “A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” 28 U.S.C. § 2284(a).

'constitutionality' requirement only applies to challenges to congressional districts." Id. at 6. In Section 2284(a), Defendants argue, the determiner is the word "the," following the word "or," which means that the "constitutional" element required in congressional districting challenges is not required for actions challenging statewide legislative apportionment, which is being challenge here. Id. at 6-7.

Plaintiffs respond that 28 U.S.C. § 2284(a) requires a three-judge court to be convened when an action challenges the constitutionality of the apportionment of a statewide legislative body, not when an action challenges such an apportionment solely on statutory grounds. Doc. No. [24], 3. Because Plaintiffs have brought only a statutory challenge, they argue, Section 2284(a) does not provide for convening a three-judge court in this action. Id. Plaintiffs undertake a textual analysis, arguing that a plain reading of the statute compels a finding that it does not allow for a three-judge court for solely statutory challenges. See id. at 5-11. Further, Plaintiffs argue that under the series-qualifier canon of statutory construction, the placement of "the constitutionality of" before both "the apportionment of congressional districts" *and* "the apportionment of any statewide legislative body" renders "constitutionality of" a qualifier of both

subsequent phrases. Id. at 7–8. Plaintiffs reject Defendants’ contention that the extra “the” in the statute requires purely statutory challenges to be heard by a three-judge court, and in arguing that Congress does not “hide elephants in mouseholes,” they provide several alternative wordings of Section 2284(a) that would have more clearly imparted the meaning that Defendants ask this Court to adopt. See id. at 9–10 (citations omitted).³ And even if the repeated “the” could be considered a series determiner, Plaintiffs argue, the use of parallel terms “apportionment of” shows that the modifier “constitutionality of” applies to both the subsequent phrases. See id. at 10–11.

In reply, Defendants reject Plaintiffs’ “parallel structure” reasoning, arguing instead that the additional language required to achieve this parallel structure only “muddies the interpretative waters.” Doc. No. [37], 3. Defendants contend that Congress would have known about and accounted for the series-

³ For example, Plaintiffs argue that switching the order of the antecedent phrases would have made it clearer that “constitutionality of” applies only to “the apportionment of congressional districts” (i.e., “A district court of three judges shall be convened . . . when an action is filed challenging **the apportionment of any statewide legislative body or the constitutionality of the apportionment of congressional districts.**” (emphasis in Plaintiffs’ brief)). Doc. No. [24], 9. Similarly, Plaintiffs contend that adding “any challenge to” before “the apportionment of any statewide legislative body” would have allowed for the interpretation for which Defendants argue. Id.

qualifier canon when deciding how to word this statute, and interpretation under that canon compels a finding that “constitutionality of” does not modify “the apportionment of any statewide legislative body.” See id. at 4. Further, Defendants contend that the statute’s wording is not as parallel as Plaintiffs suggest, noting that Congress could have added “of” after “or” to enhance the parallel nature of the phrases. Id. at 5. Additionally, Defendants argue that the Court should not consider the additional “the” to be a mere stylistic choice by Congress but instead to be an intentional use of the article such that “the constitutionality of” does not modify “the apportionment of any statewide legislative body.” Id. at 5–6.

As always, when interpreting a statute, the Court looks first to the statutory text. CSX Corp. v. United States, 18 F.4th 672, 679 (11th Cir. 2021). Section 2284(a) provides that “[a] district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.” To start, the Court agrees with Defendants that Section 2284(a)’s use of “shall” is mandatory and requires the Court to refer a matter to a three-judge court when Section 2284(a) is

triggered. The Court does not agree, however, that the three-judge-court requirement is triggered when a party brings a solely statutory claim.

The Court starts its analysis by acknowledging that when presenting and applying their preferred canons of statutory construction, both Defendants and Plaintiffs cite Reading Law: The Interpretation of Legal Texts by Antonin Scalia and Bryan Garner (2012) ("Reading Law").⁴ Of course, the canons of construction are "interpretative tools" that should be used as "rules of thumb" to help determine the meaning of legislation. CBS Inc. v. PrimeTime 24 Joint Venture, 245 F.3d 1217, 1225 (11th Cir. 2001) (citation omitted). "The canons assist the Court in determining the meaning of a particular statutory provision by focusing on the broader, statutory context." Id. The Court keeps in mind, however, that

⁴ The Court recognizes that Reading Law is a popular reference used often by the Supreme Court, *see, e.g., Facebook, Inc. v. Duguid*, --- U.S. ---, 141 S. Ct. 1163, 1169 (2021), and courts in the Eleventh Circuit, *see, e.g., Hincapie-Zapata v. U.S. Att'y Gen.*, 977 F.3d 1197, 1201 (11th Cir. 2020). Indeed, this Court's research shows that courts in the Eleventh Circuit have cited this text in over two hundred published decisions. Of course, as a secondary authority, Reading Law is not binding on this Court and thus should be employed only for its persuasive value and to help expound upon the principles of statutory interpretation it details. *Cf. Johnson v. United States*, 576 U.S. 591, 635 (2015) (Alito, J., dissenting) (citing Reading Law as a secondary authority); Sanchez v. Launch Tech. Workforce Sols., LLC, 297 F. Supp. 3d 1360, 1366 n.7 (N.D. Ga. 2018) (noting that a secondary authority written by a former jurist provided "at best, only persuasive authority"). Thus, this Court relies on Reading Law for what persuasive authority it provides.

“statutory interpretation is not a rigid mathematical exercise,” DaVita Inc. v. Virginia Mason Mem’l Hosp., 981 F.3d 679, 690 (9th Cir. 2020), and treating the canons of statutory interpretation “like rigid rules” can “lead [a court] astray,” Facebook, Inc. v. Duguid, --- U.S. ---, 141 S. Ct. 1163, 1175 (2021) (Alito, J., concurring).

After careful review and consideration, the Court determines that Plaintiffs’ interpretation of the statute comports with the plain meaning of the text as well as applicable canons of construction. First, the Court agrees with Plaintiffs that under a plain-language reading of the statute, “constitutionality of” modifies both “the apportionment of congressional districts” and “the apportionment of any statewide legislative body.” To put it simply, the Court believes that most readers of the statute would readily interpret “constitutionality of” to modify both subsequent phrases.⁵ See Levin v. United States, 568 U.S. 503, 513 (2013) (stating that when courts construe statutes, they must “giv[e] the words used their ordinary meaning”). Because the parties present textual arguments, however, the Court will also wrestle with the canons of construction.

⁵ Indeed, the case treatment discussed below bolsters this view, as the vast majority of courts have adopted this plain-language interpretation for decades.

The parties' dispute comes down to whether "constitutionality," as a prepositive modifier, modifies only "the apportionment of congressional districts" or that phrase *and* the subsequent "the apportionment of any statewide legislative body." The parties appear to agree that the series-qualifier canon can be used to construe this statute, but even though they both refer to Reading Law, they disagree as to how the canon should be employed here. On its own review, the Court finds that while Reading Law provides helpful examples to explain the series-qualifier canon,⁶ it does not provide an example on point with the wording

⁶ For instance, Reading Law provides simple constructions in which a prepositive adjective modifies multiple subsequent nouns or phrases. One example is "[c]haritable institutions or societies," in which "[c]haritable" modifies both "institutions" and "societies." Reading Law at 147. Another example is "[i]nternal personnel rules and practices of an agency," in which "[i]nternal personnel" should be read to modify both "rules" and "practices." Id. at 148. The Court fully agrees with the interpretations of those straightforward examples. The treatise goes on to note that "[t]he typical way in which syntax would suggest no carryover modification is that a determiner (*a, the, some, etc.*) will be repeated before the second element," providing the example "[t]he charitable institutions or the societies," in which "the presence of the second *the* suggests that the societies need not be charitable." Id. (emphases in original). Although that last example gets closer to the language at issue here because it contains two terms separated by distinct determiners, it is simpler than the lengthier excerpt in Section 2284(a) providing that a three-judge court must be convened "when otherwise required by an Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." As discussed above, that additional language provides context that helps the reader arrive at the statute's meaning. Thus, while the examples in Reading Law are helpful to introduce and explain the basics of the series-qualifier canon, the examples do not control the outcome here.

found in Section 2284(a). Thus, looking to the statutory text, the Court agrees with Plaintiffs' contention that Section 2284(a)'s multiple uses of "the" creates a parallel construction in which "constitutionality of" should be read to modify both subsequent phrases. First, the statute uses "when" twice in a parallel series to separate the triggering of the three-judge-court rule into two overarching camps: (1) "when otherwise required by Act of Congress" and (2) "when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." The Court finds that the second of those two phrases presents yet another parallel series in which "the constitutionality of" is followed by two phrases worded in parallel fashion: "the apportionment of congressional districts" and "the apportionment of any statewide legislative body." Under this reading, the allegedly redundant "the," which Defendants argue is an interrupting determiner, becomes a necessary part of the statute's parallel structure.⁷ As a result, "constitutionality of" should be read to modify both "the apportionment

⁷ The Court agrees with Plaintiffs that, as a matter of plain English, this use of "the" before each parallel term does not cut off the modifier "constitutionality of." Doc. No. [24], 10.

of congressional districts” and “the apportionment of any statewide legislative body.”

The Court rejects Defendants’ narrower interpretation that abandons any attempt at a plain reading of the statute and focuses more on the immediate phrases than the broader statute to arrive at the statute’s meaning. Defendants’ briefing starts with making passing references to how “clear” the statute is but then jumps straight to discussing the allegedly critical role a “prepositive modifier” plays in dictating the meaning of Section 2284(a). See Doc. No. [43-1], 6. Again, this Court must look first to a statute’s plain and ordinary meaning, Mike Smith Pontiac, GMC, Inc. v. Mercedes-Benz of N. Am., Inc., 32 F.3d 528, 531 (11th Cir. 1994), and the Court does not believe that an analysis that starts in earnest with contemplation of prepositive modifiers is an analysis that adequately considers the plain reading of the statute. While the canons of construction can be helpful tools, the Court is not persuaded by Defendants’ attempt start their analysis with a surgical deconstruction of the statutory text that all but ignores what meaning a plain reading of that text would yield.

And turning to Defendants’ mode of analysis, as Reading Law concedes, the series-qualifier canon is “highly sensitive to context,” and “[o]ften the sense

of the matter prevails.” Reading Law at 150. Here, the Court finds that the plain-language reading is the prevailing sense of the matter, and a broader review of the statute provides the context necessary to construe the statute properly. Also, given the plain meaning of the statute, the Court is not persuaded by Defendants’ argument that Congress would have added yet more language if it had intended to make the phrases truly parallel – indeed, the Court agrees with Plaintiffs and finds it more likely that Congress would have rearranged the statute’s language if it had not intended “constitutionality of” to modify “the apportionment of any statewide legislative body.”⁸

For these reasons, the Court finds that under a plain reading and textual analysis of Section 2284(a), the statute provides that a three-judge court shall be convened when the constitutionality of (1) the apportionment of congressional

⁸ The Court fully agrees with the examples Plaintiffs provide. For instance, simply switching the relevant phrases after “challenging” would have opened a clear path to Defendants’ interpretation: “A district court of three judges shall be convened . . . when an action is filed challenging the apportionment of any statewide legislative body or the constitutionality of the apportionment of congressional districts.” That Congress did not use such a construction is telling. And just as this Court must recognize that “Congress legislates with knowledge of our basic rules of statutory construction,” McNary v. Haitian Refugee Ctr., Inc., 498 U.S. 479, 496 (1991), the Court must assume that Congress would not mire its meaning in ambiguity when much clearer wording is well within its grasp.

districts or (2) the apportionment of any statewide legislative body is challenged.

And as shown below, the caselaw only bolsters this finding.

b) **Courts find that three-judge courts do not hear challenges to section 2 of the Voting Rights Act**

Prior to 2013, following the decennial census, various states and counties (the “covered jurisdictions”), including Georgia, were required to submit their proposed legislative maps to the U.S. Attorney General before they could enact them into law (“preclearance”).⁹ 52 U.S.C. § 10303(a)(1) (“Section 4 of the VRA”). A three-judge court was required to hear the action when a party brought a challenge under Section 4 of the VRA. 52 U.S.C. §§ 10303(a)(5); 10304(a). However, in 2013, the Supreme Court held that the coverage formula, which determined which states had to undergo preclearance, was unconstitutional. Shelby Cnty., 570 U.S. at 556–57. This is the first decennial census since the passage of the VRA, where Georgia was not required to submit its proposed legislative maps for

⁹ “Section 4 of the [VRA] provides the ‘coverage formula,’ defining the ‘covered jurisdictions’ as States or political subdivisions that maintained tests or devices as prerequisites to voting, and had lower voter turnout, in the 1960s and early 1970s.” Shelby Cnty. v. Holder, 570 U.S. 529, 529 (2013). The covered jurisdictions included: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, four counties in California, five counties in Florida, two counties in Michigan, seven counties in New Hampshire, three counties in New York, thirty-nine counties in North Carolina, and two counties in South Dakota. 28 C.F.R. pt. 51, App. (2012).

preclearance. As Defendants note, plaintiffs are bringing purely statutory challenges to state legislative maps for the first time in earnest because pre-Shelby County, these claims usually accompanied either a claim under Section 5 of the VRA or a constitutional challenge to state legislative maps. Doc. No. [58], 6–7.

Given the recent change in law, there is a lack of binding authority concerning whether Section 2284 requires a three-judge court to hear challenges to the apportionment of statewide legislative bodies brought solely under Section 2 of the VRA. However, this Court is not alone in grappling with this issue. See Thomas v. Reeves, 961 F.3d 800 (5th Cir. 2020); Singleton v. Merrill, Case No. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM, 2021 WL 5979497, at *3 (N.D. Ala. Nov. 23, 2021). In Thomas, the en banc court ruled that it did not have jurisdiction to hear an action challenging the apportionment of statewide legislative districts pursuant to Section 2 of the VRA because these maps would not be used in any future elections.¹⁰ Thomas, 961 F.3d at 801. However, all eleven judges agreed

¹⁰ In dicta, the Fifth Circuit issued two concurring opinions “to explain . . . [the] plain [language] of the three-judge statute as well as its ancestry.” Thomas, 961 F.3d at 802. One concurrence, joined by six of the judges, stated that the plain language of Section 2284 does not require a three-judge court to hear purely statutory challenges to the

that Section 2284 can plausibly be read as only requiring a three-judge court when a plaintiff brings a constitutional challenge to apportionment. See id. at 802 (Costa, J., concurring) (“A person on the street would read [Section 2284] as requiring a three-judge court only for constitutional challenges.”); id. at 827 (Willett, J., concurring) (“Requiring only a single judge to decide section 2-only challenges . . . is a plausible reading of the statute . . .”).

In Singleton, four separate actions were filed challenging Alabama’s legislative maps. Singleton, 2021 WL 5979497, at *1. There, two of the cases challenged either the statewide legislative maps or the congressional maps solely on constitutional grounds, one case challenged the congressional maps on statutory and congressional grounds, and one challenged the congressional maps on purely statutory grounds. Id. The single-judge court did not consolidate or join the statutory case with the constitutional cases because “plaintiffs intentionally have not asserted a claim that independently supports the jurisdiction of a three-judge [court] under Section 2284 . . . to include those

apportionment of a statewide legislative body. Id. at 801 (Costa, J., concurring). The second concurrence, joined by five judges, stated that the statute requires a three-judge court to hear statutory challenges to the apportionment of a statewide legislative body. Thomas, 961 F.3d at 827 (Willett, J., concurring) (emphasis in original).

plaintiffs in this consolidated action could exceed the limited jurisdiction of this [three-judge] court under that statute.” *Id.* at *3. These cases support the reading that Section 2284 is limited to actions asserting constitutional challenges to the apportionment of congressional districts and constitutional challenges to the apportionment of statewide legislative bodies. While instructive, these cases do not definitively answer the question of whether a single judge lacks jurisdiction to hear statutory challenges to the apportionment of a statewide legislative body.

Before Shelby County, three-judge courts routinely disbanded once a claim brought pursuant to Section 5 of the VRA, which invoked a three-judge court, was terminated, and only claims brought pursuant to Section 2 of the VRA remained. *See, e.g., Rural West Tenn. African-American Affairs Council v. Sunquist*, 209 F.3d 835, 838 (6th Cir. 2000) (“Because the amended complaint contained no constitutional claims [and only the Section 2 claim remained], the three-judge court disbanded itself.”); *Bone Shirt v. Hazeltine*, 336 F. Supp. 2d 976, 980 (D.S.D. 2004) (a single-judge court decided a challenge to a statewide legislative plan brought pursuant to Section 2 of the VRA after a three-judge court resolved the plaintiffs’ Section 5 claim); *Langsdon v. Darnell*, 9 F. Supp. 2d 880, 882 n.3 (W.D. Tenn. 1998) (the three-judge court disbanded because the second

amended complaint contained no constitutional claims). These cases suggest that three-judge courts are generally not invoked where only challenges to Section 2 of the VRA remain before the Court.

Finally, limiting Section 2284 to constitutional challenges to apportionment is consistent with the narrow construction that the Supreme Court has given to Section 2284. The Supreme Court has “stressed that the three-judge-court procedure is not ‘a measure of broad social policy to be construed with great liberality.’” Gonzalez v. Automatic Emp. Credit Union, 419 U.S. 90, 98 (1974) (quoting Phillips v. United States, 312 U.S. 246, 251 (1941)). In fact, “Congress established the three-judge-court apparatus for one reason: to save state and federal statutes from improvident doom, on constitutional grounds, at the hands of a single federal district judge.” Id. at 97. Following Supreme Court precedent and applying Section 2284 narrowly, Plaintiffs were not required to request a three-judge court. Section 2284 applies to constitutional claims concerning the apportionment of statewide legislative bodies; it does not apply to purely statutory claims concerning the apportionment of statewide legislative bodies.

Dismissing Plaintiffs’ claims would result in this Court splitting from other courts that have declined to hear challenges brought solely under Section 2 of the

VRA. Thus, the Court does not find that Plaintiffs were required to request a three-judge court to hear their claims.

c) **Legislative history**

Section 2284's legislative history confirms that three-judge courts are convened to hear constitutional claims concerning the apportionment of congressional districts and constitutional claims concerning the apportionment of any statewide legislative body, not purely statutory claims. Courts can evaluate legislative history to confirm the plain meaning of a statute and to understand Congress's intent behind the statute.

As for the propriety of using legislative history at all, common sense suggests that inquiry benefits from reviewing additional information rather than ignoring it. As Chief Justice Marshall put it, "[w]here the mind labours to discover the design of the legislature, it seizes every thing from which aid can be derived."

Wisconsin Pub. Intervenor v. Mortier, 501 U.S. 597, 612 n.4 (1991) (quoting United States v. Fisher, 2 Cranch 358, 386, 2 L.Ed. 304 (1805)); see also Carr v. U.S., 560 U.S. 438, 457–58 (2010) (evaluating the correspondence between the committee to confirm the plain meaning of the statutory text); United States v. Florida, 938 F.3d 1221, 1245 (11th Cir. 2019) ("[W]e are mindful that courts need not examine legislative history if the meaning of the statute is plain, but it may do so,

particularly if a party's interpretation is based on a misreading or misapplication of legislative history."); Harris v. Garner, 216 F.3d 970, 977 n.4 (11th Cir. 2000) ("[W]e see no inconsistency in pointing out that both the statutory language and legislative history lead to the same interpretive result.").

As discussed above, the plain language only requires a three-judge court to hear cases challenging the constitutionality of a statewide legislative body, not purely statutory challenges to the apportionment of a statewide legislative body. See supra III. A. The legislative history confirms this reading. The Senate Report begins by stating that "[t]his bill eliminates the requirement for three-judge courts in cases seeking to enjoin the enforcement of State or Federal laws on the grounds that they are unconstitutional, except in reapportionment cases." S. Rep. No. 94-204 (1976), 1-2, reprinted in 1976 U.S.C.C.A.N. 1988. When discussing the purpose of the amendment, the Senate did not distinguish between constitutional challenges to congressional districts and all challenges—constitutional and statutory—to statewide legislative bodies. Rather, the Senate Report states that three-judge courts apply to challenges to the constitutionality of reapportionment. Id. at 1-2.

Section 2284 was originally enacted in response to the Supreme Court's decision in Ex Parte Young, 209 U.S. 123 (1908), and "prohibited a single Federal district court judge from issuing interlocutory injunctions against allegedly unconstitutional State statutes and required that cases seeking such injunctive relief be heard by a district court made up of three judges." S. Rep. No. 94-204, 2.¹¹ In response to the growing backlog of cases produced by this statute, Congress amended the law and removed constitutional challenges to State laws generally from the purview of a three-judge court. However, "[t]he bill *preserves* three-judge courts for cases involving congressional reapportionment or the reapportionment of a statewide legislative body." Id. at 9 (emphasis added).

¹¹ The original statute read:

An interlocutory or permanent injunction restraining the enforcement, operation of execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judges thereof upon the grounds of unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges.

28 U.S.C. § 2281 (1948), 62 Stat. 968.

Because the original statute only authorized three-judge courts to hear challenges “upon the grounds of unconstitutionality of such statute” (28 U.S.C. § 2281 (1948), 62 Stat. 968), the “preservation” discussed is to a three-judge court’s jurisdiction to hear constitutional challenges to the apportionment of statewide legislative bodies. Reading Section 2284 to encompass statutory challenges would be an expansion, not a preservation, of the three-judge court’s jurisdiction.

The Senate Report highlights this in the “Section-by-Section Analysis” where it states, “[s]ubsection (a) would also *continue* the requirement for a three-judge court in cases challenging the constitutionality of any statute apportioning congressional district or apportioning any statewide legislative bodies.” S. Rep. No. 94-204, 12 (emphasis added). Again, the Senate Report clarifies that the 1976 amendments do not create new grounds for a three-judge court to hear apportionment challenges. Rather, it “continues” the requirement from the previous statute—a statute that only authorized three-judge courts to hear constitutional challenges. It also explicitly states that the statute applies to constitutional challenges and is silent about statutory challenges.

Additionally, the Senate Report notes explicitly that three-judge courts can hear claims that are expressly authorized by an act of Congress. “A three-judge

court is mandatory without request by anyone in suits under sections 4(a), 5(a), and 10 of the Voting Rights Act of 1965.” Id. When Congress amended Section 2284, it was careful to note that three-judge courts have jurisdiction over particular statutory challenges; however, absent from that list are challenges brought pursuant to Section 2 of the VRA. Because Section 2284, as amended, “preserved” or “continued” the jurisdictional requirements from Section 2281, it only applies to constitutional challenges to the apportionment of districts and particular statutory challenges authorized by Congress. Because Congress did not expressly authorize a three-judge court to hear Section 2 claims, a three-judge court cannot exercise jurisdiction over Plaintiffs’ claims. Accordingly, the legislative history confirms that constitutional challenges to a congressional district and constitutional challenges to a statewide legislative body are properly determined by a three-judge court. However, statutory challenges, unless specifically authorized by congressional act (i.e., sections 4(a), 5(a), and 10 of the Voting Rights Act of 1965), are properly decided by a single-judge court.

Defendants note that the Third Circuit Court of Appeals, when reviewing the same Senate Report, found that “Congress was concerned less with the *source* of law on which an apportionment challenge was based than on the unique

importance of apportionment cases generally.” Doc. No. [23-1], 8 (quoting Page v. Bartels, 248 F.3d 175, 190 (3d Cir. 2001)). However, the Third Circuit in Page was confronted with the issue of whether a single-district court judge had jurisdiction to hold a preliminary injunction hearing where the single district judge only ruled on the Section 2 claims, even though the plaintiffs brought claims under both Section 2 of the VRA and the Fourteenth and Fifteenth Amendments to the Constitution. Id. at 184, 187–88. The Third Circuit held that an “‘action’ . . . includes a challenge brought under § 2 of the Voting Rights Act, the § 2 challenge, as well as the Fourteenth and Fifteenth Amendment challenges, are subject to § 2284(a)’s requirement that they be heard by a three-judge district court.” Id. at 188. This Court does not read Page to hold that a single-judge court lacks jurisdiction over an “action” that only asserts statutory challenges to the apportionment of statewide legislative districts.

Second, in deciding that a three-judge court is required in cases concerning both constitutional and statutory challenges to apportionment, the Third Circuit reasoned that the Senate Report states “three-judge courts would be retained . . . in any case involving congressional reapportionment or the reapportionment of any statewide legislative body.” Page, 248 F.3d at 190. If the Court were to adopt

Defendants' reading of Section 2284 based upon this reasoning, then the Court would have to find that statutory challenges to congressional districts must also be heard by a three-judge court. In the above quotation, the Senate Report does not distinguish between statutory and constitutional challenges to the apportionment of either congressional districts or statewide legislative bodies. Thus, purely statutory challenges to congressional districts would have to be referred to a three-judge panel. To adopt this reading, the Court would be forced to find that the word "constitutionality" was mere surplusage. A "cardinal principle of interpretation [is] that courts must give effect, if possible, to every clause and word of a statute." Liu v. SEC, --- U.S. ---, 140 S. Ct. 1936, 1948 (2020). Accordingly, the Court cannot rely on this quotation to find that a three-judge court must hear a purely statutory challenge to the apportionment of a statewide legislative body.

Finally, the Third Circuit also found that a three-judge court must hear the statutory claim alongside the constitutional claim because the Senate Report states that "[t]he bill preserves three-judge courts for cases involving . . . the reapportionment of a statewide legislative body because it is the judgment of the committee that these issues are of such importance that they ought to be heard

by a three-judge court.” Page, 248 F.3d at 190. The ellipses in the quote above removed the phrase “congressional reapportionment or.” S. Rep. No. 94-204, 9. As stated above, to read this quotation in full suggests that Congress intended for three-judge courts to hear purely statutory challenges to the apportionment of congressional and statewide legislative bodies. But again, that reading would leave the word “constitutionality” as mere surplusage. Additionally, this quotation uses the word “preserves.” The original three-judge court statute only applied to constitutional challenges to state statutes; thus, if Section 2284 was meant to “preserve” the jurisdictional requirements for a three-judge court with respect to apportionment claims, then Section 2284 only applies to constitutional challenges. To find that a three-judge court is required to hear this statutory claim would enlarge, not preserve, the jurisdictional requirements of the original three-judge court statute. Thus, the Court will not expand the Third Circuit’s reading of Section 2284 to encompass actions to find that Plaintiffs were required to request a three-judge court to hear their purely statutory challenge to the apportionment of a statewide legislative body.

Accordingly, Section 2284’s legislative history confirms that a three-judge court is authorized when a party challenges either the constitutionality of the

apportionment of congressional districts or the constitutionality of the apportionment of statewide legislative bodies. Thus, the Court will not dismiss Plaintiffs' claims because Plaintiffs did not ask for a three-judge court.

For the above reasons, the Court finds that Defendants' Motion to Dismiss based upon Plaintiffs' failure to request a three-judge court is denied.¹²

2. *Private Right of Action*

In their Motion, Defendants assert that the Complaint should be dismissed because there is no private right of action conferred by Section 2 of the VRA. Doc. No. [23-1], 12. In support of their motion, Defendants rely upon a recent concurring opinion by Justice Neil Gorsuch in the case of Brnovich v. Democratic National Committee, --- U.S. ---, 141 S. Ct. 2321 (2021), in which he noted that Supreme Court jurisprudence has "assumed – without deciding – that the Voting Rights Act of 1965 furnishes an implied cause of action under" Section 2. Id. at 2350 (Gorsuch, J., concurring). Justice Gorsuch also indicated that "[l]ower courts have treated this as an open question." Id. Also in their motion, Defendants

¹² Because the Court finds that this action should not be heard by a three-judge court, the Court also finds that Defendants' Motion to Dismiss is due to be denied insofar as it argues that Plaintiffs failed to request a three-judge court pursuant to this District's Local Rules. See Doc. No. [23-1], 11–12.

examine the statutory language of Section 2 and states that one cannot find any “rights-creating language in Section 2,” as compared to other parts of the VRA. Doc. No. [23-1], 13 (quotations omitted). Defendants further rely upon Supreme Court and Eleventh Circuit precedent which indicates that courts may not create causes of action where there is no clear and affirmative manifestation of Congress’s intent to create one. *Id.* at 13–14; *see also Alexander v. Sandoval*, 532 U.S. 275, 286–87 (2001); *In re Wild*, 994 F.3d 1244, 1255 (11th Cir. 2021) (en banc)).

The Court begins by acknowledging that it is correct that lower courts have treated the question of whether the VRA furnishes an implied right of action under Section 2 as an open question. However, in a recent trend, the lower courts that have answered the open question have all answered the question in the affirmative. *See Singleton v. Merrill*, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 209–10 (N.D. Ala. Jan. 24, 2022), ECF No. 107 (“Holding that Section [2] does not provide a private right of action would work a major upheaval in the law, and we are not prepared to step down that road today.”); *League of United Latin Am. Citizens v. Abbott*, No. EP21CV00259DCGJESJVB, 2021 WL 5762035, at *1 (W.D. Tex. Dec. 3, 2021) (“[I]t would be ambitious indeed for a district court— even a three-judge court—to deny a [Section 2] private right

of action in the light of precedent and history.”); Ga. State Conf. of NAACP v. State, 269 F. Supp. 3d 1266, 1275 (N.D. Ga. 2017) (“Even though the statute does not explicitly provide a private right of action, it is clear from the text that if the statute offers a right of action to an individual, then that right must be one that is enforceable against a ‘State or political subdivision.’ Given that Section 2 contains an implied private right of action”) (citations omitted).

While not binding, the Court accepts these holdings as persuasive authority and draws guidance from them. The Court also derives guidance from the Supreme Court’s opinion in Morse v. Republican Party of Virginia, 517 U.S. 186, 232 (1996) in which the Court stated: “Although § 2, like § 5, provides no right to sue on its face, ‘the existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965.’” Id. (citing S. Rep. No. 97-417, at 30). In their briefing, Defendants appear to characterize the Morse opinion as non-binding dicta because the Court was not addressing an express challenge to private Section 2 enforcement. Doc. No. [58], 2. “Even so, dicta from the Supreme Court is not something to be lightly cast aside.” Peterson v. BMI Refractories, 124 F.3d 1386, 1392 n.4 (11th Cir. 1997).

Like the court in Abbott, this Court agrees with the statement that “although the Supreme Court has not addressed an express challenge to private Section 2 enforcement, the Court’s precedent permits no other holding.” Abbott, 2021 WL 5762035, at *1. This is because there is no reason to ignore or refute the decades of Section 2 litigation challenging redistricting plans in which courts (including the Supreme Court) have never denied a private plaintiff the ability to bring a Section 2 claim. Id.

As aptly stated by the Abbott court, “[a]bsent contrary direction from a higher court,” this Court declines to “break new ground on this particular issue.” Id.

B. Immediate Appeal of this Court’s Ruling is Not Authorized

Defendants assert that this Court should authorize an immediate appeal if it rules against Defendants on the issues presented in their motion.

After review, the Court denies Defendants’ request as none of the questions for which Defendants seek certification are issues involving a

"controlling question of law as to which there is substantial ground for difference of opinion." 28 U.S.C. § 1292(b).¹³

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendants' Motion to Dismiss Plaintiffs' Complaint (Doc. No. [23]). Defendants' request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is **DENIED**.

IT IS SO ORDERED this 27th day of January, 2022.


HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

¹³ The Court recognizes that in their brief, Defendants quote appellate dissenting opinions concerning the lack of statutory provisions in Sections 2 and 10 of the VRA under which private plaintiffs may sue. See Doc. No. [37], 11-12. However, "no federal court anywhere ever has held that Section [2] does not provide a private right of action." Singleton, Case Nos. 2:21-cv-1291-AMM, 2:21-cv-01530-AMM at 230, ECF No. 107. In the absence of such a ruling, the Court does not think that the Section 2/ private right of action issue is a question that is appropriate for immediate appeal.

Grant Doc. 118

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

ANNIE LOIS GRANT; QUENTIN T.
HOWELL; ELROY TOLBERT; THERON
BROWN; TRIANA ARNOLD JAMES;
EUNICE SYKES; ELBERT SOLOMON;
DEXTER WIMBISH; GARRETT
REYNOLDS; JACQUELINE FAYE
ARBUTHNOT; JACQUELYN BUSH; and
MARY NELL CONNER,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:22-CV-00122-SCJ

SECOND AMENDED COMPLAINT

1. Plaintiffs bring this action to challenge the Georgia Senate Redistricting Act of 2021 (“SB 1EX”) and the Georgia House of Representatives Redistricting Act of 2021 (“HB 1EX”) on the ground that they violate Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

2. In undertaking the latest round of redistricting following the 2020 decennial census, the Georgia General Assembly diluted the growing electoral strength of the state’s Black voters and other communities of color. Faced with Georgia’s changing demographics, the General Assembly has ensured that the growth of the state’s Black population will not translate to increased political influence in the Georgia State Senate and Georgia House of Representatives.

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population¹—in multiple

¹ The phrases “majority of eligible voters” and “majority of the voting age population” have been used by courts interchangeably when discussing the threshold requirements of a vote-dilution claim under Section 2 of the Voting Rights Act. Compare, e.g., *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (“[T]he first *Gingles* precondition . . . ‘requires only a simple *majority of eligible voters* in a single-member district.’” (emphasis added) (quoting *Dickinson v. Ind. State Election Bd.*, 933 F.2d 497, 503 (7th Cir. 1991))), with *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality op.) (“[T]he majority-minority rule relies on an objective, numerical test: Do minorities make up *more than 50 percent of the voting-age population* in the relevant geographic area?” (emphasis added)). The phrase

legislative districts throughout the state, including two additional majority-Black State Senate districts in the southern Atlanta metropolitan area, one additional majority-Black State Senate district in the central Georgia Black Belt region, two additional majority-Black House districts in the southern Atlanta metropolitan area, one additional majority-Black House district in the western Atlanta metropolitan area, and two additional majority-Black House districts anchored in Bibb County. These additional majority-Black legislative districts can be drawn without reducing the total number of districts in the region and statewide in which Black and other minority voters are able to elect their candidates of choice.

4. Rather than draw these State Senate and House districts as those in which Georgians of color would have the opportunity to elect their preferred candidates, the General Assembly instead chose to “pack” some Black voters into limited districts in these areas and “crack” other Black voters among rural-reaching, predominantly white districts.

5. Section 2 of the Voting Rights Act prohibits this result and requires the General Assembly to draw additional legislative districts in which Black voters have opportunities to elect their candidates of choice.

“majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population.”

6. By failing to create such districts, the General Assembly's response to Georgia's changing demographics has had the effect of diluting minority voting strength throughout the state.

7. Accordingly, Plaintiffs seek an order (i) declaring that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act; (ii) enjoining Defendants from conducting future elections under SB 1EX and HB 1EX; (iii) requiring adoption of valid plans for new State Senate and House districts in Georgia that comport with Section 2 of the Voting Rights Act; and (iv) providing any and such additional relief as is appropriate.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988 and 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1357.

9. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper under 28 U.S.C. § 1391(b) because "a substantial part of the events or omissions giving rise to the claim occurred" in this district.

PARTIES

11. Plaintiff Annie Lois Grant is a Black citizen of the United States and the State of Georgia. Ms. Grant is a registered voter and intends to vote in future

legislative elections. She is a resident of Greene County and located in Senate District 24 and House District 124 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate despite strong electoral support for those candidates from other Black voters in her community. Ms. Grant resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn State Senate district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Grant and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

12. Plaintiff Quentin T. Howell is a Black citizen of the United States and the State of Georgia. Mr. Howell is a registered voter and intends to vote in future legislative elections. He is a resident of Baldwin County and located in Senate District 25 and House District 133 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Howell resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black

voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Howell and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

13. Plaintiff Elroy Tolbert is a Black citizen of the United States and the State of Georgia. Mr. Tolbert is a registered voter and intends to vote in future legislative elections. He is a resident of Bibb County and located in Senate District 18 and House District 144 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Tolbert resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Tolbert and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

14. Plaintiff Theron Brown is a Black citizen of the United States and the State of Georgia. Ms. Brown is a registered voter and intends to vote in future legislative elections. She is a resident of Houston County and located in Senate

District 26 and House District 145 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Brown resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Brown and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

15. Plaintiff Triana Arnold James is a Black citizen of the United States and the State of Georgia. Ms. James is a registered voter and intends to vote in future legislative elections. She is a resident of Douglas County and located in Senate District 30 and House District 64 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. James resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Ms. James and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

16. Plaintiff Eunice Sykes is a Black citizen of the United States and the State of Georgia. Ms. Sykes is a registered voter and intends to vote in future legislative elections. She is a resident of Henry County and located in Senate District 25 and House District 117 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Sykes resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Sykes and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

17. Plaintiff Elbert Solomon is a Black citizen of the United States and the State of Georgia. Mr. Solomon is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 117 under the enacted plans, where he is unable to

elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Solomon resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Solomon and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

18. Plaintiff Dexter Wimbish is a Black citizen of the United States and the State of Georgia. Mr. Wimbish is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 74 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Wimbish resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted

redistricting plan dilutes the voting power of Black voters like Mr. Wimbish and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

19. Plaintiff Garrett Reynolds is a Black citizen of the United States and the State of Georgia. Mr. Reynolds is a registered voter and intends to vote in future legislative elections. He is a resident of Fayette County and located in Senate District 16 and House District 68 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate despite strong electoral support for those candidates from other Black voters in his community. Mr. Reynolds resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn State Senate district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Reynolds and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

20. Plaintiff Jacqueline Faye Arbuthnot is a Black citizen of the United States and the State of Georgia. Ms. Arbuthnot is a registered voter and intends to vote in future legislative elections. She is a resident of Paulding County and located in Senate District 31 and House District 64 under the enacted plans, where she is

unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Arbuthnot resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Arbuthnot and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

21. Plaintiff Jacquelyn Bush is a Black citizen of the United States and the State of Georgia. Ms. Bush is a registered voter and intends to vote in future legislative elections. She is a resident of Fayette County and located in Senate District 16 and House District 74 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Bush resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Ms. Bush and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

22. Plaintiff Mary Nell Conner is a Black citizen of the United States and the State of Georgia. Ms. Conner is a registered voter and intends to vote in future legislative elections. She is a resident of Henry County and located in Senate District 25 and House District 117 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Conner resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Conner and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

23. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity. Secretary Raffensperger is Georgia's chief election official and is responsible for administering the state's elections and implementing election laws and regulations, including Georgia's legislative redistricting plans. *See*

O.C.G.A. § 21-2-50; Ga. Comp. R. & Regs. 590-1-1-.01–.02 (specifying, among other things, that Secretary of State’s office must provide “maps of Congressional, State Senatorial and House Districts” when requested). Secretary Raffensperger is also an ex officio nonvoting member of the State Election Board, which is responsible for “formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. §§ 21-2-30(d), -31(2).

24. Defendant Judge William S. Duffey, Jr. is the Chair of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

25. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

26. Defendant Janice Johnston is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and

promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

27. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

28. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

LEGAL BACKGROUND

29. Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution.

30. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less

opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

31. Such a violation might be achieved by “cracking” or “packing” minority voters. To illustrate, the dilution of Black voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters”—cracking—“or from the concentration of blacks into districts where they constitute an excessive majority”—packing. *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

32. In *Thornburg v. Gingles*, the U.S. Supreme Court identified three necessary preconditions for a claim of vote dilution under Section 2: (i) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (ii) the minority group must be “politically cohesive”; and (iii) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 50–51.

33. Once all three preconditions are established, Section 2 directs courts to consider whether, “based on the totality of circumstances,” members of a racial minority “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

34. The Senate Report on the 1982 amendments to the Voting Rights Act identified several non-exclusive factors that courts should consider when determining if, under the totality of circumstances in a jurisdiction, the operation of the challenged electoral device results in a violation of Section 2. *See Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1288–89 (11th Cir. 2020). These “Senate Factors” include:

- a. the history of official voting-related discrimination in the state or political subdivision;
- b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
- c. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, or prohibitions against bullet-voting;
- d. the exclusion of members of the minority group from candidate-slating processes;
- e. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;

f. the use of overt or subtle racial appeals in political campaigns;
and

g. the extent to which members of the minority group have been
elected to public office in the jurisdiction.

35. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see also id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the-circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

The 2020 Census

36. Between 2010 and 2020, Georgia’s population increased by more than 1 million people.

37. The population growth during this period is entirely attributable to the increase in Georgia’s minority population. The 2020 census results indicate that Georgia’s Black population grew by over 15 percent and now comprises 33 percent of Georgia’s total population. Meanwhile, Georgia’s white population *decreased* by

4 percent over the past decade. In total, Georgia's minority population now comprises just under 50 percent of the state's total population.

The 2021 Legislative Redistricting Plan

38. In enacting Georgia's new State Senate and House maps, the Republican-controlled General Assembly diluted the political power of the state's minority voters.

39. On November 9, 2021, the Georgia State Senate passed SB 1EX, which revised that chamber's district boundaries. The House passed SB 1EX on November 15.

40. On November 10, 2021, the Georgia House of Representatives passed HB 1EX, which revised that chamber's district boundaries; the State Senate passed HB 1EX on November 12.

41. On December 30, 2021, Governor Kemp signed SB 1EX and HB 1EX into law.

42. Democratic and minority legislators were largely excluded from the redistricting process and repeatedly decried the lack of transparency. Moreover, lawmakers and activists from across the political spectrum questioned the speed with which the General Assembly undertook its redistricting efforts, observing that the haste resulted in unnecessary divisions of communities and municipalities.

43. The Republican majority's refusal to draw districts that reflected the past decade's growth in the state's minority communities was noted by lawmakers. Commenting on the new State Senate map, Senator Michelle Au observed, "It's our responsibility to ensure the people in this room are a good reflection of the people in this state. This map before us does not represent the Georgia of today. It does not see Georgia for who we have become." Senator Elena Parent remarked, "This map is designed to shore up the shrinking political power of the majority. As proposed, it fails to fairly reflect Georgians['] diversity."

44. Minority lawmakers in the House also objected to their chamber's new map, noting that it packed minority voters and diluted their voting strength.

45. Rather than create additional State Senate and House districts in which Georgia's growing minority populations would have the opportunity to elect candidates of their choice, the General Assembly did just the opposite: it packed and cracked Georgia's minority voters to dilute their influence.

46. SB 1EX packs some Black voters into the southern Atlanta metropolitan area and cracks others into rural-reaching, predominantly white State Senate districts. Specifically, Black voters in the southwestern Atlanta metropolitan area are packed into Senate Districts 34 and 35 and cracked into Senate Districts 16, 28, and 30. In the southeastern Atlanta metropolitan area, Black voters are packed

into Senate Districts 10 and 44 and cracked into Senate Districts 17 and 25. Two additional majority-Black State Senate districts could be drawn in the southern Atlanta metropolitan area without reducing the total number of minority-opportunity districts in the enacted map.

47. SB 1EX also cracks Black voters in the Black Belt among Senate Districts 23, 24, and 25. An additional majority-Black State Senate district could be drawn in this area without reducing the total number of minority-opportunity districts in the enacted map.

48. HB 1EX packs some Black voters into the southern and western Atlanta metropolitan area and cracks others into rural-reaching, predominantly white districts. Specifically, Black voters in the western Atlanta metropolitan area are packed into House District 61 and cracked into House District 64. In the southern Atlanta metropolitan area, Black voters are packed into House Districts 69, 75, and 78 and cracked into House Districts 74 and 117. Two additional majority-Black House districts could be drawn in the southern Atlanta metropolitan area, and one additional majority-Black House district in the western Atlanta metropolitan area, without reducing the total number of minority-opportunity districts in the enacted map.

49. HB 1EX further packs Black voters into two House districts anchored in Bibb County—House Districts 142 and 143—even though two additional majority-Black House districts could be drawn in this area by uncracking House Districts 133, 144, 145, 147, and 149, without reducing the total number of minority-opportunity districts in the enacted map.

50. This combination of cracking and packing dilutes the political power of Black voters in the Atlanta metropolitan area and central Georgia. The General Assembly could have instead created additional, compact State Senate and House districts in which Black voters, including Plaintiffs, comprise a majority of eligible voters and have the opportunity to elect their preferred candidates, as required by Section 2 of the Voting Rights Act. Significantly, this could have been done without reducing the number of other districts in which Black voters have the opportunity to elect candidates of their choice.

51. Unless enjoined, SB 1EX and HB 1EX will deny Black voters throughout the state the opportunity to elect candidates of their choice.

52. The relevant factors and considerations readily require the creation of majority-Black districts under Section 2.

Racial Polarization

53. This Court has recognized that “voting in Georgia is highly racially polarized.” *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge panel).

54. “Districts with large black populations are likely to vote Democratic.” *Id.* Indeed, during competitive statewide elections over the past decade—from the 2012 presidential election through the 2021 U.S. Senate runoff elections—an average of 97 percent of Black Georgians supported the Democratic candidate.

55. White voters, by striking contrast, overwhelmingly vote Republican. An average of only 13 percent of white Georgians supported the Democratic candidate in competitive statewide elections over the past decade.

56. Georgia’s white majority usually votes as a bloc to defeat minority voters’ candidates of choice, including in the areas where Plaintiffs live and the Black population could be united to create a new majority-Black district.

History of Discrimination

57. Georgia’s past discrimination against its Black citizens, including its numerous attempts to deny Black voters an equal opportunity to participate in the political process, is extensive and well documented. This prejudice is not confined to history books; the legacy of discrimination manifests itself today in state and local

elections marked by racial appeals and undertones. And the consequences of the state's historic discrimination persist to this day, as Black Georgians continue to experience socioeconomic hardship and marginalization.

58. This history dates back to the post-Civil War era, when Black Georgians first gained the right to vote and voted in their first election in April 1868. Soon after this historic election, a *quarter* of the state's Black legislators were either jailed, threatened, beaten, or killed. In 1871, the General Assembly passed a resolution that expelled 25 Black representatives and three senators but permitted the four mixed-race members who did not “look” Black to keep their seats. The General Assembly's resolution was based on the theory that Black Georgians' right of suffrage did not give them the right to hold office, and that they were thus “ineligible” to serve under Georgia's post-Civil War state constitution.

59. After being denied the right to hold office, Black Georgians who attempted to vote also encountered intense and frequently violent opposition. The Ku Klux Klan and other white mobs engaged in a campaign of political terrorism aimed at deterring Black political participation. Their reigns of terror in Georgia included, for instance, attacking a Black political rally in Mitchell County in 1868, killing and wounding many of the participants; warning the Black residents of Wrightsville that “blood would flow” if they exercised their right to vote in an

upcoming election; and attacking and beating a Black man in his own home to prevent him from voting in an upcoming congressional election.

60. In the General Assembly, fierce resistance to Black voting rights led to more discriminatory legislation. In 1871, Georgia became the first state to enact a poll tax. At the state's 1877 constitutional convention, the General Assembly made the poll tax permanent and cumulative, requiring citizens to pay all back taxes before being permitted to vote. The poll tax reduced turnout among Black voters in Georgia by half and has been described as the single most effective disenfranchisement law ever enacted. The poll tax was not abolished until 1945—after it had been in effect for almost 75 years.

61. After the repeal of the poll tax in 1945, voter registration among Black Georgians significantly increased. However, as a result of the state's purposeful voter suppression tactics, not a *single* Black lawmaker served in the General Assembly between 1908 and 1962.

62. Georgia's history of voter discrimination is far from ancient history. As recently as 1962, 17 municipalities and 48 counties in Georgia required segregated polling places. When the U.S. Department of Justice filed suit to end this practice, a local Macon leader declared that the federal government was ruining "every vestige of the local government."

63. Other means of disenfranchising Georgia’s Black citizens followed. The state adopted virtually every one of the “traditional” methods to obstruct the exercise of the franchise by Black voters, including literacy and understanding tests, strict residency requirements, onerous registration procedures, voter challenges and purges, the deliberate slowing down of voting by election officials so that Black voters would be left waiting in line when the polls closed, and the adoption of “white primaries.”

64. Attempts to minimize Black political influence in Georgia have also tainted redistricting efforts. During the 1981 congressional redistricting process, in opposing a bill that would maintain a majority-Black district, Joe Mack Wilson—a Democratic state representative and chair of the House Reapportionment Committee—openly used racial epithets to describe the district; following a meeting with officials of the U.S. Department of Justice, he complained that “the Justice Department is trying to make us draw [n*****] districts and I don’t want to draw [n*****] districts.” Speaker of the House Tom Murphy objected to creating a district where a Black representative would certainly be elected and refused to appoint any Black lawmakers to the conference committee, fearing that they would support a plan to allow Black voters to elect a candidate of their choice. Several senators also

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

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In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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expressed concern about being perceived as supporting a majority-Black congressional district.

65. Indeed, federal courts have invalidated Georgia's redistricting plans for voting rights violations numerous times. In *Georgia v. United States*, the U.S. Supreme Court affirmed a three-judge panel's decision that Georgia's 1972 reapportionment plan violated Section 5 of the Voting Rights Act, at least in part because it diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See* 411 U.S. 526, 541 (1973); *see also* *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge panel) (denying preclearance based on evidence that Georgia's redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff'd*, 459 U.S. 1166 (1983); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004) (per curiam) (three-judge panel) (invalidating legislative plans that reduced number of majority-minority districts).

66. Due to its lengthy history of discrimination against racial minorities, Georgia became a "covered jurisdiction" under Section 5 of the Voting Rights Act upon its enactment in 1965, prohibiting any changes to Georgia's election practices or procedures (including the enactment of new redistricting plans) until either the

U.S. Department of Justice or a federal court determined that the change did not result in backsliding, or “retrogression,” of minority voting rights.

67. Accordingly, between 1965 and 2013—at which time the U.S. Supreme Court effectively barred enforcement of the Section 5 preclearance requirement in *Shelby County v. Holder*, 570 U.S. 529 (2013)—Georgia received more than 170 preclearance objection letters from the U.S. Department of Justice.

68. Georgia’s history of racial discrimination in voting, here only briefly recounted, has been thoroughly documented by historians and scholars. Indeed, “[t]he history of the state[’s] segregation practice and laws at all levels has been rehashed so many times that the Court can all but take judicial notice thereof.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also*, e.g., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41 (N.D. Ga. Nov. 15, 2021), ECF No. 636 (taking judicial notice of fact that “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”).

69. Ultimately, as this Court has noted, “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather

than the exception.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013) (quoting *Brooks*, 848 F. Supp. at 1560), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Use of Racial Appeals in Political Campaigns

70. In addition to Georgia’s history of discrimination against minorities in voting, political campaigns in the state have often relied on both overt and subtle racial appeals—both historically *and* during recent elections.

71. In 2016, Tom Worthan, former Republican Chair of the Douglas County Board of Commissioners, was caught on video making racist comments aimed at discrediting his Black opponent, Romona Jackson-Jones, and a Black candidate for sheriff, Tim Pounds. During the recorded conversation with a Douglas County voter, Worthan asked, “Do you know of another government that’s more black that’s successful? They bankrupt you.” Worthan also stated, in reference to Pounds, “I’d be afraid he’d put his black brothers in positions that maybe they’re not qualified to be in.”

72. In the 2017 special election for Georgia’s Sixth Congressional District—a majority-white district that had over the previous three decades been represented by white Republicans Newt Gingrich, Johnny Isakson, and Tom Price—the husband of the eventual Republican victor, Karen Handel, shared an image over

social media that urged voters to “[f]ree the black slaves from the Democratic plantation.” The image also stated, “Criticizing black kids for obeying the law, studying in school, and being ambitious as ‘acting white’ is a trick the Democrats play on Black people to keep them poor, ignorant and dependent.” The image was then shared widely by local and national media outlets.

73. During that same election, Jere Wood—the Republican Mayor of Roswell, Georgia’s eighth-largest city—insinuated that voters in the Sixth Congressional District would not vote for Democratic candidate Jon Ossoff because he has an “ethnic-sounding” name. When describing voters in that district, Wood said, “If you just say ‘Ossoff,’ some folks are gonna think, ‘Is he Muslim? Is he Lebanese? Is he Indian?’ It’s an ethnic-sounding name, even though he may be a white guy, from Scotland or wherever.”²

74. On a separate occasion, State Senator Fran Millar alluded to the fact that the Sixth Congressional District was gerrymandered in such a way that it would not support candidate Ossoff—specifically, because he was formerly an aide to a

² In actuality, now-U.S. Senator Ossoff’s paternal forebears were Ashkenazi Jewish immigrants who fled pogroms during the early 20th century. *See* Etan Nechin, *Jon Ossoff Tells Haaretz How His Jewish Upbringing Taught Him to Fight for Justice*, Haaretz (Dec. 20, 2020), <https://www.haaretz.com/us-news/.premium-jon-ossoff-tells-haaretz-how-his-jewish-upbringing-taught-him-to-fight-for-justice-1.9386302>.

Black member of Congress. State Senator Millar said, “I’ll be very blunt. These lines were not drawn to get Hank Johnson’s protégé to be my representative. And you didn’t hear that. They were not drawn for that purpose, OK? They were not drawn for that purpose.”

75. Earlier in 2017, Tommy Hunter, a member of the board of commissioners in Gwinnett County—the second-most populous county in the state—called the late Black Congressman John Lewis a “racist pig” and suggested that his reelection to the U.S. House of Representatives was “illegitimate” because he represented a majority-minority district.

76. Racist robocalls targeted the Democratic candidate for governor in 2018, referring to Stacey Abrams as “Negress Stacey Abrams” and “a poor man’s Aunt Jemima.” The Republican candidate, now-Governor Kemp, posted a statement on Twitter on the eve of the election alleging that the Black Panther Party supported Ms. Abrams’s candidacy.

77. Governor Kemp also ran a controversial television advertisement during the primary campaign asserting that he owned “a big truck, just in case [he] need[s] to round up criminal illegals and take ‘em home [him]self.”

78. The 2020 campaigns for Georgia’s two U.S. Senate seats were also rife with racial appeals. In one race, Republican incumbent Kelly Loeffler ran a paid

advertisement on Facebook that artificially darkened the skin of her Democratic opponent, now-Senator Raphael Warnock. In the other race, Republican incumbent David Perdue ran an advertisement against Democratic nominee Ossoff that employed a classic anti-Semitic trope by artificially enlarging now-Senator Ossoff's nose.

79. Senator Perdue later mispronounced and mocked the pronunciation of then-Senator Kamala Harris's first name during a campaign rally, even though the two had been colleagues in the Senate since 2017.

80. Racial appeals were apparent during local elections in Fulton County even within the last few months. City council candidates in Johns Creek and Sandy Springs pointed to Atlanta crime and protests that turned violent to try to sway voters, publicly urging residents to vote for them or risk seeing their cities become home to chaos and lawlessness. *The Atlanta Journal-Constitution* quoted Emory University political scientist Dr. Andra Gillespie, who explained that although the term "law and order" is racially neutral, the issue becomes infused with present-day cultural meaning and thoughts about crime and violence and thus carries racial undertones.

81. These are just a few—and, indeed, only among the more recent—examples of the types of racially charged political campaigns that have tainted elections in Georgia throughout the state’s history.

Ongoing Effects of Georgia’s History of Discrimination

82. State-sponsored segregation under Georgia’s Jim Crow laws permeated all aspects of daily life and relegated Black citizens to second-class status. State lawmakers segregated everything from public schools to hospitals and graveyards. Black Georgians were also precluded from sitting on juries, which effectively denied Black litigants equal justice under the law. Moreover, Black Georgians were excluded from the most desirable manufacturing jobs, which limited their employment opportunities to primarily unskilled, low-paying labor. And in times of economic hardship, Black employees were the first to lose their jobs.

83. Decades of Jim Crow and other forms of state-sponsored discrimination—followed by continued segregation of public facilities well into the latter half of the 20th century, in defiance of federal law—resulted in persistent socioeconomic disparities between Black and white Georgians. These disparities hinder the ability of voters in each of these groups to participate effectively in the political process.

84. Black Georgians, for instance, have higher poverty rates than white Georgians. According to the U.S. Census Bureau’s 2019 American Community Survey (“ACS”) 1-Year Estimate, 18.8 percent of Black Georgians have lived below the poverty line in the past 12 months, compared to 9 percent of white Georgians.

85. Relatedly, Black Georgians have lower per capita incomes than white Georgians. The 2019 ACS 1-Year Estimate shows that white Georgians had an average per capita income of \$40,348 over the past 12 months, compared to \$23,748 for Black Georgians.

86. Black Georgians also have lower homeownership rates than white Georgians. The 2019 ACS 1-Year Estimate shows that 52.6 percent of Black Georgians live in renter-occupied housing, compared to 24.9 percent of white Georgians. And Black Georgians also spend a higher percentage of their income on rent than white Georgians. The 2019 ACS 1-Year Estimate shows that in Georgia, the percent of income spent on rent is a staggering 54.9 percent for Black Georgians, compared to 40.6 percent for white Georgians.

87. Black Georgians also have lower levels of educational attainment than their white counterparts and are less likely to earn degrees. According to the 2019 ACS 1-Year Estimate, only 25 percent of Black Georgians have obtained a bachelor’s degree or higher, compared to 37 percent of white Georgians.

88. These disparities impose hurdles to voter participation, including working multiple jobs, working during polling place hours, lack of access to childcare, lack of access to transportation, and higher rates of illness and disability. All of these hurdles make it more difficult for poor and low-income voters to participate effectively in the political process.

CAUSES OF ACTION

COUNT I:

SB 1EX Violates Section 2 of the Voting Rights Act

89. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

90. Section 2 of the Voting Rights Act prohibits the enforcement of any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or” membership in a language minority group. 52 U.S.C. § 10301(a).

91. The Georgia State Senate district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

92. Black Georgians in the southern Atlanta metropolitan area and the central Georgia Black Belt region are sufficiently numerous and geographically compact to constitute a majority of eligible voters in three additional State Senate

districts, without reducing the number of minority-opportunity districts already included in the enacted map.

93. Under Section 2 of the Voting Rights Act, the General Assembly was required to create three additional State Senate districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

94. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

95. The totality of the circumstances establishes that the current State Senate map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

96. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

COUNT II:
HB 1EX Violates Section 2 of the Voting Rights Act

97. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

98. The Georgia House of Representative district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

99. Black Georgians in the southern and western Atlanta metropolitan area and central Georgia are sufficiently numerous and geographically compact to constitute a majority of eligible voters in five additional House districts, without reducing the number of minority-opportunity districts already included in the enacted map.

100. Under Section 2 of the Voting Rights Act, the General Assembly was required to create five additional House districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

101. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

102. The totality of the circumstances establishes that the current House map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

103. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act;

B. Enjoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the Georgia State Senate districts as drawn in SB 1EX and the boundaries of the Georgia House of Representatives districts as drawn in HB 1EX, including an injunction barring Defendants from conducting any further legislative elections under the current maps;

C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid legislative redistricting plan that includes three additional Georgia State Senate districts and five additional Georgia House of Representatives districts in which Black voters would have opportunities to elect their preferred candidates, as required by Section 2 of the Voting Rights Act, without reducing the number of minority-opportunity districts currently in SB 1EX and HB 1EX;

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: October 28, 2022

Respectfully submitted,

By: **Adam M. Sparks**

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing **SECOND AMENDED COMPLAINT** has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing **SECOND AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

Grant Doc. 124

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

ANNIE LOIS GRANT, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION

FILE NO. 1:22-CV-00122-SCJ

**DEFENDANTS' ANSWER TO PLAINTIFFS'
SECOND AMENDED COMPLAINT**

Defendants Brad Raffensperger, in his official capacity as Secretary of the State of Georgia; William S. Duffey, Jr., in his official capacity as chair of the State Election Board; and Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, in their official capacities as members of the State Election Board (collectively, the “Defendants”), answer Plaintiffs’ Second Amended Complaint [Doc. 118] (the “SAC”) as follows:

FIRST AFFIRMATIVE DEFENSE

The allegations in Plaintiffs’ SAC fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred for failure to name necessary and indispensable parties.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack constitutional standing to bring this action.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs lack statutory standing to bring this action.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' federal claims against Defendants are barred by the Eleventh Amendment to the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by sovereign immunity.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because Section 2 of the Voting Rights Act provides no provide right of action.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they should be heard by a three-judge panel.

NINTH AFFIRMATIVE EFENSE

Defendants deny that Plaintiffs have been subjected to the deprivation of any right, privilege, or immunity under the Constitution or laws of the United States.

TENTH AFFIRMATIVE DEFENSE

Defendants reserve the right to amend their defenses and to add additional ones, including lack of subject matter jurisdiction based on the mootness or ripeness doctrines, as further information becomes available in discovery.

Defendants answer the specific numbered paragraphs of Plaintiffs' SAC as follows:

1. Paragraph 1 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.
2. Defendants deny the allegations set forth in Paragraph 2 of the SAC.
3. Defendants deny the allegations set forth in Paragraph 3 of the SAC.

4. Defendants deny the allegations set forth in Paragraph 4 of the SAC.

5. Paragraph 5 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

6. Defendants deny the allegations set forth in Paragraph 6 of the SAC.

7. Paragraph 7 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied and Defendants further deny that Plaintiffs are entitled to any relief.

8. Defendants admit that this Court has federal-question jurisdiction for claims arising under the Voting Rights Act. Defendants deny the remaining allegations set forth in Paragraph 8 of the SAC.

9. Defendants deny the allegations set forth in Paragraph 9 of the SAC.

10. Defendants admit the allegations set forth in Paragraph 10 of the SAC.

11. The allegations in Paragraph 11 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

12. The allegations in Paragraph 12 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

13. The allegations in Paragraph 13 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

14. The allegations in Paragraph 14 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

15. The allegations in Paragraph 15 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

16. The allegations in Paragraph 16 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

17. The allegations in Paragraph 17 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

18. The allegations in Paragraph 18 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

19. The allegations in Paragraph 19 of the SAC are outside the Defendants' knowledge and are therefore denied on that basis.

20. The allegations in Paragraph 20 of the SAC are outside the Defendants' knowledge and are therefore denied on that basis.

21. The allegations in Paragraph 21 of the SAC are outside the Defendants' knowledge and are therefore denied on that basis.

22. The allegations in Paragraph 22 of the SAC are outside the Defendants' knowledge and are therefore denied on that basis.

23. Defendants admit that Secretary Raffensperger is the Secretary of State of Georgia and that the Secretary of State is designated by statute as the chief election official. Defendants further admit that the Secretary has responsibilities under law related to elections. Defendants deny the remaining allegations contained in Paragraph 23 of the SAC.

24. Defendants admit that Judge William S. Duffey, Jr. is the Chair of the State Election Board and is named in his official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 24 of the SAC.

25. Defendants admit that Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent

therewith. Defendants deny the remaining allegations contained in Paragraph 25 of the SAC.

26. Defendants admit that Janice Johnston is a member of the State Election Board and is named in her official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 26 of the SAC.

27. Defendants admit that Edward Lindsey is a member of the State Election Board and is named in his official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 27 of the SAC.

28. Defendants admit that Matthew Mashburn is a member of the State Election Board and is named in his official capacity. Defendants further admit that the duties of members of the State Election Board are set forth in statute and refer the Court to the cited authority for a full and accurate

statement of its contents and deny any allegations inconsistent therewith.

Defendants deny the remaining allegations contained in Paragraph 28 of the SAC.

29. Paragraph 29 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

30. Paragraph 30 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

31. Paragraph 31 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

32. Paragraph 32 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

33. Paragraph 33 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

34. Paragraph 34 of the SAC and its subparagraphs set forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

35. Paragraph 35 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. The remaining allegations in this Paragraph are denied.

36. Defendants admit the allegations set forth in Paragraph 36 of the SAC.

37. Defendants admit that, as a percentage of the electorate, the white percentage has decreased and the percentage of voters of color has increased over the last ten years. The remaining allegations in Paragraph 37 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

38. Defendants deny the allegations set forth in Paragraph 38 of the SAC.

39. Defendants admit the allegations set forth in Paragraph 39 of the SAC.

40. Defendants admit the allegations set forth in Paragraph 40 of the SAC.

41. Defendants admit the allegations set forth in Paragraph 41 of the SAC.

42. Defendants deny the allegations set forth in Paragraph 42 of the SAC.

43. Defendants admit that Democratic members of the General Assembly opposed the as-passed redistricting plans and made public comments indicating that opposition. Defendants deny the remaining allegations set forth in Paragraph 43 of the SAC.

44. Defendants admit that Democratic members of the General Assembly opposed the as-passed redistricting plans and made public comments indicating that opposition. Defendants deny the remaining allegations set forth in Paragraph 44 of the SAC.

45. Defendants deny the allegations set forth in Paragraph 45 of the SAC.

46. Defendants deny the allegations set forth in Paragraph 46 of the SAC.

47. Defendants deny the allegations set forth in Paragraph 47 of the SAC.

48. Defendants deny the allegations set forth in Paragraph 48 of the SAC.

49. Defendants deny the allegations set forth in Paragraph 49 of the SAC.

50. Defendants deny the allegations set forth in Paragraph 50 of the SAC.

51. Defendants deny the allegations set forth in Paragraph 51 of the SAC.

52. Defendants deny the allegations set forth in Paragraph 52 of the SAC.

53. Paragraph 53 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same. Defendants admit that Black and white voters in Georgia vote in blocs and prefer different candidates. The remaining allegations in this Paragraph are denied.

54. Defendants admit that Black and white voters in Georgia vote in blocs and prefer different candidates. Defendants deny the remaining allegations set forth in Paragraph 54 of the SAC.

55. Defendants admit that Black and white voters in Georgia vote in blocs and prefer different candidates. Defendants deny the remaining allegations set forth in Paragraph 55 of the SAC.

56. Defendants admit that Black and white voters in Georgia vote in blocs and prefer different candidates. Defendants deny the remaining allegations set forth in Paragraph 56 of the SAC.

57. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. Defendants deny the remaining allegations set forth in Paragraph 57 of the SAC.

58. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 58 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

59. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 59 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

60. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 60 of the SAC set forth legal conclusions to which no response is

required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

61. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 61 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

62. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 62 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

63. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 63 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

64. Defendants admit that Democratic representatives in the 1981 redistricting process sought to minimize Black political influence in Georgia. The remaining allegations of Paragraph 64 of the SAC set forth legal

conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

65. Defendants admit that plans drawn when Democrats controlled Georgia government were objected to in 1971, 1981, 1991, and 2001 and that redistricting plans drawn when Democrats controlled Georgia government were rejected as unconstitutional in 2004. The remaining allegations of Paragraph 65 of the SAC set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

66. Defendants admit that, prior to 2013, Georgia was a covered jurisdiction under Section 4 of the Voting Rights Act and was required to seek preclearance of election laws prior to enforcement. The remaining allegations in Paragraph 66 set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

67. Defendants admit that, prior to 2013, Georgia was a covered jurisdiction under Section 4 of the Voting Rights Act and was required to seek preclearance of election laws prior to enforcement. The remaining allegations in Paragraph 67 set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

68. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of

Paragraph 68 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

69. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 69 of the SAC set forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

70. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 70 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

71. The allegations in Paragraph 71 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

72. The allegations in Paragraph 72 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

73. The allegations in Paragraph 73 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

74. The allegations in Paragraph 74 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

75. The allegations in Paragraph 75 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

76. The allegations in Paragraph 76 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

77. The allegations in Paragraph 77 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

78. The allegations in Paragraph 78 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

79. The allegations in Paragraph 79 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

80. The allegations in Paragraph 80 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

81. The allegations in Paragraph 81 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

82. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 82 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

83. Defendants admit that Georgia has a past history of state-sanctioned discrimination against Black voters. The remaining allegations of Paragraph 83 of the SAC set forth legal conclusions to which no response is required or are beyond the scope of Defendants' knowledge and, therefore, Defendants deny the same.

84. The allegations in Paragraph 84 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

85. The allegations in Paragraph 85 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

86. The allegations in Paragraph 86 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

87. The allegations in Paragraph 87 of the SAC are outside Defendants' knowledge and are therefore denied on that basis.

88. Defendants deny the allegations set forth in Paragraph 88 of the SAC.

89. Defendants incorporate their responses to Paragraphs 1 through 89 as if fully set forth herein.

90. Paragraph 90 of the SAC sets forth legal conclusions to which no response is required and, therefore, Defendants deny the same.

91. Defendants deny the allegations set forth in Paragraph 91 of the SAC.

92. Defendants deny the allegations set forth in Paragraph 92 of the SAC.

93. Defendants deny the allegations set forth in Paragraph 93 of the SAC.

94. Defendants deny the allegations set forth in Paragraph 94 of the SAC.

95. Defendants deny the allegations set forth in Paragraph 95 of the SAC.

96. Defendants deny the allegations set forth in Paragraph 96 of the SAC.

97. Defendants incorporate their responses to Paragraphs 1 through 96 as if fully set forth herein.

98. Defendants deny the allegations set forth in Paragraph 99 of the SAC.

99. Defendants deny the allegations set forth in Paragraph 99 of the SAC.

100. Defendants deny the allegations set forth in Paragraph 100 of the SAC.

101. Defendants deny the allegations set forth in Paragraph 101 of the SAC.

102. Defendants deny the allegations set forth in Paragraph 102 of the SAC.

103. Defendants deny the allegations set forth in Paragraph 103 of the SAC.

Prayer for Relief

Defendants deny that Plaintiffs are entitled to any relief they seek.
Defendants further deny every allegation in the SAC not specifically admitted in this Answer.

Respectfully submitted this 14th day of November, 2022.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

Grant Doc. 189-1

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

ANNIE LOIS GRANT; QUENTIN T.
HOWELL; ELROY TOLBERT; TRIANA
ARNOLD JAMES; EUNICE SYKES;
ELBERT SOLOMON; DEXTER
WIMBISH; GARRETT REYNOLDS;
JACQUELINE FAYE ARBUTHNOT;
JACQUELYN BUSH; and MARY NELL
CONNER,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:22-CV-00122-SCJ

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT**

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INTRODUCTION

Last February, this Court concluded that Plaintiffs “have shown that they are likely to ultimately prove that certain aspects of the State’s redistricting plans are unlawful.” ECF No. 91 (“PI Order”) at 10. What was true at the preliminary injunction stage is still true today. By failing to include additional districts where Black voters can elect their preferred candidates, the enacted maps for the Georgia State Senate and Georgia House of Representatives foreclose equal access to the political process in violation of the Voting Rights Act.

Plaintiffs’ experts have reaffirmed and reinforced their opinions and reports since the Court’s ruling last year. Blake Esselstyn, Plaintiffs’ demographic and mapping expert, reestablished that compact, majority-Black legislative districts can be readily drawn in the Atlanta suburbs and Black Belt. Dr. Maxwell Palmer, who analyzed racially polarized voting, and Dr. Loren Collingwood, who examined socioeconomic and political disparities between Black and white Georgians, reconfirmed their findings using 2022 election data. And Dr. Orville Vernon Burton, who explored Georgia’s history of discriminatory voting practices and racialized politics, expanded his discussion of the factors relevant to the Section 2 inquiry.

Defendants’ experts, by striking contrast, have done *nothing* in the past 12 months to remedy the analytical and evidentiary shortcomings that the Court

highlighted in its preliminary injunction order. John Morgan submitted a rebuttal report that barely acknowledges *six* of Mr. Esselstyn’s eight illustrative districts. Dr. John Alford *confirmed* Dr. Palmer’s findings of racially polarized voting, offering only his (misguided) views on the legal significance of these undisputed facts. And Plaintiffs’ expert evidence on the other components of the Section 2 inquiry has gone completely unaddressed and unrefuted. In short, Defendants have failed to raise genuine disputes of material fact as to almost every element of Plaintiffs’ claims.

The denial of Plaintiffs’ preliminary injunction motion was based not on the merits—indeed, the Court concluded that “the *Grant* Plaintiffs have shown a substantial likelihood of success as to” four of their illustrative legislative districts—but instead on the determination that there was “insufficient time to effectuate remedial relief for purposes of the 2022 election cycle.” *Id.* at 220, 236–37. Freed from those equitable concerns and considering virtually the same body of evidence that informed the Court’s earlier ruling, Plaintiffs respectfully submit that partial summary judgment—specifically, favorable judgment as to six of their eight illustrative legislative districts—is now warranted.

LEGAL STANDARD

“The principal function of the motion for summary judgment is to show that one or more of the essential elements of a claim or defense . . . is not in doubt and

that, as a result, judgment can be rendered as a matter of law.” *Tomlin v. JCS Enters., Inc.*, 13 F. Supp. 3d 1330, 1335 (N.D. Ga. 2014) (alteration in original) (quoting *Tippens v. Celotex Corp.*, 805 F.2d 949, 952 (11th Cir. 1986)). When there is no genuine dispute as to any material fact, the moving party is entitled to judgment as a matter of law on all or any part of a claim. Fed. R. Civ. P. 56(a).

Once the moving party has met its initial burden of proving that no genuine issue of material fact exists, the burden shifts to the opposing party to establish otherwise. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585–86 (1986). To avoid summary judgment, the opposing party must “go beyond the pleadings” and designate specific facts establishing a genuine issue for trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). In so doing, the opposing party “must do more than simply show that there is some metaphysical doubt as to the material facts.” *Matsushita*, 475 U.S. at 586. “Evidence that is ‘merely colorable, or is not significantly probative’ of a disputed fact cannot satisfy a party’s burden, and a mere scintilla of evidence is likewise insufficient.” *Kernel Recs. Oy v. Mosley*, 694 F.3d 1294, 1301 (11th Cir. 2012) (citations omitted) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986)).

ARGUMENT

Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). This includes the

manipulation of district lines [to] dilute the voting strength of politically cohesive minority group members, whether by fragmenting the minority voters among several districts where a bloc-voting majority can routinely outvote them, or by packing them into one or a small number of districts to minimize their influence in the districts next door.

Johnson v. De Grandy, 512 U.S. 997, 1007 (1994); *see also Voinovich v. Quilter*, 507 U.S. 146, 153 (1993) (“Dividing the minority group among various districts so that it is a majority in none may prevent the group from electing its candidate of choice[.]”); PI Order 16–19, 27 (exploring history of Voting Rights Act).

To prevail on their Section 2 claim, Plaintiffs must show that (1) the minority group is “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group “is politically cohesive”; and (3) “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986); *see also* PI Order 28–29 (describing *Gingles* preconditions). Once Plaintiffs have made this threshold showing, the Court must then examine “the totality of

circumstances”—including the Senate Factors, which are the nine factors identified in the U.S. Senate report that accompanied the 1982 amendments to the Voting Rights Act—to determine whether “the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by members of the minority group. 52 U.S.C. § 10301(b); *see also Gingles*, 478 U.S. at 43–44; PI Order 29–32 (describing Senate Factors).

I. *Gingles* One: Additional compact majority-Black legislative districts can be drawn in the Atlanta metropolitan area and Black Belt.

Plaintiffs readily satisfy the first *Gingles* precondition because it is possible to “create[e] more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice.” *LULAC v. Perry*, 548 U.S. 399, 430 (2006) (plurality opinion) (quoting *De Grandy*, 512 U.S. at 1008); *see also* PI Order 51–55 (summarizing applicable legal standards, including numerosity and compactness requirements).

Expert mapper Blake Esselstyn concluded that it is possible to create three additional majority-Black State Senate districts and five additional majority-Black House districts, all in accordance with traditional redistricting principles. Statement of Undisputed Material Facts in Supp. of Pls.’ Mot. for Partial Summ. J. (“SUMF”) ¶¶ 17, 30, 41; Ex. 1 (“Esselstyn Report”) ¶¶ 13, 63; Ex. 8 (“Morgan Dep.”) at 73:17–

75:4, 164:8–165:14, 197:15–19, 202:10–14;¹ *see also* PI Order 38–41 (reviewing Mr. Esselstyn’s relevant experience and methodology and finding “his methods and conclusions [] highly reliable”); *id.* at 101 (finding that “Plaintiffs have shown that they have a substantial likelihood of satisfying the first *Gingles* precondition with respect to two additional State Senate Districts and two additional State House Districts in the Atlanta metropolitan area”).²

Plaintiffs now move for summary judgment as to six of these eight illustrative districts:

- **Senate District 25**, which is in the southeastern Atlanta metropolitan area and has a Black voting-age population (“BVAP”) of 58.93%, SUMF ¶¶ 19, 22; Esselstyn Report ¶¶ 27, 30, fig.6, tbl.1; Morgan Dep. 74:11–16;

¹ All exhibits are attached to the Declaration of Jonathan P. Hawley, filed concurrently with this motion.

² The Court’s preliminary injunction ruling found that Plaintiffs were likely to satisfy the first *Gingles* precondition only as to three of the six illustrative districts on which they now move for summary judgment: Senate Districts 25 and 28 and House District 117. *See* PI Order 93–101 & n.23. Accordingly, the citations to the preliminary injunction order that follow that implicate district-specific (as opposed to plan-wide) conclusions relate only to those three districts—which, notably, have not been changed by Mr. Esselstyn, *see* Ex. 6 ¶¶ 16, 40, charts 2 & 7—and not to illustrative House Districts 64, 145, and 149.

- **Senate District 28**, which is in the southwestern Atlanta metropolitan area and has a BVAP of 57.28%, SUMF ¶¶ 19, 23; Esselstyn Report ¶¶ 27, 31, fig.7, tbl.1; Morgan Dep. 74:11–16;
- **House District 64**, which is in the western Atlanta metropolitan area and has a BVAP of 50.24%, SUMF ¶¶ 32–33; Esselstyn Report ¶¶ 48–49, fig.14, tbl.5; Morgan Dep. 74:11–16;
- **House District 117**, which is in the southern Atlanta metropolitan area and has a BVAP of 51.56%, SUMF ¶¶ 32, 34; Esselstyn Report ¶¶ 48, 50, fig.15, tbl.5; Morgan Dep. 74:11–16;
- **House District 145**, which is in the Black Belt (anchored in Macon-Bibb County) and has a BVAP of 50.38%, SUMF ¶¶ 32, 35; Esselstyn Report ¶¶ 48, 51, fig.16, tbl.5; Morgan Dep. 74:11–16; and
- **House District 149**, which is in the Black Belt (also anchored in Macon-Bibb County) and has a BVAP of 51.53%, SUMF ¶¶ 32, 35; Esselstyn Report ¶¶ 48, 51, fig.16, tbl.5; Morgan Dep. 74:11–16.³

³ Mr. Esselstyn’s maps also include two other illustrative majority-Black districts: Senate District 23, located in the eastern Black Belt, and House District 74, anchored in the southern Atlanta metropolitan area. SUMF ¶¶ 21, 34; Esselstyn Report ¶¶ 29, 50, figs.5 & 15. Unlike the other six districts described above, Defendants’ mapping expert, John Morgan, at least *attempted* to meaningfully dispute the compactness of

In drafting his illustrative State Senate and House plans, Mr. Esselstyn balanced a number of considerations, and there was no one dominant factor or metric. SUMF ¶ 42; Esselstyn Report ¶ 25. The six illustrative districts described above indisputably comply with traditional redistricting principles, including the guidelines adopted by the General Assembly to inform its redistricting efforts. SUMF ¶¶ 45–46; Esselstyn Report ¶¶ 33, 54, attachs. F & K.

Population equality. In Mr. Esselstyn’s illustrative State Senate and House plans, most district populations are within plus-or-minus 1% of the ideal, and a small minority are within between plus-or-minus 1% and 2%; no district in either plan has a population deviation of more than 2%. SUMF ¶¶ 47–49, 64–66; Esselstyn Report ¶¶ 34, 55, attachs. H & L; *see also* PI Order 108–110, 134–35.

Contiguity. The districts in Mr. Esselstyn’s illustrative plans satisfy the contiguity requirement in the same manner as the enacted plans. SUMF ¶¶ 50, 67; Esselstyn Report ¶¶ 35, 56; *see also* PI Order 115, 139.

these districts in his rebuttal report. Plaintiffs are confident that, at trial, their satisfaction of the first *Gingles* precondition as to these additional districts will be indisputable—Mr. Esselstyn drew *all* of his districts in accordance with traditional redistricting principles, and Mr. Morgan’s criticisms are misguided, conclusory, or both. But, recognizing the imperatives and limitations of Rule 56, Plaintiffs are not moving for summary judgment on these two illustrative districts at this time.

Compactness. The mean compactness measures for Mr. Esselstyn’s illustrative plans are comparable—if not identical—to the mean measures for the enacted plans. SUMF ¶¶ 53, 68; Esselstyn Report ¶¶ 36, 57, tbls.2 & 6; Morgan Dep. 90:6–17, 168:6–11. And, notably, the individual compactness scores for Mr. Esselstyn’s additional majority-Black districts fall within the range of compactness scores of the enacted districts using the Reock, Schwartzberg, Polsby-Popper and Area/Convex Hull measures; each of Mr. Esselstyn’s additional majority-Black districts is more compact than the least-compact enacted districts. SUMF ¶¶ 54–56, 69–71; Esselstyn Report ¶¶ 37, 58, figs.8 & 17, tbls.3 & 7, attachs. H & L; *see also* PI Order 110–15, 135–39.

Political subdivisions. Mr. Esselstyn’s illustrative plans split only marginally more counties and voting districts than the enacted plans. SUMF ¶¶ 57, 72; Esselstyn Report ¶¶ 39, 59, tbls.4 & 8, attachs. H & L; *see also* PI Order 115–18, 139–42.

Communities of interest. Mr. Esselstyn’s illustrative plans preserve various communities with shared interests. SUMF ¶¶ 58–61, 73–78; Esselstyn Report ¶¶ 29 n.7, 31 n.8, 41, 51 & nn.12–13, 52 & nn.14–16, 60; *see also* PI Order 118–23, 143–45. For example, his illustrative House District 149 generally follows the orientation of the Georgia Fall Line geological feature, which brings with it shared economic, historic, and ecological similarities; Macon and Milledgeville, parts of which are in

illustrative House District 149, are both characterized as “Fall Line Cities” and were identified in public comment before the General Assembly’s Joint Reapportionment Committee as two cities that should be kept in the same district. SUMF ¶¶ 76–77; Esselstyn Report ¶ 52 & nn.14–16. Illustrative House District 149 also includes the entirety of Twiggs and Wilkinson counties—which were described by Gina Wright, the Executive Director of the General Assembly’s Legislative and Congressional Reapportionment Office, as “constitut[ing] a single community of interest.” SUMF ¶ 75; Esselstyn Report ¶ 51 & n.12 (alteration in original) (quoting ECF No. 55 at 9).

Incumbent pairings. Mr. Esselstyn’s illustrative State Senate plan does not pair any incumbent senators in the same district, while his illustrative House plan pairs a total of eight incumbents—the same number of pairings as in the enacted plan, as previously reported by Defendants’ mapping expert, John Morgan. SUMF ¶¶ 62, 79; Esselstyn Report ¶¶ 42, 61 & nn.17–18; *see also* PI Order 123, 145–48.⁴

Moreover, Dr. Maxwell Palmer confirmed that Black voters would be able to elect their preferred candidates in Mr. Esselstyn’s illustrative districts. SUMF ¶¶ 24,

⁴ Additionally, while the Court noted that core retention “was not an enumerated districting principle adopted by the General Assembly,” PI Order 123–24, Mr. Esselstyn’s illustrative plans modify just 22 of the 56 enacted State Senate districts and 25 of the 180 enacted House districts, SUMF ¶¶ 63, 80; Esselstyn Report ¶¶ 26, 47; *see also* PI Order 123–25, 148–49.

36; Ex. 2 (“Palmer Report”) ¶¶ 22–23. In the 31 statewide races from 2012 through 2021, the Black-preferred candidate won a larger share of the vote in illustrative Senate Districts 25 and 28 and illustrative House Districts 64 and 149. SUMF ¶¶ 25, 37; Palmer Report ¶ 24, fig.5, tbl.9. In illustrative House District 117, the Black-preferred candidate won all 19 of these elections since 2018, and in illustrative House District 145, the Black-preferred candidate won all 19 elections since 2018 and 27 of the 31 elections overall. SUMF ¶¶ 38–39; Palmer Report ¶ 24, fig.5, tbl.9.⁵ Plaintiffs therefore satisfy the first *Gingles* precondition. *See LULAC*, 548 U.S. at 430 (first *Gingles* precondition requires “reasonably compact districts with a sufficiently large minority population to elect candidates of its choice” (quoting *De Grandy*, 512 U.S. at 1008)).

Mr. Morgan has provided no opinions to contest this conclusion or otherwise undermine Plaintiffs’ satisfaction of the first *Gingles* precondition as to these six illustrative districts. *See* PI Order 42–46 (finding that Mr. Morgan’s “testimony lacks credibility” and thus “assign[ing] little weight to his testimony”). He disputes neither the demographic statistics provided by Mr. Esselstyn nor that it is possible to draw

⁵ Additionally, the preexisting majority-Black districts from which Mr. Esselstyn’s illustrative districts were drawn would continue to perform for Black-preferred candidates with similar or higher vote shares. SUMF ¶¶ 26, 40; Palmer Report ¶ 25.

three additional majority-Black State Senate and five additional majority-Black House districts given the size of Georgia’s Black population. *See* Morgan Dep. 73:17–75:4, 164:8–165:14, 197:15–19. And his rebuttal report is primarily a recitation of the metrics that Mr. Esselstyn already provided, without even a hint of analysis that would be helpful to the Court in assessing the compactness of the illustrative districts. For example, although Mr. Morgan reports the population-deviation ranges, political-subdivision splits, and compactness scores of Mr. Esselstyn’s illustrative plans as compared to the enacted plans, he provides no *opinion* as to whether the illustrative plans comply with these traditional redistricting principles. *See* Ex. 6 (“Morgan Rebuttal Report”) ¶¶ 21, 49–50, charts 3, 8 & 9. Instead, his only analytical contribution is identifying for the Court which figure in a pair of statistics is higher than the other—a computational exercise that does not require the sort of expertise contemplated by Federal Rule of Evidence 702.

Moreover, Mr. Morgan does not even *mention* illustrative Senate Districts 25 and 28 in his rebuttal report, and his consideration of illustrative House Districts 64, 117, 145, and 149 is mostly limited to reporting the exact same compactness scores

provided in Mr. Esselstyn's report, *see id.* ¶ 50, chart 9—again without any meaningful analysis or opinion.⁶

Ultimately, in responding to a motion for summary judgment, the nonmoving party “must come forward with *significant, probative evidence* demonstrating the existence of a triable issue of fact.” *Irby v. Bittick*, 44 F.3d 949, 953 (11th Cir. 1995) (emphasis added) (quoting *Chanel, Inc. v. Italian Activewear of Fla., Inc.*, 931 F.2d 1472, 1479 (11th Cir. 1991)). Mr. Morgan's recitation of undisputed statistics is neither significant nor probative—and certainly does not materially contest Plaintiffs' satisfaction of the first *Gingles* precondition as to the six illustrative districts at issue in this motion.

II. *Gingles* Two: Black Georgians in the focus areas are politically cohesive.

Plaintiffs satisfy the second *Gingles* precondition because Black voters in the areas where Mr. Esselstyn has drawn additional majority-Black legislative districts are politically cohesive. *See* 478 U.S. at 49. “Bloc voting by blacks tends to prove that the black community is politically cohesive, that is, it shows that blacks prefer

⁶ Mr. Morgan also describes changes Mr. Esselstyn made to illustrative House District 149 between his preliminary injunction report and final expert report, *see* Morgan Rebuttal Report ¶¶ 40, 46, 48, chart 7, but never explains why these tweaks are relevant to satisfaction of the first *Gingles* precondition.

certain candidates whom they could elect in a single-member, black majority district.” *Id.* at 68; *see also* PI Order 172 (explaining second *Gingles* precondition).

Dr. Palmer analyzed political cohesion and racially polarized voting in five different focus areas comprising the enacted districts from which Mr. Esselstyn’s additional majority-Black legislative districts were drawn. SUMF ¶¶ 81–83; Palmer Report ¶¶ 10–12, fig.1. To perform his analysis, Dr. Palmer examined precinct-level election results and voter turnout by race and employed a widely accepted methodology called ecological inference analysis. SUMF ¶¶ 84–86; Palmer Report ¶¶ 10, 15; Ex. 9 (“Alford Dep.”) at 36:11–37:12; *see also, e.g., Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297, 1305 (M.D. Ga. 2018) (recognizing ecological inference as “the ‘gold standard’ for use in racial bloc voting analyses”), *aff’d*, 979 F.3d 1282 (11th Cir. 2020); PI Order 176–78 (finding that Dr. Palmer’s “methods and conclusions are highly reliable”).

Dr. Palmer found that Black voters in the focus areas are extremely cohesive, with a clear candidate of choice in all 40 elections he examined—a conclusion with which Defendants’ expert, Dr. John Alford, readily agreed. SUMF ¶ 87; Palmer Report ¶ 18, fig.2, tbls. 1, 2, 3, 4, 5 & 6; Ex. 3 (“Suppl. Palmer Report”) ¶ 6, fig.1, tbl.1; Ex. 7 (“Alford Report”) at 3; Alford Dep. 37:13–15. Across the focus areas, Black voters supported their candidates of choice with an average of 98.5% of the

vote, a finding reflected in each constituent State Senate and House district. SUMF ¶¶ 88–90; Palmer Report ¶¶ 16, 18–19 & nn.14–15, fig.3, tbls.1 & 7. Plaintiffs therefore satisfy the second *Gingles* precondition. *See* 478 U.S. at 56 (“A showing that a significant number of minority group members usually vote for the same candidates is one way of proving [] political cohesiveness[.]”); *see also* PI Order 186–87 (concluding that “Plaintiffs have met their burden to establish the second *Gingles* precondition”).

III. *Gingles* Three: White Georgians engage in bloc voting to defeat Black-preferred candidates in the focus areas.

Plaintiffs satisfy the third *Gingles* precondition because, in the areas where they propose new majority-Black districts, “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” 478 U.S. at 51; *see also* PI Order 197–98 (explaining third *Gingles* precondition).

Dr. Palmer found high levels of white bloc voting in opposition to the candidates whom Black voters cohesively supported—another finding endorsed by Dr. Alford. SUMF ¶ 91; Palmer Report ¶ 18, fig.2, tbl.1; Suppl. Palmer Report ¶ 6, fig.1, tbl.1; Alford Report 3; Alford Dep. 38:20–39:8. In the same 40 elections Dr. Palmer analyzed, white voters in the focus areas overwhelmingly opposed Black voters’ candidates of choice: On average, only 8.3% of white voters supported Black-preferred candidates, and in no election did white support exceed 17.7%.

SUMF ¶ 92; Palmer Report ¶ 18. Consequently, in the districts that comprise the five focus areas, Black-preferred candidates win almost every election in majority-Black districts but lose almost every election in non-majority-Black districts. SUMF ¶¶ 95–96; Palmer Report ¶ 21, fig.4. These findings were confirmed by the endogenous results from the 2022 midterms, in which Black-preferred legislative candidates were defeated in every majority-white district and elected in every majority-Black district in the focus areas. SUMF ¶ 97; Suppl. Palmer Report ¶ 5, tbl.2.

In short, Black voters’ candidates of choice are consistently defeated in the focus areas by white bloc voting, except where Black voters make up a majority of eligible voters—thus satisfying the third *Gingles* precondition. *See* 478 U.S. at 68 (“Bloc voting by a white majority tends to prove that blacks will generally be unable to elect representatives of their choice.”); *see also* PI Order 200–01 (crediting “Dr. Palmer’s analysis and testimony” and concluding that “Plaintiffs have satisfied their burden under the third *Gingles* precondition”).

IV. Under the totality of circumstances, the enacted maps deny Black voters equal opportunity to elect their preferred legislative candidates.

Considering the “totality of circumstances,” Georgia’s enacted State Senate and House maps deny Black voters an equal opportunity to elect their preferred legislative representatives. 52 U.S.C. § 10301(b). Notably, “it will be only the very

unusual case in which the plaintiffs can establish the existence of the three *Gingles* [preconditions] but still have failed to establish a violation of § 2 under the totality of circumstances.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1342 (11th Cir. 2015) (quoting *Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir. 1993)). Again, this is not an unusual case.

The factors outlined in the Senate Judiciary Committee report accompanying the 1982 Voting Rights Act amendments—the Senate Factors—are “typically relevant to a § 2 claim” and guide this analysis. *LULAC*, 548 U.S. at 426; *see also Gingles*, 478 U.S. at 36–37 (listing Senate Factors). They are not exclusive, and “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Gingles*, 478 U.S. at 45 (quoting S. Rep. No. 97-417, pt. 1, at 29 (1982)).

Here, each of the relevant Senate Factors confirms that the enacted State Senate and House maps deny Black voters equal electoral opportunities.

A. Senate Factor One: Georgia has an ongoing history of official voting-related discrimination.

“It cannot be disputed that Black Georgians have experienced franchise-related discrimination.” PI Order 205. Indeed, “Georgia electoral history is marked by too many occasions where the State, through its elected officials, enacted discriminatory measures designed to minimize black voting strength.” *Brooks v.*

State Bd. of Elections, 848 F. Supp. 1548, 1572 (S.D. Ga. 1994); *see also, e.g., Fair Fight Action, Inc. v. Raffensperger*, 593 F. Supp. 3d 1320, 1342 (N.D. Ga. 2021) (taking judicial notice of fact that, “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”). As the Eleventh Circuit has similarly acknowledged, “[t]he voting strength of blacks has historically been diminished in Georgia in numerous ways, including property ownership requirements, literacy tests, and the use of the county unit system which undermined the voting power of counties with large black populations.” *Brooks v. Miller*, 158 F.3d 1230, 1233 (11th Cir. 1998). Although these discriminatory actions have evolved over the years, they have persisted; as a result of this centuries-long effort to marginalize and disenfranchise Black Georgians, they still lack equal access to the state’s political processes today.

Dr. Orville Vernon Burton prepared an extensive (and unrebutted) examination of the history of voting-related discrimination in Georgia, emphasizing a sordid and recurring pattern: After periods of increased nonwhite voter registration and turnout, the State finds methods to disfranchise and reduce the influence of minority voters. SUMF ¶ 98; Ex. 4 (“Burton Report”) at 10; *see also* PI Order 207 (finding Dr. Burton “highly credible,” his “historical analysis [] thorough and methodologically sound,” and his “conclusions . . . reliable”). Indeed, “[w]hile

Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War.” SUMF ¶ 107; Burton Report 10 (quoting Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* 2–3 (2003)). Following Reconstruction, these tactics included poll taxes, a white-only primary system, and use of majority-vote requirements and at-large districts. SUMF ¶¶ 108–16; Burton Report 11–12, 17–22. Efforts at de jure disenfranchisement were reinforced by rampant political terror and violence against Black legislators and voters; between 1875 and 1930, Georgia witnessed 462 lynchings—second only to Mississippi—which, as Dr. Burton explained, “served as a reminder for Black Georgians who challenged the status quo” and “did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared participate in the franchise.” SUMF ¶¶ 99–106; Burton Report 14–26.

While enactment of the Voting Rights Act altered Georgia’s trajectory, it did not end efforts to prevent the exercise of Black political power. SUMF ¶¶ 117–18; Burton Report 36. By 1976, among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens; these disparities were directly attributable to Georgia’s continued efforts to enact policies designed to circumvent the Voting Rights Act’s

protections and suppress the rights of Black voters. SUMF ¶ 119; Burton Report 36. Notably, between 1965 and 1980, nearly 30% of the Department of Justice’s objections to voting-related changes under Section 5 were attributable to Georgia—more than any other state in the country. SUMF ¶ 120; Burton Report 3, 39. When Congress reauthorized the Voting Rights Act in 1982, it specifically cited systemic abuses by Georgia officials intended to obstruct Black voting rights. SUMF ¶ 121; Burton Report 3, 42.

Georgia’s voting-related discrimination extended to its redistricting efforts. SUMF ¶¶ 131–33; Burton Report 32. Prior to the effective termination of the Section 5 preclearance requirement following *Shelby County v. Holder*, 570 U.S. 529 (2013), federal challenges and litigation were common features of the state’s decennial redistricting—indeed, the Department of Justice objected to reapportionment plans submitted by Georgia during each of the four redistricting cycles following enactment of the Voting Rights Act because the maps diluted Black voting strength. SUMF ¶¶ 134–38; Burton Report 40–44; Exs. 10–11; *see also, e.g., Georgia v. United States*, 411 U.S. 526, 541 (1973) (affirming that Georgia’s 1972 reapportionment plan violated Section 5 in part because it diluted Black vote in Atlanta-based congressional district); *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge court) (denying preclearance based on evidence that

Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166 (1983).

Significantly, racial discrimination in voting is not consigned to history books; efforts to dilute the political power of Black Georgians persist today. Following *Shelby County*, Georgia was the only former preclearance state that proceeded to adopt “all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures.” SUMF ¶ 123; Burton Report 48–49. Throughout the first two decades of the 21st century, the State investigated Black candidates and organizations dedicated to protecting the voting rights of Georgia’s minority voters; investigations into alleged voter fraud in the predominantly Black City of Quitman and into the efforts of the New Georgia Project and the Asian American Legal Advocacy Center ended without convictions or evidence of wrongdoing. SUMF ¶ 122; Burton Report 45–46. In 2015, Georgia began closing polling places in primarily Black neighborhoods; by 2019, 18 counties closed more than half of their polling places and several closed nearly 90%, depressing turnout in affected areas and leading to substantially longer waiting times at the polls. SUMF ¶¶ 124–25; Burton Report 49–50. The State has also engaged in “systematic efforts to purge the

voting rolls in ways that particularly disadvantaged minority voters and candidates”—between 2012 to 2018, Georgia removed 1.4 million voters from the eligible voter rolls, purges that disproportionately impacted Black voters. SUMF ¶¶ 127–28; Burton Report 50–51.

Ultimately, the growth of Georgia’s nonwhite population over the past 20 years—and the corresponding increase in minority voting power—has, in Dr. Burton’s words, “provide[d] a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote.” SUMF ¶ 130; Burton Report 60. Georgia’s efforts to discriminate against Black voters has simply not stopped. *See* PI Order 205–09 (finding that “Plaintiffs have demonstrated the history of voting-related discrimination in Georgia” and “[t]he first Senate Factor thus weighs decisively in Plaintiffs’ favor”).

B. Senate Factor Two: Georgia voters are racially polarized.

Courts have repeatedly found that voting throughout Georgia is racially polarized. *See, e.g., Fayette Cnty.*, 775 F.3d at 1340 (Fayette County “[v]oters’ candidate preferences in general elections were racially polarized”); *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge court) (“[V]oting in Georgia is highly racially polarized.”); *Wright*, 301 F. Supp. 3d at 1319 (“Sumter County’s voters [are] highly polarized.”). These findings were

confirmed in the focus areas and their constituent legislative districts by Dr. Palmer's analysis discussed above: Black voters overwhelmingly support their candidates of choice, and white voters consistently and cohesively vote in opposition to Black-preferred candidates. SUMF ¶¶ 140–47; Palmer Report ¶¶ 7, 16, 18–19 & nn.14–15, figs.2 & 3, tbls.1, 2, 3, 4, 5, 6 & 7; Suppl. Palmer Report ¶¶ 4, 6, fig.1, tbl.1; Alford Report 3; Alford Dep. 37:13–15, 38:20–39:8, 44:8–16, 45:10–12; *see also supra* at 13–16.

Far from disputing this polarization, Defendants' expert Dr. Alford confirmed it, both in his expert report, *see* Alford Report 3 (“As evident in Dr. Palmer's [reports], the pattern of polarization is quite striking.”), and in his deposition, *see* Alford Dep. 44:8–16, 45:10–12 (“This is clearly polarized voting, and the stability of it across time and across office and across geography is really pretty remarkable.”). Voting in the focus area is undeniably polarized along racial lines, and the second Senate Factor thus tips strongly in Plaintiffs' favor.

Neither Dr. Alford's expert report nor Defendants' prior arguments change this conclusion. As at the preliminary injunction stage, Dr. Alford maintains that the polarization is better explained by partisanship than race. But his analysis is guided by the wrong question. The inquiry implicated by this Senate Factor is objective, not subjective: *how* Black and white Georgians vote, not *why* they vote that way. As this

Court previously explained, “to satisfy the second *Gingles* precondition, Plaintiffs need not prove the causes of racial polarization, just its existence.” PI Order 174. This critical emphasis on correlation rather than causation finds its basis in the concerns that animated revisions to Section 2 decades ago; as this Court explained,

applying the standard advocated by Defendants would undermine the congressional intent behind the 1982 amendments to the VRA—namely, to focus on the *results* of the challenged practices. Congress wanted to avoid “unnecessarily divisive [litigation] involv[ing] charges of racism on the part of individual officials or entire communities.” As the Eleventh Circuit long ago made clear, “[t]he surest indication of race-conscious politics is a pattern of racially polarized voting.”

Id. at 175–76 (alterations in original) (citations omitted) (first quoting S. Rep. No. 97-417, pt. 1, at 36; and then quoting *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1567 (11th Cir. 1984)).

Dr. Alford conceded in his deposition that the relevance of his analysis hinges not on the *fact* of racial polarization, which is not in dispute, *see* Alford Report 3; Alford Dep. 44:8–16, 45:10–12, but on a threshold *legal* question, *see* Alford Dep. 114:13–21 (“[I]f the judge thinks the law doesn’t require anything other than that the two groups vote differently without any connection to race . . . , then that’s the law.”). That legal question has already been addressed—and resolved—by this Court. *See* PI Order 209–10 (concluding that “the Court’s analysis on the second and

third *Gingles* preconditions controls here” and “[t]he second Senate Factor thus weighs in Plaintiffs’ favor”).

C. Senate Factor Three: Georgia’s voting practices enhance the opportunity for discrimination.

As discussed above, Georgia has employed a variety of voting practices that have discriminated against Black voters. *See supra* at 17–22; *see also* SUMF ¶ 165; Burton Report 11–55. In addition to the malapportionment of legislative and congressional districts to dilute the votes of Black Georgians throughout the 20th century, SUMF ¶¶ 166–67; Burton Report 31, and the continuing use of polling place closures, voter purges, and other suppressive techniques, SUMF ¶ 170; Burton Report 49–55, numerous Georgia counties with sizeable Black populations shifted from voting by district to at-large voting following enactment of the Voting Rights Act, thus ensuring the electoral success of white-preferred candidates, SUMF ¶ 168; Burton Report 32–33.

Moreover, even though the *Gingles* Court specifically highlighted the use of majority-vote requirements as meaningful evidence of ongoing efforts to discriminate against minority voters, *see* 478 U.S. at 45, Georgia continues to impose a majority-vote requirement in general elections, including elections to the General Assembly, SUMF ¶ 169; Burton Report 34; O.C.G.A. § 21-2-501. The combination of a majority-vote requirement and racially polarized voting ensures that Black

voters cannot elect their candidates of choice when they are a minority of a jurisdiction's population, even when the white vote is split. *See City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982) (describing how such circumstances “permanently foreclose a black candidate from being elected”); *see also* PI Order 210–11 (finding that “Plaintiffs have shown there has been a history of voting practices or procedures in Georgia that have enhanced the opportunity for discrimination against Black voters” and “this factor weighs in Plaintiffs’ favor”).

D. Senate Factor Four: Georgia has no history of candidate slating for legislative elections.

Because Georgia’s legislative elections do not use a slating process, this factor has no relevance to Plaintiffs’ claim. *See* PI Order 211.

E. Senate Factor Five: Georgia’s discrimination has produced severe socioeconomic disparities that impair Black Georgians’ participation in the political process.

Georgia’s Black community continues to suffer because of the state’s discriminatory past. Dr. Loren Collingwood’s (also un rebutted) expert report concluded that, “[o]n every metric, Black Georgians are disadvantaged socioeconomically relative to non-Hispanic White Georgians,” disparities that “have an adverse effect on the ability of Black Georgians to participate in the political process, as measured by voter turnout and other forms of political participation.” SUMF ¶ 172; Ex. 5 (“Collingwood Report”) at 3; *see also* PI Order 214 (finding

“Dr. Collingwood to be credible, his analysis methodologically sound, and his conclusions reliable”). While “the burden is not on the plaintiffs to prove” that the disparities are “causing reduced political participation,” *Marengo Cnty.*, 731 F.2d at 1569, the data show a significant relationship between turnout and socioeconomic disparities; as health, education, and employment outcomes increase, so does voter turnout. SUMF ¶ 173; Collingwood Report 3.

The disparities and disadvantages experienced by Black Georgians impact nearly every aspect of daily life:

- The unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%). SUMF ¶ 174; Collingwood Report 4.
- White households are twice as likely as Black households to report an annual income above \$100,000. SUMF ¶ 175; Collingwood Report 4.
- Black Georgians are more than twice as likely as white Georgians to live below the poverty line—and Black children more than *three times* as likely. SUMF ¶ 176; Collingwood Report 4.
- Black Georgians are nearly three times as likely as white Georgians to receive SNAP benefits. SUMF ¶ 177; Collingwood Report 4.
- Black adults are more likely than white adults to lack a high school diploma—13.3% as compared to 9.4%. SUMF ¶ 178; Collingwood Report 4.

- Thirty-five percent of white Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24% of Black Georgians over the age of 25. SUMF ¶ 179; Collingwood Report 4.

Dr. Collingwood further concluded that these racial disparities hold across nearly every county in the state. SUMF ¶ 180; Collingwood Report 4–6.

The evidence strongly suggests that the socioeconomic disparities imposed on Black Georgians impact their levels of political participation. Dr. Collingwood explained that extensive literature in the field of political science demonstrates a strong and consistent link between socioeconomic status and voter turnout: In general, voters with higher income and education are disproportionately likely to vote and participate in American politics. SUMF ¶¶ 181–82; Collingwood Report 7. This pattern is evident in Georgia. Dr. Collingwood found that, in elections between 2010 and 2022, Black Georgians consistently turned out to vote at lower rates than white Georgians—a gap of at least 3.1 percentage points (during the 2012 general election) that reached its peak of 13.3 percentage points during the 2022 general election. SUMF ¶ 183; Collingwood Report 7–8. This trend can be seen at the local level as well, including in the Atlanta metropolitan area and Black Belt: During each general election, white voters exceeded the turnout rates of Black voters in all but a handful of Georgia's 159 counties, and white voters had higher rates of turnout in

79.2% of the 1,957 precincts analyzed. SUMF ¶¶ 184–85; Collingwood Report 8–23. White Georgians are also more likely than Black Georgians to participate in a range of political activities, including attending local meetings, demonstrating political participation through lawn signs and bumper stickers, working on campaigns, attending protests and demonstrations, contacting public officials, and donating money to campaigns and political causes. SUMF ¶ 188; Collingwood Report 34–38.

Comparing rates of Black voter turnout with educational attainment, Dr. Collingwood found that each 10-point increase in the percentage of the Black population without a high school degree decreases Black turnout by 3.5 percentage points, and that Black turnout rises 2.3 percentage points for each 10-point increase in the percentage of the Black population with a four-year degree. SUMF ¶ 186; Collingwood Report 24–26. The pattern holds between voter turnout and poverty: Black turnout falls 4.9 percentage points for each 10-point increase in the percentage of the Black population below the poverty line, SUMF ¶ 187; Collingwood Report 28, confirming the link between socioeconomic disadvantage and depressed political participation, *see* PI Order 211–15 (finding that “Plaintiffs have offered un rebutted evidence that Black Georgians suffer socioeconomic hardships stemming from centuries-long racial discrimination, and that those hardships impede their ability to

fully participate in the political process,” and concluding that “Plaintiffs’ evidence on this factor weighs in favor of a finding of vote dilution”).

F. Senate Factor Six: Racial appeals are prevalent in Georgia’s political campaigns.

As Dr. Burton concluded, “[r]acism, whether dog whistled or communicated directly, became a hallmark of” Georgia politics during the second half of the 20th century. SUMF ¶ 193; Burton Report 66. Although *explicit* racial appeals are no longer commonplace, *implicit* racial appeals—which, as political scientists have explained, use coded language, subtext, and visuals to activate racial thinking—are still a recurring feature of Georgia campaigns and contribute to the state’s polarized voting. SUMF ¶¶ 189–92; Burton Report 62–64.

Georgia politicians have long employed implicit racial appeals to win elected office, from future U.S. House Speaker Newt Gingrich’s invocation of “welfare cheaters” during his first run for Congress in 1978—one campaign aide later said, “[W]e went after every rural southern prejudice we could think of”—to Governor Brian Kemp’s repeated use of coded language and insinuation during his (successful) campaigns against Stacey Abrams in 2018 and 2022. SUMF ¶¶ 194–200, 204; Burton Report 65–70 (quoting Dana Milbank, *The Destructionists: The Twenty-Five Year Crack-up of the Republican Party* 66 (2022)). During the 2022 gubernatorial election, Governor Kemp’s campaign deliberately darkened Abrams’s

face in campaign advertisements “to create a darker, more menacing image,” while the 2020 U.S. Senate race saw implicit racial attacks on now-Senator Raphael Warnock and his church, the landmark Ebenezer Baptist Church. SUMF ¶¶ 201–03, Burton Report 68–70. These and other racial appeals have been amplified by local, state, and national news outlets since the 2016 election, SUMF ¶ 210; Exs. 12–23—thus ensuring that racialized campaigning remains an ingrained feature of Georgia’s political environment.

Notably, some racial appeals from recent Georgia campaigns carry haunting echoes of the state’s tragic history of discrimination and disenfranchisement. After Abrams planned a campaign rally in Forsyth County during the 2022 election, the local Republican Party issued a digital flyer attacking her and Senator Warnock and urging “conservatives and patriots” to “save and protect our neighborhoods”—a call reminiscent of the infamous Forsyth County pogrom in 1912, when Black residents were forcibly expelled. SUMF ¶ 205; Burton Report 70 (quoting Maya King, *In Georgia County With Racist History, Flier Paints Abrams as Invading Enemy*, N.Y. Times (Sept. 16, 2022), <https://www.nytimes.com/2022/09/16/us/politics/stacey-abrams-forsyth-georgia-republicans.html>).

Governor Kemp and other Georgia politicians have recently embraced another gambit with familiar undertones: the unsubstantiated specter of voter fraud in the

Atlanta metropolitan area and other areas with large Black populations, which mirrors the efforts of white Georgians during and after Reconstruction to restrict and eliminate Black suffrage. SUMF ¶¶ 206, 209; Burton Report 70–74. Plurality-Black Fulton County has been at the center of these baseless allegations of fraud, with former President Donald Trump spreading conspiracy theories about the county as part of his effort to overturn Georgia’s 2020 election results. SUMF ¶ 207; Esselstyn Report attach. C; Burton Report 73–74. In one particularly pernicious incident, two Black poll workers in Fulton County, Ruby Freeman and Shaye Moss, were targeted by former President Trump and his campaign with allegations that they had engaged in “surreptitious illegal activity”; the two women received harassing phone calls and death threats, often laced with racial slurs, with suggestions that they should be “strung up from the nearest lamppost and set on fire”—in Dr. Burton’s words, “horribly echoing the calls for lynchings of Black citizens from earlier years who were attempting to participate in the political process.” SUMF ¶ 208; Burton Report 73–74 (quoting Jason Szep & Linda So, *Trump Campaign Demonized Two Georgia Election Workers—and Death Threats Followed*, Reuters (Dec. 1, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia>).

Ultimately, although racial appeals might have become more coded in recent campaigns, they are no less insidious—and no less a facet of Georgia’s political

landscape. *See* PI Order 215–17 (finding that “Plaintiffs have presented sufficient evidence for this factor to weigh in their favor”).

G. Senate Factor Seven: Black candidates in Georgia are underrepresented in office and rarely succeed outside of majority-minority districts.

As a consequence of Georgia’s history of voter suppression and racial discrimination, Black Georgians have struggled to win election to public office.

At the time of the Voting Rights Act’s passage, Black Georgians constituted 34% of the state’s voting-age population, and yet Georgia had only *three* elected Black officials. SUMF ¶ 211; Burton Report 35. By 1980, Black Georgians comprised just 3% of county officials in the state, the vast majority of whom were elected from majority-Black districts or counties. SUMF ¶ 212; Burton Report 41. That particular trend has not changed: While more Black Georgians have been elected to office in recent years, those officials are almost always from near-majority- or outright-majority-Black districts. SUMF ¶ 213; Burton Report 55–57. In the 2020 legislative elections, for example, no Black members of the House were elected from districts where white voters exceeded 55% of the voting-age population, and no Black members of the State Senate were elected from districts where white voters exceeded 47%. SUMF ¶ 214; Burton Report 56; *see also supra*

at 15–16 (noting that Black-preferred candidates generally prevail only in focus areas’ majority-Black districts).

Although Black Georgians now comprise 33% of the state’s population, SUMF ¶ 2; Esselstyn Report ¶ 15, the Georgia Legislative Black Caucus had only 16 members in the State Senate and 52 members in the House after the 2020 elections—less than 30% of each chamber. SUMF ¶ 215; Burton Report 56. Black officials have been underrepresented across Georgia’s statewide offices as well: Although Georgia recently reelected a Black U.S. senator, Senator Raphael Warnock is the *first* Black Georgian to hold that office—after more than 230 years of white senators. SUMF ¶ 216; Burton Report 53, 68; *see also* PI Order 217–18 (finding that “[b]ased on the evidence presented, . . . this factor [] weighs in Plaintiffs’ favor”).

H. Senate Factor Eight: Georgia is not responsive to its Black residents.

Although the Eleventh Circuit has noted that “[u]nresponsiveness is considerably less important under” a Section 2 results claim, *see Marengo Cnty.*, 731 F.2d at 1572, it is nonetheless true that Georgia has long neglected the needs of its Black residents. As discussed above, *see supra* at 26–30, Black Georgians face clear and significant disadvantages across a range of socioeconomic indicators, including education, employment, and health, SUMF ¶ 217; Collingwood Report 3. Dr. Collingwood articulated the inevitable conclusion; as he explained, “[i]t follows

that the political system is relatively unresponsive to Black Georgians; otherwise, we would not observe such clear disadvantages in healthcare, economics, and education.” SUMF ¶ 218; Collingwood Report 4; *see also* PI Order 218–19 (finding that this factor “weighs in [Plaintiffs’] favor”).

I. Senate Factor Nine: The justification for the new legislative maps is tenuous.

Finally, Defendants cannot justify the refusal to draw additional majority-Black districts—especially given that drawing districts to account for the numerosity and compactness of Georgia’s Black community is required by the Voting Rights Act. *See* PI Order 219 (concluding that “[t]his factor [] weighs in Plaintiffs’ favor” because “Mr. Esselstyn’s . . . illustrative maps demonstrate that it is possible to create such maps while respecting traditional redistricting principles—just as the Voting Rights Act requires”).

CONCLUSION

Despite having more than a year to prepare a defense of Georgia’s enacted legislative plans, Defendants have left Plaintiffs’ evidence almost entirely unrefuted. Given that Plaintiffs have submitted credible, unrebutted expert evidence proving the required elements of a Section 2 vote-dilution claim as to six of their eight illustrative districts, they respectfully request that the Court grant partial summary judgment in their favor.

Dated: March 20, 2023

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing *Brief in Support of Plaintiffs' Motion for Partial Summary Judgment* has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: March 20, 2023

Adam M. Sparks
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing *Brief in Support of Plaintiffs' Motion for Partial Summary Judgment* with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: March 20, 2023

Adam M. Sparks
Counsel for Plaintiffs

Grant Doc. 229

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

ANNIE LOIS GRANT, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION FILE

No. 1:22-CV-122-SCJ

ORDER

This matter appears before the Court on the Parties' Cross-Motions for Summary Judgment. (Doc. Nos. [189]; [190]).¹

Full briefing on these Motions—responses in opposition (Doc. Nos. [203]; [205]) and replies in support (Doc. Nos. [215]; [217])—has been completed. The Parties have also submitted supplemental briefing (Doc. Nos. [227]; [228]) following the Supreme Court's recent voting rights decision in Allen v. Milligan, 599 U.S.---, 143 S. Ct. 1487 (2023).

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

The Parties' Motions for Summary Judgment are now ripe for review. The inquiry into a vote dilution claim must involve a "comprehensive, not limited canvassing of relevant facts." Johnson v. De Grandy, 512 U.S. 997, 1011 (1994). The Court has thoroughly analyzed the Parties' Statements of Material Facts, the Record, and the Parties' arguments and ultimately determines that each Motion must be **DENIED**. Material questions of fact remain as to all aspects of Plaintiffs' claims, and the Court cannot rule for one Party without making factual determinations, weighing evidence, and assessing the credibility of the experts. Unlike on a motion for a preliminary injunction, these determinations are impermissible on motions for summary judgment.

* * * * *

"[T]he political franchise of voting... is regarded as a fundamental political right, because [it is] preservative of all rights." Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886). The Supreme Court's "paramount concern has remained an individual and personal right—the right to an equal vote." Gaffney v. Cummings, 412 U.S. 775, 781 (1973) (Brennan, J., concurring). And the "[p]assage of the Voting Rights Act of 1965 was an important step in the struggle to end discriminatory treatment of minorities who seek to exercise one of the

most fundamental rights of [American] citizens: the right to vote.” Bartlett v. Strickland, 556 U.S. 1, 10 (2009).

In the intervening fifty-eight years since the passage of the Voting Rights Act and thirty-seven years since its most substantive amendment, the Voting Rights Act has been used to ensure that minority voters have an equal opportunity to participate in elections and elect candidates of their choice. Specifically, Section 2 was enacted to prohibit, in all 50 States, any “standard, practice, or procedure . . . imposed or applied . . . to deny or abridge the right of any citizen of the United States to vote on account of race or color.” Shelby Cnty. v. Holder, 570 U.S. 529, 536 (2013). “Section 2 is permanent [and] applies nationwide” Id. at 537.

During the Supreme Court’s October 2022 Term, it heard argument on Section 2 challenges to Alabama’s congressional map. Allen, 143 S. Ct. 1487. On June 8, 2023, in a 5-4 decision, Chief Justice Roberts delivered the opinion of the Court and affirmed the three-judge court’s order granting plaintiffs a preliminary injunction. Id. at 1504. The majority² conducted a clear error review of the lower

² The Court notes that Part III-B-1 of the Allen opinion was rendered by a plurality of the Court. “When a fragmented Court decides a case and no single rationale explaining

court's factual findings and applied them to the virtually untouched and longstanding test from Thornburg v. Gingles, 478 U.S. 30 (1986).

Unequivocally, the Allen majority asserted:

Gingles has governed our Voting Rights Act jurisprudence since it was decided 37 years ago. Congress has never disturbed our understanding of § 2 as Gingles construed it. And we have applied Gingles in one § 2 case after another, to different kinds of electoral systems and to different jurisdictions in States all over the country.

the result enjoys the assent of five Justices, 'the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds.'" Marks v. United States, 430 U.S. 188, 193 (1977). But see Horton v. Zant, 941 F.2d 1449, 1464 n.32 (11th Cir. 1991) ("Plurality opinions are only persuasive authority; they are not binding on [the Eleventh Circuit]."). Part III-B-1 of Allen is not the Court's holding; rather it is the Court's reasoning for rejecting a part of Alabama's proposed test.

Justice Kavanaugh did not join Part III-B-1 and wrote a concurrence that likewise rejected Alabama's attempt to create a new test for Section 2. He reasoned that under the doctrine of statutory *stare decisis*, "'the Court has ordinarily left the updating or correction of erroneous statutory precedents to the legislative process.'" Allen, 143 S. Ct. at 1517 (Kavanaugh, J., concurring) (quoting Ramos v. Louisiana, 590 U. S. ----, 140 S. Ct. 1390, 1413 (2020)). He rejected that the Gingles test requires the number of majority-minority districts be proportional to the minority population because under that formulation, "States would be forced to group together geographically dispersed minority voters into unusually shaped districts," which is not the test. Id. at 1518. Justice Kavanaugh also declined to address the constitutional question of whether Section 2 should continue to extend into the future because it was not raised before the Court. Id. at 1519.

143 S. Ct. at 1504. Thus, following Allen, the standards governing Plaintiffs' Section 2 challenges are the same as those this Court applied in its preliminary injunction order.³

I. BACKGROUND

On January 11, 2022, Plaintiffs Annie Lois Grant, Quentin T. Howell, Elroy Tolbert, Theron Brown, Triana Arnold James, Eunice Sykes, Elbert Solomon, and Dexter Wimbish filed Voting Rights Act ("VRA") Section 2 claims against Secretary of State Brad Raffensperger and the 2022 members of the State Election Board ("SEB" or "Board"). Doc. No. [1].⁴ Plaintiffs amended their Complaint on March 29, 2022 and again on October 28, 2022. Doc. Nos. [96]; [118]. The Second Amended Complaint is the operative complaint and includes additional Plaintiffs (Garrett Reynolds, Jacqueline Faye Arbuthnot, Jacquelyn Bush, and Mary Nell Conner)⁵ and updates Defendants to include the current SEB members and remove former members. Doc. No. [118].

³ The Court conducts a more thorough discussion of Allen in its Summary Judgment Order in Alpha Phi Alpha Fraternity, Inc. v. Brad Raffensperger, No. 1:21-cv-5337-SCJ (N.D. Ga. July 17, 2023) ("Alpha Phi Alpha").

⁴ On March 10, 2023, Plaintiff Brown was dismissed from the case by order of the court following the Parties' stipulation and consent motion. Doc. Nos. [160]; [162].

⁵ All named Plaintiffs are registered voters and reside in the State of Georgia.

Plaintiffs bring this action to challenge the Georgia Senate Redistricting Act of 2021 (“SB 1EX” or “Enacted Senate Plan”) and the Georgia House of Representatives Redistricting Act of 2021 (“HB 1EX” or “Enacted House Plan”) (collectively the “Enacted Plans”) on the ground that they violate Section 2 of the VRA, 52 U.S.C. § 10301. Doc. No. [118].

In their Second Amended Complaint, Plaintiffs argue that based on the 2020 Census data, minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters for eight legislative districts throughout the State as follows: (1) two additional majority-Black State Senate districts in the southern Atlanta metropolitan area; (2) one additional majority-Black State Senate district in the central Georgia Black Belt region; (3) two additional majority-Black House districts in the southern Atlanta metropolitan area; (4) one additional majority-Black House district in the western Atlanta metropolitan area; and (5) two additional majority-Black House districts

Doc. No. [192], ¶¶ 16 (Grant), 22 (Howell), 28 (Tolbert), 31 (James), 35 (Sykes), 37 (Solomon), 41 (Wimbish), 44 (Reynolds), 50 (Bush), 54 (Conner); see also Doc. Nos. [166] (Arbuthnot Dep.); [218] (voter declarations).

anchored in Bibb County (collectively “the Proposed Districts”). Doc. No. [118], 2–3.

Immediately following the filing of their Complaint, Plaintiffs filed a motion for a preliminary injunction. Doc. No. [19]. In February of 2022, the Court presided over a preliminary injunction hearing—coordinated with two related redistricting cases.⁶ After carefully weighing the evidence and determining the credibility of the witnesses, the Court found that Plaintiffs had a substantial likelihood of success on the merits as to their “Illustrative State Senate Districts 25 and 28, and Illustrative State House Districts 74 and 1[1]7.”⁷ Doc. No. [91], 220. The Court ultimately denied Plaintiffs’ motion, because, in light of the upcoming primaries, the balance of harms and public interest weighed in favor of denying the preliminary injunction. Id. at 221–38; see also Alpha Phi Alpha Fraternity Inc. v. Raffensperger, 587 F. Supp. 3d 1222, 1327 (N.D. Ga. 2022).

The case proceeded to discovery and on March 20, 2023, Plaintiffs and Defendants filed Cross-Motions for Summary Judgment. Doc. Nos. [189]; [190].

⁶ The two related redistricting cases are: Alpha Phi Alpha and Coakley Pendergrass, et al. v. Brad Raffensperger, et al., No. 1:21-cv-5339 (N.D. Ga. Feb. 7, 2022) (“Pendergrass”).

⁷ Page 220 of the Court’s Preliminary Injunction Order contained a typographical error as to the second digit in District 117.

A hearing was held on May 18, 2023. See Doc. No. [224] (“Hearing Tr.”). The Parties also filed supplemental briefs on June 22, 2023. Doc. Nos. [227]; [228].

The undisputed material facts for purposes of summary judgment are as follows.⁸

Both the Georgia Constitution and the Fourteenth Amendment require that the Senate and House of Representatives districts of the Georgia General Assembly be reapportioned after each Decennial Census. Ga. Const. art. III, § 2, ¶ II; Reynold v. Sims, 377 U.S. 533, 568 (1964).

According to the 2020 Census, approximately 33% of Georgia’s population (essentially one-third) identified as “Black or African American alone or in combination.” Doc. No. [189-2], ¶ 2.⁹ The Census data showed that the increase

⁸ The Court derives the facts from the Parties’ submissions (Doc. Nos. [189-2]; [192]; [203-1]; [204]; [205-1]; [205-2]) and the Record. Pursuant to Local Rule 56.1(B), when a fact is undisputed, the Court includes the fact. For the disputed facts, the Court reviews the Record to determine if a dispute exists and, if so, whether the dispute is material. If the dispute is not material, the Court cites the fact and the opposing party’s response. Where the dispute is material and the opposing party’s response reflects the Record more accurately, the Court modifies the proposed fact and cites the Record. The Court also rules on objections to proposed facts and excludes immaterial facts, those stated as an issue or legal conclusion, those not supported by a citation to evidence, or those that the Record citation fails to support. Finally, where appropriate, the Court includes facts drawn from its review of the Record.

⁹ The Court uses the any-part Black population or any-part Black voting age population

in the percentage of Black voters in Georgia from 2010 to 2020 was slightly more than two percentage points. Doc. No. [192], ¶ 1. More specifically, in 2020, the APBVAP made up 31.7% of the voting age population, an increase from 29.7% in 2010. Doc. No. [189-2], ¶ 7.

The 2020 Census data also showed that the non-Hispanic white population constitutes a majority of the State's population at 50.06%.¹⁰ However, the non-Hispanic single-race white proportion of the voting-age population decreased from 59.0% in 2010 to 52.8% in 2020. *Id.* ¶ 8.

("APBVAP") for purposes of determining numerosity. "[I]t is proper to look at *all* individuals who identify themselves as [B]lack" in their census responses, even if they "self-identify as both [B]lack and a member of another minority group," because the inquiry involved "an examination of only one minority group's effective exercise of the electoral franchise." *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003), superseded by statute in other part, *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 276–77 (2015).

¹⁰ The Court notes that Mr. Esselstyn's Report states that the non-Hispanic white population is 50.1%. Doc. No. [189-2], ¶ 5. However, the Court takes judicial notice of the 2020 Census data, which states that the non-Hispanic white population is 50.06%. Census Bureau, Table S2901 <https://data.census.gov/cedsci/table?q=S2901&g=0400000US13&tid=ACSST1Y2021.S2901>. See *United States v. Phillips*, 287 F.3d 1053, 1055 n.1 (11th Cir. 2002) (citing *Hollis v. Davis*, 941 F.2d 1471, 1474 (11th Cir. 1991) and *Moore v. Comfed Savings Bank*, 908 F.2d 834, 841 n.4 (11th Cir. 1990)) (taking judicial notice of the United States Census Bureau's 1990 census figures).

Pursuant to 2020 U.S. States Census, Georgia's total population was 10,711,908 and the non-Hispanic white population was 5,362,156, which was approximately 50.06% of the total population. U.S. Census Bureau, Table S2901 (Jul. 13, 2023, 9:00 AM), <https://data.census.gov/cedsci/table?q=S2901&g=0400000US13&tid=ACSST1Y2021.S2901>.

The State of Georgia engaged in the redistricting process following the 2020 Census, in which joint House and Senate redistricting committees adopted guidelines to govern the map-drawing process. Doc. No. [192], ¶ 5. The Parties dispute the remaining facts surrounding the map drawing and plan enactment process. See Doc. No. [205-1], ¶¶ 2-11. SB 1EX and HB 1EX were passed by the Georgia General Assembly and on December 30, 2021, Governor Brian Kemp signed SB 1EX and HB 1EX into law. Doc. No. [189-2], ¶ 13. The Enacted Senate Plan is comprised of 56 districts, each with a population near 191,284 (one-fifty-sixth of Georgia’s total population). Id. ¶ 14. The Enacted House Plan is comprised of 180 districts, each with a population near 59,511 (one-one-hundred-eightieth of Georgia’s total population). Id. ¶ 27. The Enacted Plans were used in the 2022 elections. Doc. No. [192], ¶ 14.

Of the 56 enacted State Senate districts, 14 are majority-Black in terms of the APBVAP.¹¹ Doc. No. [189-2], ¶¶ 15, 220.

¹¹ Map-drawers distinguish “majority-minority” districts from “majority-Black” districts. Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single racial category constitute a majority of a district.” Doc. No. [192], ¶ 58. The Court clarifies that as a legal term of art, majority-minority districts and opportunity districts can refer to districts where a single-minority group makes up the majority of a particular district. See Allen,

Plaintiffs' mapping expert, Blakeman B. Esselstyn, has prepared an expert report and provided deposition testimony in which he concludes that Georgia's any-part Black population is sufficiently numerous to create three additional majority-Black districts in the State Senate Plan. Doc. No. [189-2], ¶ 17.¹² Mr. Esselstyn has also prepared an illustrative State Senate plan (the "Illustrative Senate Plan") with three additional majority-Black districts— Illustrative Senate Districts 23, 25, and 28—for a total of 17 majority-Black State Senate districts. Id. ¶¶ 18, 221.

Plaintiffs also submitted evidence from their racially polarized voting expert, Dr. Maxwell Palmer, who analyzed the performance of Black-preferred candidates in the Illustrative Senate Plan. Doc. No. Id. ¶ 24. Defendants' expert on this topic is Dr. John Alford. Doc. No. [178].

148 S. Ct. at 1506–14 (using the term majority-minority districts to describe districts where the Black population, alone, exceeded 50% of the proposed district); Abbott v. Perez, 585 U.S. ----, 138 S. Ct. 2305, 2315 (2018) ("[i]n a series of cases tracing back to Gingles, we have interpreted this standard to mean that, under certain circumstance, States must draw 'opportunity' districts in which minority groups form 'effective majorit[ies].'" (cleaned up). Thus, the Court will use the term "majority-minority districts" to encompass majority-Black districts.

¹² Defendants' expert, Mr. John Morgan, does not dispute this conclusion, however, it appears that Defendants dispute that the evidence Plaintiffs rely upon (in support of summary judgment) shows that Mr. Morgan agreed that these additional districts could be drawn in accordance with traditional redistricting principles. Doc. No. [204], ¶ 41.

Of the 180 enacted House districts, 49 are majority-Black in terms of the APBVAP. Doc. No. [189-2], ¶¶ 28, 222.

Mr. Esselstyn concluded that Georgia's any-part Black population is sufficiently numerous to create five additional majority-Black districts in the House Plan. *Id.* ¶¶ 30, 223.¹³ Mr. Esselstyn has also prepared an Illustrative State House Plan (the "Illustrative House Plan") with five additional majority-Black districts—Illustrative House Districts 64, 74, 117, 145, and 149—for a total of 54 majority-Black House districts. *Id.* ¶ 31.¹⁴

Additional expert testimony found in the Record is from Plaintiffs' expert, Dr. Maxwell Palmer, who analyzed the performance of Black-preferred candidates in the Illustrative Plans. *Id.* ¶ 36; see also Doc. No. [20-2], ¶¶ 5-8. There is also evidence in the Record from Plaintiffs' experts, Dr. Orville Vernon Burton, who explored the relationship between race and partisanship in Georgia

¹³ Similar to his assessment of the Enacted Senate Plan, Defendants' expert, Mr. Morgan, does not dispute this conclusion as to the Enacted House Plan, however, it appears that Defendants dispute that the evidence Plaintiffs rely upon (in support of summary judgment) shows that Mr. Morgan agreed that all of the additional districts could be drawn in accordance with traditional redistricting principles. Doc. No. [204], ¶ 41.

¹⁴ The Illustrative Senate Plan and Illustrative House Plan are collectively referred to as the "Illustrative Plans."

politics, and Dr. Loren Collingwood, who examined socioeconomic and political disparities between Black and white Georgia voters. Doc. Nos. [204], ¶ 172; [205-2], ¶ 54; see also Doc. Nos. [191-4]; [191-5].¹⁵

As stated above, the Parties have filed Cross-Summary Judgment Motions, which are now ripe for the Court's consideration.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56(a) provides “[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” A factual dispute is genuine if the evidence allows a reasonable jury to find for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is “material” if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997) (citations omitted).

The moving party bears the initial burden of showing the court, by reference to materials in the record, that there is no genuine dispute as to any

¹⁵ Additional facts may be discussed as necessary in the Analysis section of this Order.

material fact that should be decided at trial. Hickson Corp. v. N. Crossarm Co., 357 F.3d 1256, 1260 (11th Cir. 2004) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The moving party meets its burden merely by “‘showing’ – that is, pointing out to the district court – that there is an absence of evidence to support [an essential element of] the non-moving party’s case.” Celotex Corp., 477 U.S. at 325. In determining whether the moving party has met this burden, the district court must view the evidence and all factual inferences in the light most favorable to the non-moving party. Johnson v. Clifton, 74 F.3d 1087, 1090 (11th Cir. 1996). Once the moving party has adequately supported its motion, the non-movant then has the burden of showing that summary judgment is improper by showing specific facts of a genuine dispute. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The court should resolve all reasonable doubts in the nonmovant’s favor. Fitzpatrick v. City of Atlanta, 2 F.3d 1112, 1115 (11th Cir. 1993). In addition, the court must “avoid weighing conflicting evidence or making credibility determinations.” Stewart v. Booker T. Washington Ins., 232 F.3d 844, 848 (11th Cir. 2000)(citations omitted). When the record could not lead a rational trier of fact to find for the non-moving party, there is no genuine dispute for trial. Fitzpatrick, 2 F.3d at 1115 (citations omitted).

The filing of cross motions for summary judgment “does not give rise to any presumption that no genuine issues of material fact exist.” 3D Med. Imaging Sys., LLC v. Visage Imaging, Inc., 228 F. Supp. 3d 1331, 1336 (N.D. Ga. 2017). Rather, cross motions for summary judgment “must be considered separately, as each movant bears the burden of establishing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law.” Id. (citing Shaw Constructors v. ICF Kaiser Eng’rs, Inc., 395 F.3d 533, 538–39 (5th Cir. 2004)).¹⁶

III. ANALYSIS

Having reviewed the Parties’ briefing, the Court denies both Defendants’ and Plaintiffs’ Motions for Summary Judgment. “Voting rights cases are inherently fact intensive[.]” Nipper v. Smith, 39 F.3d 1494, 1498 (11th Cir. 1994).

This is especially the case for:

[S]ection 2 vote dilution claims alleging that . . . minority voters are denied an equal opportunity to participate in the political process and to elect representatives of their choice. In such cases, courts must conduct a “searching practical evaluation of the ‘past and present reality’” of the electoral system’s operation.

¹⁶ In light of the Parties’ factual disputes, this case does not present one of the “limited circumstances wherein the district court may treat cross-motions for summary judgment as a trial and resolve the case on the merits.” Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs, 775 F.3d 1336, 1345–46 (11th Cir. 2015).

Nipper, 39 F.3d at 1498 (quoting Gingles, 478 U.S. at 45). “Because a claim of voting dilution must be evaluated with a functional, rather than a formalistic, view of the political process, the Supreme Court has emphasized the importance of ‘an intensely local appraisal of the design and impact’ of the electoral structure, practice, or procedure at issue.” Id. (quoting Gingles, 478 U.S. at 79); see also Rogers v. Lodge, 458 U.S. 613, 621 (1982)).

The Court proceeds by first addressing Defendants’ Motion because Defendants move for summary judgment on the Gingles preconditions (and Defendants’ success on any of their arguments would be dispositive). The Court then turns to Plaintiffs’ Motion for Summary Judgment.

A. Defendants’ Motion for Summary Judgment

Defendants move for summary judgment on Plaintiffs’ claim. Doc. No. [190-1]. Defendants first argue that Plaintiffs do not have standing to assert their claim against the SEB because the alleged injury is neither traceable nor redressable by the SEB. Id. at 17-19. Defendants then move for summary judgment on the merits of Plaintiffs’ Section 2 claim arguing that Plaintiffs failed to adduce facts that support the three Gingles preconditions. Id. at 19-34. The Court finds that neither argument is availing.

1. *Plaintiffs' Standing Against SEB Defendants*

Defendants first argue that Plaintiffs failed to adequately assert Article III standing against the SEB. Id. at 17–19. “Standing ‘is the threshold question in every federal case, determining the power of the court to entertain the suit.’” CAMP Legal Def. Fund, Inc. v. City of Atlanta, 451 F.3d 1257, 1269 (11th Cir. 2006) (quoting Warth v. Seldin, 422 U.S. 490, 499 (1975)). Article III of the United States Constitution limits the courts to hearing actual “Cases” and “Controversies.” U.S. Const. art. III § 2; see also Lujan v. Defs. of Wildlife, 504 U.S. 555, 559–60 (1992). Overall, the standing requirement arising out of Article III seeks to uphold separation-of-powers principles and “to prevent the judicial process from being used to usurp the powers of the political branches.” Clapper v. Amnesty Int’l USA, 568 U.S. 398, 408 (2013) (citations omitted).

“Standing is typically determined by analyzing the plaintiff’s situation as of the time the complaint is filed, and subsequent events do not alter standing.” Fair Fight Action, Inc. v. Raffensperger, No. 1:18-CV-5391-SCJ, 2021 WL 9553855, at *3 (N.D. Ga. Feb. 16, 2021) (citing Focus on the Fam. v. Pinellas Suncoast Transit Auth., 344 F.3d 1263, 1275 (11th Cir. 2003) (collecting authorities); Charles H. Wesley Educ. Found., Inc. v. Cox, 408 F.3d 1349, 1352 n.3 (11th Cir. 2005); Johnson

v. Bd. of Regents of Univ. of Ga., 263 11 F.3d 1234, 1267 (11th Cir. 2001)). While standing is generally determined when the plaintiff's complaint is filed, "it must persist throughout a lawsuit." Ga. Ass'n of Latino Elected Offs., Inc. v. Gwinnett Cnty. Bd. of Registration & Elections, 36 F.4th 1100, 1113 (11th Cir. 2022).

To establish standing, a plaintiff must show three things:

First, the plaintiff must have suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Lujan, 504 U.S. at 560–61 (internal quotations, citations, and alterations omitted).

"The party invoking federal jurisdiction bears the burden of establishing standing—and, at the summary judgment stage, such a party can no longer rest on . . . mere allegations, but must set forth by affidavit or other evidence specific facts." Clapper, 568 U.S. at 411–12 (internal quotations and citations omitted); see also Church of Scientology Flag Serv. Org., Inc. v. City of Clearwater, 777 F.2d

598, 607 n.24 (11th Cir. 1985) (noting that standing “is a legal determination based on the facts established by the record”).

Defendants argue that Plaintiffs’ injuries are not fairly traceable to the State Election Board and its members, nor redressable by the SEB. Doc. No. [190-1], 17–19. Defendants do not meaningfully contest that Plaintiffs have alleged an injury-in-fact,¹⁷ that their injuries are fairly traceable to Secretary of State Raffensperger, or that Plaintiffs’ injuries are redressable by Secretary Raffensperger.¹⁸ Accordingly, the Court will now determine whether Plaintiffs

¹⁷ “To demonstrate an injury-in-fact for purposes of a vote dilution claim, Plaintiffs must show that they (1) reside and are registered voters in districts where alleged dilution occurred, and (2) are members of a protected class whose voting strength was diluted.” Rose v. Raffensperger, 511 F. Supp. 3d 1340, 1352 (N.D. Ga. 2021) (citing Broward Citizens for Fair Distrs. v. Broward Cnty., No. 12-60317-CIV, 2012 WL 1110053, at *3 (S.D. Fla. Apr. 3, 2012) (collecting cases)); cf. United States v. Hays, 515 U.S. 737, 744–45 (1995) (“Where a plaintiff resides in a racially gerrymandered district . . . the plaintiff has been denied equal treatment because of the legislature’s reliance on racial criteria, and therefore has standing to challenge the legislature’s action.”). Because the named Plaintiffs reside in the Senate and House districts at issue, Plaintiffs have asserted sufficient injury-in-fact. See Doc. No. [192], ¶¶ 16 (Grant), 22 (Howell), 28 (Tolbert), 31 (James), 35 (Sykes), 37 (Solomon), 41 (Wimbish), 44 (Reynolds), 50 (Bush), 54 (Conner); see also Doc. Nos. [166] (Arbuthnot Dep.); [218] (voter declarations); Section (III)(B)(1) infra (resolving whether Plaintiffs have sufficiently stated a district-specific injury).

¹⁸ Reapportionment litigation is redressable against the Secretary of State. “[T]he Georgia Secretary of State is a necessary party [in challenges to electoral maps] because [h]e is designated by state law as being responsible for administering state-wide elections, and accordingly we cannot require that state-wide elections in Georgia be

have adequately asserted (a) the traceability and (b) the redressability of their injuries to the SEB.

a) Traceability

“To establish causation [for standing,] a plaintiff need only demonstrate, as a matter of *fact*, a fairly traceable connection between the plaintiff’s injury and the complained-of conduct of the defendant.” Cox, 408 F.3d at 1352 (emphasis in original) (internal quotations omitted). An injury is traceable to an election official responsible for the election administration process or for a rule that allegedly caused the plaintiff’s injury. Compare Ga. Ass’n of Latino Elected Offs., Inc., 36 F.4th at 1116 (finding the traceability requirement met when a plaintiff made allegations that a state election official failed to provide bilingual voting materials and information, which caused the organizational plaintiff’s diversion of resources), with Jacobson, 974 F.3d at 1253 (finding no traceability to an election official who was not responsible for the allegedly injurious policy). Establishing traceability is sufficient to establish causation, but only for purposes of standing. See Ga. Ass’n of Latino Elected Offs., Inc., 36 F.4th at 1116.

conducted using constitutional apportionment system in h[is] absence.” Larios v. Perdue, 306 F. Supp. 2d 1190, 1999 (N.D. Ga. 2003).

Defendants argue that Plaintiffs' alleged injuries are not traceable to the SEB and its members because there is "no evidence...that any of the individually named SEB members designed or implement[ed] the maps in any substantive way...." Doc. No. [190-1], 18 n.19. The Court agrees with Defendants that there is no factual evidence in the Record that the SEB takes any direct action in the administrative implementation of Georgia's Enacted Plans. Doc. No. [215], 4 (arguing there is "no authority that the SEB builds ballots or that the SEB plays any role in the counties' implementation of the challenged legislative maps."). Administrative implementation of the maps, however, was not Plaintiffs' requested relief.

Plaintiffs seek to:

[e]njoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the Georgia State Senate districts as drawn in SB 1EX and the boundaries of the Georgia House of Representatives districts as drawn in HB 1EX, including an injunction barring Defendants from conducting any further legislative elections under the current maps.

Doc. No. [118], 37. Plaintiffs argue that "the SEB maintains broad powers and responsibilities...to ensure the fair and orderly administration of elections."

Doc. No. [205], 5. At this stage of the case, this requested relief is broad enough to be traceable to the SEB.

Under Georgia law, the SEB has a statutory duty to “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primary elections.” O.C.G.A. § 21-2-31(2). Georgia law also tasks the SEB with “investigat[ing], or authoriz[ing] the Secretary of State to investigate, when necessary or advisable[,] the administration of primary and election laws and frauds and irregularities in primaries and elections and report violations of the primary and election laws either to the Attorney General or the appropriate district attorney” Id. at § 21-2-31(5). Furthermore, the SEB is “vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with [election code] or prohibiting the actual or threatened commission of any conduct constituting a violation” O.C.G.A. § 21-2-33.1. The Enacted Plans provide that “[t]he provisions of this Act shall be effective for the primary and general elections of 2022 for the purpose of electing members of the Senate who are to take office in 2023. Successors to those members shall likewise be elected under

the provisions of this Act.” See SB 1EX § 2(f).¹⁹ Thus, SB 1EX and HB 1EX are election laws.

Additionally, Georgia law tasks the SEB with oversight authority over the counties. See O.C.G.A. § 21-2-31(1) (“It shall be the duty of the [SEB] . . . [t]o promulgate rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections.”); id. § 21-2-31(2) (“[t]o formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and, upon the adoption of each rule and regulation.”); id. § 21-2-31(5) (“[t]o investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further

¹⁹ The text of HB 1EX states as follows: “[t]he provisions of this Act shall be effective for the primary and general elections of 2022 for the purpose of electing members of the House of Representatives who are to take office in 2023. Successors to those members shall likewise be elected under the provisions of this Act.” See HB 1EX § 2(f).

investigation and prosecution.”). The Court finds that these statutes give the SEB broad statutory authority to oversee the bodies that implement election law. Georgia law assigns to the county board of registrars the “duty of determining and placing the elector in the proper . . . state Senate district [and] state House district.” O.C.G.A. § 21-2-226(b). Thus, a lawsuit seeking to enjoin placing electors in specific House and Senate districts is fairly traceable to the SEB because the SEB has oversight powers over the entities that make such determinations.²⁰

Defendants argue that Jacobson forecloses traceability of Plaintiffs’ alleged injuries to the SEB because the SEB has only “a generalized duty that was insufficient in Jacobson.” Doc. No. [190-1], 18. In Jacobson, the Eleventh Circuit held that the ballot order was not traceable to the Florida Secretary of State, even though she was tasked with the general duty to oversee elections, because the legislature expressly delegated sole authority over ballot creation to an independent body. 974 F. 3d at 1242, 1253–54.

²⁰ The Court also finds that a mixed question of law and fact may exist on this issue. For example, in Fair Fight v. Raffensperger, No. 1:18-cv-5391, 2022 WL 4725887, at * 39 (N.D. Ga. Sept. 30, 2022), this Court cited to both the above-listed statutes and the testimony of Georgia’s former director of elections as proof that the SEB has oversight authority over the counties. To the extent that this determination is a mixed question of law and fact, it is inappropriate to decide it at summary judgment.

Unlike in Jacobson, the SEB does not have just a generalized duty to oversee elections. The SEB has the authority to investigate “irregularities in primaries and elections.” O.C.G.A. § 21-2-31(5). It can hold hearings if it finds such irregularities. Id. at § 21-2-33.1(a). The SEB also has the power to issue orders and penalties to ensure compliance with election laws, rules, and regulations. Id. In essence, the SEB is tasked with ensuring that both general and primary elections are run in accordance with state laws. Additionally, there is no statutory limitation to the SEB’s oversight in districting matters. See generally O.C.G.A. §§ 21-2-31, 21-2-32.

Similarly, Defendants citation to Lewis v. Governor of Ala., 944 F.3d 1287 (11th Cir. 2019) is inapposite. Doc. No. [190-1], 17-18. In Lewis, the plaintiffs created an extra-textual duty for the Alabama Attorney General and then sought to bring a challenge for violation of said duty. Id. at 1297-98. The Eleventh Circuit rejected this theory because the Attorney General “ha[d] no legal duty to inform anyone of anything under these circumstances.” Id. at 1298. In the case *sub judice*, again, the statutes defining the SEB’s power affirmatively create oversight duties over the implementation of election laws. The SEB exercises broad oversight authority over elections laws, which seemingly include SB 1EX, HB 1EX, and

O.C.G.A. § 21-2-226(b). These laws, moreover, have the force and effect of implementing the Enacted Plans about which Plaintiffs complain. Accordingly, the Court is not persuaded by Defendants' reliance on Lewis and concludes for purposes of summary judgment that Plaintiffs' injuries are fairly traceable to the SEB and its members.

Plaintiffs challenge the implementation and use of the allegedly unlawful Enacted Plans, over which the SEB has statutory oversight authority. The Court finds that the alleged injury is thereby fairly traceable to the SEB Defendants for purposes of standing.

b) Redressability

An injury is redressable when "a decision in a plaintiff's favor would significantly increase the likelihood that she would obtain relief." Lewis, 944 F.3d at 1301 (cleaned up). That is true so long as the Court's judgment may remedy the plaintiff's injury, "whether directly or indirectly." Id. (quotation marks omitted); see also Ga. Ass'n of Latino Elected Offs., 36 F.4th at 1116 (stating it must be "likely," not merely "speculative," that the alleged injury will be redressed by a favorable decision). Thus, if a state election official lacks the authority to redress the alleged injury, the Court cannot enter a judgment to

remedy the plaintiff's injury, and the plaintiff lacks standing. See, e.g., Jacobson, 974 F.3d at 1269 (finding the plaintiffs lacked standing because the defendant election official did not control the complained-of ballot-listing injury, which meant she could not redress the alleged injury).

The Court finds in the case *sub judice* that Plaintiffs' alleged injury is redressable by the SEB. First, the Court must determine "whether a decision in [Plaintiffs'] favor would 'significant[ly] increase . . . the likelihood' that [they] 'would obtain relief that directly redresses the injury' that [they] claim[] to have suffered." Lewis, 944 F.3d at 1301 (quoting Harrell v. Fla. Bar, 608 F.3d 1241, 1260 n.7 (11th Cir. 2010)). "Second, 'it must be *the effect of the court's judgment on the defendant*'—not an absent third party—"that redresses the plaintiff's injury, whether directly or indirectly.'" Id. (citing Dig. Recognition Network, Inc. v. Hutchinson, 803 F.3d 952, 958 (8th Cir. 2015)).

The Enacted Plans are election laws that affect both general elections and primaries. Plaintiffs ask the Court to enjoin Defendants from enforcing or giving any effect to the boundaries in the Enacted Plans. Doc. No. [118], 37. The SEB has the authority to ensure compliance with the implementation of the Enacted Plans by passing rules or regulations regarding its implementation, conducting

hearings and investigations on failures to implement, and issuing sanctions to ensure compliance with the law. See Section III(A)(1)(a) supra. Because the Court can enjoin the SEB from taking any of these actions with respect to the current Enacted Plans, the Court finds that the injuries are redressable by the SEB.

* * * * *

The Court finds that Plaintiffs adequately asserted Article III standing with respect to the SEB. Plaintiffs have alleged an injury based upon allegedly unlawful Enacted Plans, the injury is fairly traceable to the SEB under various Georgia statutes, and the Court can award a remedy that is redressable by the SEB. The Court acknowledges that Plaintiffs have not pointed to any factual evidence of the SEB's direct actions in implementing or passing the Enacted Plans at issue. However, under the broad language of the aforementioned Georgia statutes and making all inferences in the light most favorable to the non-moving

party,²¹ the SEB is not “entitled to judgment as a matter of law.”²² Fed. R. Civ. P. 56(a).

2. Gingles Preconditions

Turning to Defendants’ merits arguments, the Court concludes that Defendants have not shown they are entitled to summary judgment, as a matter of law, on the undisputed facts as it relates to the three Gingles preconditions.

Section 2 of the VRA provides:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).

²¹ In reviewing a motion for summary judgment, the Court considers the evidence in the light most favorable to the non-movant. Centurion Air Cargo, Inc. v. United Parcel Serv. Co., 420 F.3d 1146, 1149 (11th Cir. 2005). Thus, in stating the facts, we afford Plaintiffs, the non-movants, all credibility choices and the benefit of all reasonable inferences the facts in the Record yield. Latimer v. Roaring Toyz, Inc., 601 F.3d 1224, 1237 (11th Cir. 2010).

²² Assuming *arguendo* that Plaintiffs lack standing to challenge the SEB, this Action would proceed against the Secretary of State. Because the Secretary of State is responsible for administering the elections, the Court can “enjoin the holding of elections pursuant to the [Enacted Plans] (assuming, of course, that the [Enacted P]lan[s] [] in fact [violate Section 2]) and subsequently require elections to be conducted pursuant to a [legal] apportionment system” Larios, 306 F. Supp. 2d at 1199; see also n.16 supra.

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

52 U.S.C. § 10301(a)–(b).

In order to prevail on a Section 2 claim, Plaintiffs must satisfy three “preconditions.” Gingles, 478 U.S. at 50. First, the “minority group must be sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district” Wisc. Legis. v. Wisc. Elections Comm’n, 595 U.S.---, 142 S. Ct. 1245, 1248 (2022) (per curiam) (citing Gingles, 478 U.S. at 50–51). “A district will be reasonably configured, our cases explain, if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 143 S. Ct. at 1503 (citing Ala. Legis. Black Caucus

v. Alabama, 575 U.S. 254, 272 (2015)).²³ “Second, the minority group must be able to show that it is politically cohesive.” Gingles, 478 U.S. at 51. And third, “the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it . . . to defeat the minority’s preferred candidate.” Id.

Finally, a plaintiff who demonstrates the three preconditions must also show, under the “totality of circumstances,” that the political process is not “equally open” to minority voters. Id., at 45–46; see also id., at 36–38 (identifying several factors relevant to the totality of circumstances inquiry).

a) First Gingles Precondition

Under the first Gingles precondition, the “minority group must be sufficiently large and [geographically] compact to constitute a reasonably configured district.” Wisc. Legis., 142 S. Ct. at 1248. “A district will be reasonably configured . . . if it comports with traditional districting criteria, such as being

²³ In supplemental briefing, Defendants “agree with how Justice Alito proposes to address [racial predominance].” Doc. No. [228], 11. That is Defendants argue that a “plaintiff must ‘show at the outset that such a[n additional majority-minority] district can be created without making race the predominant factor in its creation.’” Id. at 11 (alteration in original) (quoting Allen, 143 S. Ct. at 1551 (Alito, J., dissenting)). To the extent that Defendants argue that Plaintiffs must show, as part of the first Gingles precondition that race did not predominate the drawing of the Illustrative Plans, the Court agrees. The Court, however, declines to adopt the test as defined in Justice Alito’s dissent in *toto*.

contiguous and reasonably compact.” Allen, 143 S. Ct. at 1503 (citing Ala. Legis. Black Caucus, 575 U.S. at 272). To determine whether Plaintiffs have met the numerosity and compactness requirements, the Court must evaluate the specific challenged district and not the state as a whole. Cf. Ala. Legis. Black Caucus, 575 U.S. at 268 (“[T]he [d]istrict [c]ourt’s analysis of racial gerrymandering [under the Equal Protection Clause] of the State ‘as a whole’ was legally erroneous.”).²⁴

Defendants make a number of arguments pertaining to the first Gingles precondition. The Court addresses these arguments as follows: (1) whether Mr. Esselstyn allowed race to predominate his drawing of the Illustrative Plans, (2) if the Proposed Districts are sufficiently compact, and (3) if the Illustrative Plans could operate as a remedial plan.

(1) *Racial predominance*

First, the Court rejects Defendants’ argument that Mr. Esselstyn’s use of racial shading alone is fatal to Plaintiffs’ claim. Defendants argue that because the Legislature could not have used racial shading when it drew the Enacted

²⁴ Although Alabama Legislative Black Caucus concerned constitutional redistricting challenges, the Supreme Court applied its analysis to a Section 2 challenge in Allen, 143 S. Ct. at 1503, 1519.

Plans, Plaintiffs' expert likewise is precluded from using racial shading when drawing the Illustrative Plans. Doc. No. [190-1], 19-21; see also Doc. No. [228], 8 ("If the legislature had used racial shading, did not use political data, and drew without reviewing any public comments, it would be accused of racial gerrymandering.").²⁵

Precedent establishes that the Court is to evaluate whether race impermissibly *predominated* the drawing of the Illustrative Plans, or whether the Illustrative Plans are simply race conscious. "The contention that mapmakers must be entirely 'blind' to race has no footing in our § 2 case law. The line that we have long drawn is between consciousness and predominance." Allen, 143 S. Ct. at 1512 (plurality opinion). Defendants' argument, however, conflicts

²⁵ Whether Defendants are accused of racial gerrymandering or if the Enacted Plans are, in fact, gerrymandered, constitute two different inquiries. The Supreme Court acknowledged that a State's awareness of race when it draws its districts is not *per se* racial gerrymandering. "[W]e have assumed that compliance with the VRA may justify the consideration of race in a way that would not otherwise be allowed . . . complying with the VRA is a compelling state interest, and that a State's consideration of race in making a district decision is narrowly tailored and thus satisfies strict scrutiny." Abbott, 135 S. Ct. at 2315. "[T]he legislature always is *aware* of race when it draws district lines That sort of race consciousness does not lead inevitably to impermissible race discrimination." Shaw v. Reno, 509 U.S. 630, 646 (1993) (emphasis in original). Thus, because the State is not prohibited from reviewing race when it draws its legislative maps, neither is Plaintiffs' expert in drawing illustrative maps to satisfy the first Gingles precondition.

with this existing precedent. See also Davis v. Chiles, 139 F.3d 1414, 1425–26 (11th Cir. 1998) (finding clear error with the district court’s finding of racial predominance based on an expert’s testimony that he was asked to draw additional majority-minority districts in an area with a high concentration of Black citizens).

The Court finds that material disputes of fact exist over whether race predominated the drawing of the Illustrative Plans. Mr. Esselstyn testified that he may have used his map-drawing software’s racial shading feature when drafting his Illustrative Plans. See Doc. No. [179] (“Esselstyn Dep. Tr.”), Tr. 85:1–5 (“Q: Did you turn on racial shading or features to determine where [B]lack voters were located as part of your initial process of deciding where to begin? A: I don’t recall. Maybe.”); id. at 220:7–10 (“And you mentioned that you have used that [racial] shading, including in the development of your illustrative plans, correct? A: Correct.”).

When questioned about whether race predominated Mr. Esselstyn’s decision making when drawing his Illustrative Plans, he testified that it did not:

Q: When you – when you had that shading function toggled and you could see it, did you use the information that that shading provided—did that information predominate in any given line drawing decision you

made when you were preparing you[r] illustrative maps?

A: No, it did not

Q: Were you—did any one factor predominate in the drawing of either you[r] State Senate or House illustrative maps?

A: No.

Q: Did race predominate in the drawing of your illustrative State Senate and House maps?

A: No.

Q: Were you ever instructed to maximize the number of majority [B]lack districts in either the State Senate or House map?

A: I was not

Q: So when you're using the phrase traditional redistricting principles there, you're referring to the principles outlined in the Georgia General Assembly's guidelines involving redistricting?

A: Yes, mostly. The one that they did not identify that I did consider was minimizing changes to the adopted map. I could have drawn a plan that was not based on the adopted map, but I opted to use one that was using what might be called a principle of continuity or core preservation trying to keep elements of the previous plan, the -- the predecessor plan, if you will, to keep modifications, too -- well, I was going to say to a minimum, but of course, with all the other

considerations it's -- it's one of the things that's being considered.

Id. 221:1-7; 228:20-229:5; 85:21-86:12.

In summary, Mr. Esselstyn testified that he was aware of race, and it was one factor in his line-drawing process, but race did not predominate over traditional redistricting principles when he drew his Illustrative Plans. He testified that when drawing the Illustrative Plans, he took into account a variety of factors, including those used by the Georgia Legislature. Mr. Esselstyn's awareness of race, in conjunction with his evaluation of traditional redistricting principles is consistent with Eleventh Circuit precedent. The Eleventh Circuit held:

[P]recedent[] *require[s]* plaintiffs to show that it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate. To penalize [plaintiff], as the district court has done, for attempting to make the very showing . . . would be to make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action.

Davis, 139 F.3d at 1425 (emphasis in original).

Moreover, Mr. Esselstyn's racial awareness is distinguishable from Miller v. Johnson, 515 U.S. 900, 919 (1995). In Miller, there was evidence that under the

former preclearance regime, the Department of Justice (“DOJ”) rejected Georgia’s congressional plan because there were not enough majority-minority districts. Id. at 906-07. A DOJ line attorney testified that during the preclearance process, he took “[a] map of the State of Georgia shaded for race, shaded by minority concentration, and overlaid the districts that were drawn by the State of Georgia and [saw] how well those lines adequately reflected [B]lack voting strength.” Id. at 925 (citing Johnson v. Miller, 864 F. Supp. 1354, 1362 n.4 (S.D. Ga. 1994)). Georgia’s representatives testified that they redrew the offending district to comply with the DOJ’s preclearance determination. Miller, 515 U.S. at 918-19. The Supreme Court found a Fourteenth Amendment violation and expressly rejected the DOJ’s “maximization policy” that was used to draw the districts in Miller. Id. at 926-27. Having the benefit of a fully developed trial record, factual findings, and credibility determinations, the Supreme Court found that race predominated the drawing of the district in Miller.

At this stage of the instant case, however, Record evidence indicates that Mr. Esselstyn may have been aware of racial demographics when drafting the Illustrative Plans, but he also testified that he considered traditional redistricting principles and did not let race predominate. Doc. No. [206-1] (“Esselstyn Rep.”)

¶¶ 26, 63; Esselstyn Dep. Tr. 221:1-7; 228:20-229:5. Because the awareness of racial demographics is not *per se* impermissible, any determination that race predominated the drawing of the Proposed Districts turns on Mr. Esselstyn's credibility. On summary judgment, such credibility determinations are inappropriate, and thereby the Court denies Defendants' Motion.

(2) *Compactness factors*

Second, Defendants have not shown they are entitled to summary judgment on the compactness inquiry because there is Record evidence that the minority populations in the Proposed Districts are compact. "Under § 2 . . . the compactness inquiry considers 'the compactness of the minority population, not . . . the compactness of the contested district.'" League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 408 (2006) ("LULAC") (quoting Bush v. Vera, 517 U.S. 952, 997 (1996)). A district that "reaches out to grab small and apparently isolated minority communities" is not reasonably compact. Id. (citing Vera, 517 U.S. at 979).

Defendants argue that "Plaintiffs have presented no evidence of the geographic compactness of the Black community in the proposed new districts aside from the fact that they can be drawn." Doc. No. [190-1], 20. The Court

disagrees. There is Record evidence about the compactness of the APBVAP in the Proposed Districts that is sufficient to defeat Defendants' Motion for Summary Judgment. The relevant factors for compactness under the first Gingles precondition include population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respect for political subdivisions, and uniting communities of interest. See Reynolds, 377 U.S. at 598 (population equality); LULAC, 548 U.S. at 433 (communities of interest); Vera, 517 U.S. at 959–60 (contiguity, eyeball test); Cooper v. Harris, 581 U.S. 285, 291, 312 (2017) (political subdivisions, partisan advantage, empirical compactness measures).

(a) objective compactness factors

The Court finds that there is Record evidence about the objective compactness factors. It is undisputed that all of the districts in the Illustrative Plans are contiguous. Doc. No. [189-2] ¶¶ 50; 67. Additionally, Mr. Esselstyn's Report states that under the General Assembly's guidelines, the permissible population equality threshold for legislative districts is $\pm 5\%$. Esselstyn Rep., ¶ 34. It is undisputed that no district in the Illustrative Plans has a population deviation of more than 2%. Doc. No. [189-2], ¶¶ 48, 65. The average population

deviation of the Illustrative Senate Plan is 0.67% as opposed to the Enacted Senate Plan, which is 0.53%. Doc. No. [189-2], ¶ 49. The average population deviation of the Enacted House Plan is 0.61% and is 0.64% for the Illustrative House Plan. Id. ¶ 66.

Finally, Mr. Esselstyn's Report details the comparative compactness scores²⁶ between the relevant districts in the Enacted Plans and the Proposed Districts.²⁷ Therefore, the Court finds that there is evidence in the Record about

²⁶ Mr. Esselstyn utilized the Reock test and Polsby-Popper test to assess the numerical compactness of his districts. "The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact." Alpha Phi Alpha, 587 F. Supp. 3d at 1275 n.24. "The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi \text{Area} / (\text{Perimeter}^2)$. The measure is always between 0 and 1, with 1 being the most compact." Id. at n.26.

²⁷ As of December 3, 2022, Enacted SD-23 has a Reock score of 0.37 and Polsby-Popper score of 0.16; Illustrative SD-23 has a Reock score of 0.34 and a Polsby-Popper score of 0.17; Enacted SD-25 has a Reock score of 0.39 and Polsby-Popper score of 0.24; Illustrative SD-25 has a Reock score of 0.57 and a Polsby-Popper score of 0.34. Enacted SD-28 has a Reock score of 0.45 and Polsby-Popper score of 0.25; Illustrative SD-28 has a Reock score of 0.38 and a Polsby-Popper score of 0.19. Doc. No. [191-1], 81-82; 88-89.

As of December 3, 2022, Enacted HD-64 has a Reock score of 0.37 and Polsby-Popper score of 0.36; Illustrative HD-64 has a Reock score of 0.22 and a Polsby-Popper score of 0.22; Enacted HD-74 has a Reock score of 0.50 and Polsby-Popper score of 0.25; Illustrative HD-74 has a Reock score of 0.30 and a Polsby-Popper score of 0.19; Enacted HD-117 has a Reock score of 0.41 and Polsby-Popper score of 0.28; Illustrative HD-117 has a Reock score of 0.40 and a Polsby-Popper score of 0.33; Enacted HD-145 has a Reock

the compactness of the Proposed Districts. A determination on whether the Proposed Districts are, in fact, compact cannot be decided as a matter of law; it is a question of fact that the Court cannot resolve on summary judgment.

Despite this evidence, Defendants advance arguments challenging the numerosity and relative compactness of the Proposed Districts in comparison to the Enacted Plans. Doc. No. [190-1], 20-21. Defendants argued that “[l]ike the Senate plan, these differing metrics are not how the Allen illustrative plans were configured [The Illustrative Plans] are thus categorically different than the plans in Allen.” Doc. No. [228], 11. The Court acknowledges that the Illustrative Plans differ from those in Allen. However, the precedent makes clear that questions about redistricting under Section 2 are “‘intensely local appraisal[s] of the design and impact’ of the contested electoral mechanisms.” Gingles, 478 U.S. at 79 (quoting Rogers, 458 U.S. at 621-22). The three-judge court in Allen concluded that the proposed district satisfied the first Gingles precondition after it evaluated facts and made credibility determinations. Allen, 143 S. Ct. at 1504.

score of 0.38 and Polsby-Popper score of 0.19; Illustrative HD-145 has a Reock score of 0.34 and a Polsby-Popper score of 0.21; Enacted HD-149 has a Reock score of 0.32 and Polsby-Popper score of 0.22; Illustrative HD-149 has a Reock score of 0.46 and a Polsby-Popper score of 0.28. Doc. No. [191-1], 140, 141, 144, 146; 156, 157, 160, 162.

At this stage, the Court cannot make a factual finding that the Proposed Districts are not compact by using the objective compactness measures.

(b) eyeball test

The eyeball test is commonly utilized to determine if a district is compact or not. See Allen, 143 S. Ct. at 1528 n.10 (quoting Singleton v. Merrill, 582 F. Supp. 3d 924, 1011 (N.D. Ala. 2022)) (crediting the district court’s findings that the illustrative maps were compact because they did not contain “tentacles, appendages, bizarre shapes or any other obvious irregularities.”). The use of any “eyeball test” to assess irregularities, however, is necessarily a matter for the factfinder. See Ala. State Conf. of NAACP v. Alabama, 612 F Supp. 3d 1232, 1266 (M.D. Ala. 2020); Comm. For a Fair and Balanced Map v. Ill. State Bd. of Elections, 835 F. Supp. 2d 563, 570 (N.D. Ill. 2011). Thus, questions of fact remain that cannot be resolved on summary judgment.

(c) communities of interest or combinations of disparate communities

Defendants also argue that “Plaintiffs’ experts . . . could not identify communities beyond race when preparing the maps that united disparate communities of Black voters.” Doc. No. [190-1], 4. Specifically, Defendants argue

that Mr. Esselstyn was unable to identify specific counties in the Black Belt and did not strictly adhere to those county lines when drafting his Illustrative Plans. Doc. No. [204], ¶¶ 10–12, 26, 28, 35. Again, this dispute as to whether the Illustrative Plans unite communities of interest or simply combine disparate communities must be resolved by a factfinder and cannot be decided on a motion for summary judgment.

The case law is not clear about what constitutes a community of interest. In LULAC, the Supreme Court noted, “[w]hile no precise rule has emerged governing § 2 compactness, the inquiry should take into account traditional redistricting principles such as maintaining communities of interest and traditional boundaries.” LULAC, 548 U.S. at 433 (cleaned up) (quoting Abrams v. Johnson, 521 U.S. 74, 92 (1992)). The Court went on to reason that “in some cases members of a racial group in different areas—for example, rural and urban communities—could share similar interests and therefore form a compact district if the areas are in reasonably close proximity.” Id. at 435 (citing Abrams, 521 U.S. at 111–12 (Breyer, J., dissenting)). However, race being the only uniting factor between Latino communities that are 300-miles apart, without more, was not a

sufficient compactness finding under Section 2. Id. “The mathematical possibility of a racial bloc does not make a district compact.” Id.²⁸

Although a definitive test has not emerged, it is abundantly clear that the determinations about communities of interest are questions of fact. Most recently, in Allen, the Court credited the district court’s factual finding that Alabama’s Black Belt could be a community of interest. Allen, 143 S. Ct. at 1505 (citing Singleton, 582 F. Supp. 3d at 1015) (“The District Court understandably found [State witness’s testimony about a community of interest] insufficient to sustain Alabama’s ‘overdrawn argument that there can be no legitimate reason to split’ the Gulf Coast region.”). Similarly, the Court in LULAC emphasized that the district court needed and failed to make a factual finding about the compactness of the challenged district. 548 U.S. at 433–35. Without the benefit of trial evidence or the ability to weigh the Record evidence, the Court clearly cannot heed the Supreme Court’s guidance in making these necessary factual determinations.

²⁸ Factors that have been considered by Courts in the past include: socio-economic status, education, employment and health. LULAC, 548 U.S. at 432 (quoting the district court’s decision). Other considerations may include shared media sources, public transportation infrastructure, schools, and places of worship. Vera, 514 U.S. at 964.

(3) *Proposed Remedy*

Finally, Defendants argue that they are entitled to summary judgment because the Illustrative Plans cannot be ordered as a remedy. Doc. Nos. [190-1], 20; [215], 8. Defendants state: “[i]n short, if a plaintiff cannot show that the plan used to demonstrate the first prong can be a proper remedy, the plaintiff has not shown compliance with the first prong of Gingles.” Doc. No. [190-1], 20. Plaintiffs respond by arguing that that their map need not win a “beauty contest,” but they need only to show that their proposed districts are reasonably compact. Doc. No. [205], 13. Although not abundantly clear, it seems that Defendants argue that the Illustrative Plans cannot be used as a remedy because (1) they do not comply with traditional redistricting principles and (2) the non-challenged districts do not comply with Gingles’ compactness requirements. Doc. No. [215], 7–9.

For these arguments in particular, Defendants rely on the Eleventh Circuit’s Nipper decision. In Nipper, the Eleventh Circuit held that “the first threshold factor of Gingles [] require[s] that there must be a remedy within the confines of the state’s judicial model that does not undermine the administration of justice.” 39 F.3d at 1531 (plurality opinion). The Eleventh Circuit later clarified that “[t]his requirement simply serves ‘to establish

that the minority has the potential to elect a representative of its own choice from some single-member district.” Burton v. City of Belle Glade, 178 F.3d 1175, 1199 (11th Cir. 1999) (quoting Nipper, 39 F.3d at 1530). Additionally, “if a minority cannot establish that an alternate election scheme exists that would provide better access to the political process, then the challenged voting practice is not responsible for the claimed injury.” Id; see also Brooks v. Miller, 158 F.3d 1230, 1239 (11th Cir. 1998) (holding that “[i]f the plaintiffs in a § 2 case cannot show the existence of an adequate alternative electoral system under which the minority group’s rights will be protected, then the case ends on the first prerequisite.”).

Under Nipper, the question of remedy relies on whether the alternate scheme is a “workable remedy within the confines of the state’s system of government.” 39 F.3d at 1533. For example, in Wright v. Sumter Cnty. Bd. of Elections and Registration, 979 F.3d 1282, 1304 (11th Cir. 2020), the Eleventh Circuit found that the first Gingles precondition had been met because the special master’s maps showed that at least three majority-[B]lack districts could have been drawn in that area, meaning “that a meaningful remedy was available.”

As to the first argument, the Court cannot determine, as a matter of law, that the Black community is not sufficiently compact in the challenged districts. See Section III(A)(2)(a)(2) supra.

As to the second argument, contrary to Defendants' assertions, as a matter of law, Plaintiffs do not have to prove that all districts in the Illustrative Plans are compact. "To be sure, § 2 does not forbid the creation of a noncompact majority-minority district." LULAC, 548 U.S. at 430 (citing Vera, 517 U.S. at 999 (Kennedy, J., concurring)). "Simply put, the State's creation of an opportunity district for those without a § 2 right offers no excuse for its failure to provide an opportunity district for those with a § 2 right." Id.; see also id. at 430–31 ("[S]ince there is no § 2 right to a district that is not reasonably compact, the creation of a noncompact district does not compensate for the dismantling of a compact opportunity district.") (citing Abrams, 521 U.S. at 91–92)). The Court understands LULAC and Vera to mean that in order for there to be a Section 2 remedy, a plaintiff must show that it is possible to create a compact majority-minority district. However, if an affected majority-minority district is not remedial under Section 2, this compactness inquiry is not required.

The Eleventh Circuit's case law seems to suggest that so long as the legislature could implement the Illustrative Plans, within the confines of state law, without undermining the administration of justice, then it has provided an available remedy. Burton, 178 F3d at 1199; Wright, 979 F.3d at 1304. Because it is permissible for the Legislature to draw non-compact districts when those districts are not Section 2 remedial districts, Defendants' remedy argument on that basis fails as a matter of law. Thus, the Court rejects Defendants' argument that the Illustrative Plans cannot be ordered as a remedy because districts other than the Proposed Districts do not comply with Gingles. LULAC, 548 U.S. at 430; Bush, 517 U.S. at 999.²⁹

²⁹ Assuming *arguendo* that Nipper requires Plaintiffs to produce evidence that all districts in the Illustrative Plans are reasonably compact and comply with traditional redistricting principles, the Court finds that material disputes of fact persist. For example, Plaintiffs disputed the contention that "Mr. Esselstyn also made changes to Senate District 35 that connected more-rural areas of Paulding County to Fulton County." Doc. No. [205-1], ¶ 73. In his deposition, Mr. Esselstyn testified that Illustrative Senate District 35 placed Douglas County in one district and confirmed that the district connected parts of south Paulding County with portions of Fulton County. Esselstyn Dep. Tr. 155:12-156:13. When asked if he was aware of any connection between Paulding County and Fulton County, Mr. Esselstyn testified about a "sense they would be considered generally part of metro Atlanta." *Id.* at 156:1-4. The Court finds that Mr. Esselstyn's explanation creates a genuine fact dispute of whether Illustrative SD-35 violates traditional redistricting principles. A determination over whether these considerations show that race did or did not predominate the drawing of Mr. Esselstyn's Illustrative Plans are questions of credibility, which are inappropriate at

* * * * *

In sum, the Court concludes that there are material disputes of fact as to whether race predominated when Mr. Esselstyn drew the Illustrative Plans and whether he respected traditional redistricting principles. The Court cannot decide these disputes as to the first Gingles precondition on summary judgment.

b) Second and Third Gingles Preconditions

Likewise, the Court denies Defendants' Motion for Summary Judgment as to second and third Gingles preconditions. The second Gingles precondition requires Plaintiffs show that "the minority group . . . is politically cohesive" and the third precondition requires Plaintiffs show that "the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances . . . usually to defeat the minority's preferred candidate." Gingles, 478 U.S. at 51.

(1) *Required showing for the second and third Gingles preconditions*

As the Court ruled in its Preliminary Injunction Order, the second and third Gingles preconditions require only that Plaintiffs show that minority-voter

the summary judgment phase of the case.

political cohesion and racial bloc voting exists, not the reason for its existence. Alpha Phi Alpha, 587 F. Supp. 3d at 1303 (“The Court concludes as a matter of law that, to satisfy the second Gingles precondition, Plaintiffs need not prove the causes of racial polarization, just its existence.”); id. at 1312 (“[T]he third precondition involves the same evaluation as to the voting preferences of the majority groups as the second precondition does for the minority group.”).

Defendants advance four purely legal arguments. First, Defendants argue that Plaintiffs must prove that race, not partisanship, explains racial bloc voting and minority-voter political cohesion under the second and third Gingles preconditions. Doc. No. [190-1], 21–32. Second, Defendants argue that a failure to show that race and partisanship caused racial bloc voting is not congruent and proportional to the Fifteenth Amendment (i.e., the constitutional authority supporting Section 2 of the VRA). Id. at 32–34. Third, Defendants argue that Plaintiffs must show the racial group’s voting patterns in relation to the race of the *candidate*. Hearing Tr. 87:25–88:7. Finally, Defendants argue that the holdings in Mobile v. Bolden, 446 U.S. 55 (1980) and Whitcomb v. Chavis, 403 U.S. 124 (1971) require the Court to evaluate the causes of the racial polarization at the preconditions phase. Doc. No. [228], 11–19.

(a) Cause of race-based voting

As for the first argument—that “th[e] Court should require proof of racial bloc voting as part of the third Gingles factor” (Doc. No. [190-1], 29–30)—Defendants argue that the Court should be able to decide this at the Gingles preconditions phase, rather than at the totality of the circumstances (i.e., Senate Factors) phase, because “the analysis is ultimately the same.” Id. As was the case in the Preliminary Injunction Order, the Court disagrees. Precedent establishes that evaluating the reasons behind racial bloc voting and minority political cohesion is inappropriate at the Gingles preconditions phase.

The Gingles plurality concluded, “the reasons [B]lack and white voters vote differently have no relevance to the central inquiry of § 2. By contrast, the correlation between race of voter and the selection of certain candidates is crucial to that inquiry.” Gingles, 478 U.S. at 63. Only three other Justices joined this portion of Justice Brennan’s opinion. However, four other Justices likewise found that the reasons for minority political cohesion and racial bloc voting are not relevant in establishing the Gingles preconditions. Justice O’Connor wrote:

[i]nsofar as statistical evidence of divergent racial voting patterns is admitted solely to establish that the minority group is politically cohesive and to assess its prospects for electoral success, I agree that defendants cannot rebut

this showing by offering evidence that the divergent racial voting patterns may be explained in part by causes other than race, such as an underlying divergence in the interests of minority and white voters.

Gingles, 478 U.S. at 100 (O'Connor, J., concurring). Justice White is the only Justice to suggest that the Court should consider the race of the candidates in addition the race of the voter at the precondition phase. Id. at 83 (White, J., concurring).

Although only a plurality of the Justices signed onto Justice Brennan's analysis regarding proof of racial bloc voting and minority voter cohesion, all but one Justice agreed that the reasons that Black voters and white voters vote differently is irrelevant to meeting the second and third Gingles preconditions. Thus, the second and third Gingles preconditions can be established by the mere existence of minority group political cohesion and majority voter racial bloc voting. See Chisom v. Roemer, 501 U.S. 380, 404 (1991) ("Congress made clear that a violation of § 2 could be established by proof of discriminatory results alone.").

Most recently, the Supreme Court confirmed that the Section 2 analysis is an effects test. "[F]or the last four decades, this Court and the lower federal courts have repeatedly applied the effects test of § 2 as interpreted in Gingles and, under

certain circumstances, have authorized race-based redistricting as a remedy for state districting maps that violate § 2.” Allen, 143 S. Ct. at 1516–17. Although Justice Brennan’s language regarding the “effects test” in Gingles, is a part of the plurality, the Supreme Court, in Allen, made clear that Section 2, requires Plaintiffs to prove only the effects of racially polarized voting and minority voter political cohesion at the Gingles preconditions phase, not its causes. Id.

Eleventh Circuit precedent also supports the conclusion that Plaintiffs are not required to prove that race caused racial bloc voting or minority voter cohesion to satisfy the second and third Gingles preconditions. Judge Tjoflat’s plurality opinion in Nipper explained:

Proof of the second and third Gingles factors—demonstrating racially polarized bloc voting that enables the white majority usually to defeat the minority’s preferred candidate—is circumstantial evidence of racial bias operating through the electoral system to deny minority voters equal access to the political process.

39 F.3d at 1524 (plurality opinion). Nipper did not require the plaintiffs to prove that race was the cause of the second and third Gingles preconditions or disprove that another reason could account for the polarization. Rather, Judge Tjoflat went on to opine that “[t]he defendant may rebut the plaintiff’s evidence by

demonstrating the absence of racial bias in the voting community; for example, by showing that the community's voting patterns can be best explained by other, non-racial circumstances." Id.

Following Nipper, the Eleventh Circuit clarified the appropriate test for finding a Section 2 violation. First, the plaintiff:

must, at a minimum, establish the three now-familiar Gingles factors Proof of these three factors does not end the inquiry, however This is because it is entirely possible that bloc voting (as defined by Gingles) could exist, but that such bloc voting would not result in a diminution of minority opportunity to participate in the political process and elect representatives of the minority group's choice To aid courts in investigating a plaintiff's Section 2 claims, the Gingles court identified other factors that may, in the "totality of the circumstances," support a claim of racial vote dilution.

Solomon v. Liberty Cnty. Comm'rs, 221 F.3d 1218, 1225 (11th Cir. 2000). Thus, it is firmly established in both Supreme Court and Eleventh Circuit precedent that Plaintiffs do not have to prove the causes of polarized voting at the preconditions phase of a Section 2 claims.³⁰

³⁰ Defendants also argue that the Eleventh Circuit in Greater Birmingham Ministries v. Sec'y of State of Ala., 992 F.3d 1299, 1329-30 (11th Cir. 2021) created a causation requirement as a part of the second and third Gingles preconditions.

In summary, eight Supreme Court Justices agreed that the second and third Gingles preconditions do not require Plaintiffs to prove that race is the cause of the minority group's political cohesion or racial bloc voting. In Allen, the Supreme Court confirmed that Section 2 is an effects test. 143 S. Ct. at 1516–17. Following Gingles, the Eleventh Circuit in both Nipper and again in Solomon confirmed that the question of potential reasons for vote dilution is relevant to the totality of the circumstances phase of the case, not in regard to the Gingles preconditions.³¹

Doc. No. [190-1], 25. The quoted portion of Greater Birmingham discusses causation, however, the language is found in the totality of the circumstances analysis and discussion of the ultimate burden of proof, not in the preconditions portion. 992 F.3d at 1332 (holding plaintiffs “ma[d]e no mention of the three ‘necessary preconditions’ and . . . they ‘ma[d]e no attempt to articulate the existence of . . . minority cohesion or bloc voting, and majority bloc voting.’”) Accordingly, the Court finds that Greater Birmingham is not instructive as to Plaintiffs’ burden for establishing the Gingles preconditions.

³¹ The Court further rejects Defendants’ efforts to distinguish the aforementioned binding authority with citations to non-binding cases. Defendant first cites Vecinos De Barrio Uno v. City of Holyoke, 72 F.3d 973, 983 (1st Cir. 1995). Doc. No. [190-1], 28. In Uno, however, the First Circuit, likewise, did not require plaintiffs to disprove partisanship as a part of the Gingles preconditions. It held that “the second and third preconditions are designed to assay whether racial cleavages in voting patterns exist and, if so, whether those cleavages are deep enough to defeat minority-preferred candidates time and again.” Id. Once these preconditions are proven, they “give rise to an inference that racial bias is operating through the medium of the targeted electoral structure to impair minority political opportunities.” Id.

Defendants also cite to a non-binding Fifth Circuit case. Doc. No. [190-1], 28–29

To be clear, Defendants' partisanship argument may be relevant to whether the political process is equally open to minority voters, but it is not dispositive. At no point do Plaintiffs have the *burden* of proving the causes behind a lack of equal opportunity to participate in the political process. Allen, 143 S. Ct. at 1507 ("[W]e have reiterated that § 2 turns on the presence of discriminatory effects, not discriminatory intent."); see also id. ("[T]he Gingles test helps determine whether th[e] possibility . . . that the State's map has a disparate effect on account of race . . . is reality by looking to the polarized voting

(citing League of United Latin American Citizens v. Clements, 999 F.2d 831, 855 (5th Cir. 1993)). In Clements, the Fifth Circuit took an opposite approach, finding it "difficult to see how the record in this case could possibly support a finding of liability" when "Plaintiffs [had] not even attempted to establish proof of racial bloc voting by demonstrating that race, not . . . partisan affiliation, is the predominant determinant of political preference." Clements, 999 F.2d at 855 (quotations omitted). For its part, the Fourth Circuit has rejected the Fifth Circuit's approach. United States v. Charleston Cnty., 365 F.3d 341, 347–48 (4th Cir. 2004) ("[T]he approach most faithful to the Supreme Court's case law 'is one that treats causation as irrelevant in the inquiry into the three Gingles preconditions, but relevant in the totality of circumstances inquiry.'" (quoting Lewis v. Alamance Cnty., 99 F.3d 600, 615–16 n.12 (4th Cir. 1996)) .

Given the Court's interpretation of the Supreme Court's statements on the matter and the Eleventh Circuit's binding precedent, the Court agrees with the First and Fourth Circuits. Thus, the Court reserves the question of whether partisanship or race is the driving force behind the differences in racial voting patterns for the totality of the circumstances inquiry, rather than at the Gingles preconditions.

preference and frequency of racially discriminatory actions taken by the State, past and present.”).

(b) **congruence and proportionality:
Fifteenth Amendment**

Second, Defendants argue that “[i]f Section 2 were interpreted in a way that [P]laintiffs can establish racial bloc voting merely by showing the minority and majority vote differently, it would not fit within th[e] constitutional bounds . . . of the Fifteenth Amendment.” Doc. No. [190-1], 31. Section 2 of the VRA provides:

[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color

52 U.S.C. § 10301(a).

“[U]nder the analysis set forth by the statutory text and embraced by the Supreme Court in Chisom and [the Eleventh Circuit] in Johnson, [courts] must consider whether the challenged law results in a denial or abridgment of the right to vote on account of race or color.” Greater Birmingham, 992 F.3d at 1329 (citing Chisom, 501 U.S. at 403–04; Johnson v. Governor of Fla., 405 F.3d 1214,

1227 (11th Cir. 2005)). The Court’s “analysis turns on whether, based on the totality of the circumstances, the challenged law violates Section 2(a) because it deprives minority voters of an equal opportunity to participate in the electoral process *and* to elect representatives of their choice.” Id.

For this inquiry, the Court must “ask whether the totality of facts . . . showed that the new scheme would deny minority voters equal political opportunity.” De Grandy, 512 U.S. at 1013–14. And according to the Eleventh Circuit, “[t]o be actionable, a deprivation of the minority group’s right to equal participation in the political process must be on account of a classification, decision, or practice that depends on race or color, not on account of some other racially neutral cause.” Solomon, 221 F.3d at 1225 (quoting Nipper, 39 F.3d at 1515 (plurality opinion)).

Thus, the Court finds that the question of whether the racial bloc voting is on account of race or on account of race-neutral reasons—i.e., partisanship—is relevant at the totality of the circumstances phase of the inquiry. The current formulation of the Gingles test is congruent with and proportional to the

Fifteenth Amendment.³² Consistent with the Fifteenth Amendment, the Court must determine, at the totality of the circumstances phase, whether the past and present realities result in a lack of an equal opportunity for minorities to participate in the electoral process on account of race. And to be successful in their Section 2 case, Plaintiffs bear the ultimate burden of proving that it satisfied the three Gingles preconditions *and* that, under the totality of circumstances, the Enacted Plans have the effect of abridging minority voters' right to vote on account of a race.

(c) race of the candidate

Third, at the hearing on the Motion for Summary Judgment and in their supplemental briefing, Defendants advanced the argument that, as part of the second and third Gingles preconditions, Plaintiffs must show that the race of the candidate changed voters' behavior. Doc. No. [226], 19–20; Hearing Tr. 87:26–88:7 (“I think that the inference [of] . . . Gingles 2 and 3 . . . only arises once you’ve met the burden, once you’ve come forward with the evidence. And the submission

³² “The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” U.S. Const. amend. XV.

we're looking at here is, we have no evidence that voter behavior changes in the slightest based on the race of the candidates.").

The Court finds that an inquiry into voter preferences as it relates to the race of the candidate is not necessary to prove the second and third Gingles preconditions. The Supreme Court in De Grandy expressly disclaimed Defendants' proposed test:

The assumption that majority-minority districts elect only minority representatives, or that majority-white districts elect only white representatives, is false as an empirical matter. And on a more fundamental level, the assumption reflects the demeaning notion that members of the defined racial groups ascribe to certain minority views that must be different from those of other citizens.

De Grandy, 512 U.S. at 1027 (cleaned up). And, again in LULAC, the Supreme Court affirmed a finding that Texas's Congressional District 23 violated Section 2, even though Texas intentionally created a district that would elect a Latino representative:

To begin the Gingles analysis, it is evident that the second and third Gingles preconditions—cohesion among the minority group and bloc voting among the majority population—are present in District 23. The District Court found "racially polarized voting" in south and west Texas, and indeed "throughout the State." The polarization in District 23 was especially severe: 92% of Latinos voted against Bonilla in 2002, while 88% of

non-Latinos voted for him. Furthermore, the projected results in new District 23 show that the Anglo citizen voting-age majority will often, if not always, prevent Latinos from electing the candidate of their choice in the district. For all these reasons, appellants demonstrated sufficient minority cohesion and majority bloc voting to meet the second and third Gingles requirements.

LULAC, 548 U.S. at 427 (plurality opinion) (citations omitted).³³ In LULAC, the plurality found that it was “evident” the plaintiffs successfully proved the second and third Gingles preconditions because 92% of Latinx voters voted against Bonilla, even though Congressman Bonilla is Latino. Id. If those plaintiffs were required to prove that white voters did not vote for Latinx candidates and that Latinx voters voted for Latinx candidates, then the second and third Gingles preconditions would not have been “evidently” met. In fact, the plaintiffs in LULAC would not have been able to prove the second and third Gingles preconditions in that geographic area.

In a similar vein, although the Eleventh Circuit has concluded that it is not clear error to give greater weight to elections involving Black candidates, it has

³³ The Court notes that only two Justices—Justice Kennedy and Justice Breyer—joined this portion of the LULAC opinion. However, none of the concurrences or dissents discuss the second or third Gingles preconditions. See generally, id.

cautioned, “[w]e do not mean to imply that district courts *should* give elections involving [B]lack candidates more weight; rather, we merely note that in light of existing case law district courts may do so without committing clear error.” Johnson v. Hamrick, 196 F.3d 1216, 1221–22 (11th Cir. 1999) (emphasis in original). In fact, the Eleventh Circuit went on to clarify “[w]e point out, however, that this Court ‘will not automatically assume that the [B]lack community can only be satisfied by [B]lack candidates.’” Id. at 1222 n.6 (quoting Askew v. City of Rome, 127 F.3d 1355, 1378 (11th Cir. 1997)).

Accordingly, the Court rejects Defendants’ arguments that the second and third Gingles preconditions require Plaintiffs to produce evidence that voter preferences changed based upon the race of the candidate. As the Supreme Court noted, that assumption is false as an empirical matter. And, as the Eleventh Circuit noted, courts cannot automatically assume that the Black community, as a whole, will be satisfied with any Black candidate. Thus, the Court finds that the requirement urged by Defendants is incorrect as a matter of law.

(d) precedential arguments following Allen

Finally, Defendants argue that the Allen majority's treatment of Bolden requires that the Court determine the causes of racial polarization. Doc. No. [228], 12–19. Defendants begin their argument by stating “[t]he majority opinion does not provide much direct guidance for lower courts on plaintiff’s evidentiary burden in satisfying the third Gingles precondition, because that precondition was not squarely at issue in Allen.” Id. at 12. Defendants go on to point out that “the Supreme Court did not offer any additional clarity on [the third Gingles precondition] because there was ‘no reason to disturb the [d]istrict [c]ourt’s careful factual findings, which are subject to clear error review *and have gone unchallenged by Alabama in any event.*” Id. at 16 (citing Allen, 143 S. Ct. 1506). Despite these caveats, Defendants also argue that the majority opinion reaffirmed these causation tests from Bolden. Id.

The majority opinion, in its historical background section discusses the 115 years of history between the passage of the Fifteenth Amendment and the 1982 amendments to the VRA. Allen, 143 S. Ct. at 1498–1501. The majority’s treatment of Bolden can be described only as a summation of the holding, the resulting backlash, the Congressional debates, and the ultimate passage of the

1982 Amendments. Id. At no other point in the majority opinion, does Chief Justice Roberts discuss the viability of any precedent that came out of Bolden.³⁴

In fact, the Gingles plurality expressly rejected the test that Defendants are proposing:

Finally, we reject the suggestion that racially polarized voting refers only to white bloc voting which is caused by white voters' *racial hostility* toward black candidates. To accept this theory would frustrate the goals Congress sought to achieve by repudiating the intent test of Mobile v. Bolden . . . and would prevent minority voters who have clearly been denied an opportunity to elect representatives of their choice from establishing a critical element of a vote dilution claim.

Gingles, 478 U.S. at 70–71 (citation omitted).

The Court finds reading the majority opinion's citation to Bolden as a reversion to the pre-Gingles frameworks to be a bridge too far.³⁵ The Court

³⁴ Bolden was overruled when Congress passed the 1982 amendments to the VRA. See Gingles, 478 U.S. at 35 ("The amendment was largely a response to this Court's plurality opinion in [Bolden] . . . Congress substantially revised § 2 to make clear that a violation could be proved by showing discriminatory effect alone and to establish as the relevant legal standard the 'results test' . . .").

³⁵ Defendants argue that Allen restores the precedent from Whitcomb. Doc. No. [228], 16–17. On an initial note, neither the Allen majority, nor any of the concurrences or dissents, cite to or mention Whitcomb. Second, the sentence cited by Defendants, "[t]he third precondition, focused on racially polarized voting, 'establish[es] that the challenged districting thwarts a distinctive minority vote at least plausibly on account

understands that Defendants disagree with the Court's reading of the effects test outlined by the plurality in Gingles; however, as the case law stands today and as noted in detail above, the Court concludes that Plaintiffs do not have to prove that race is the cause of majority-bloc voting at the preconditions phase. As the Defendants' noted, the Allen Court did not disturb the case law regarding the third Gingles precondition. Rather, at the preconditions phase, Plaintiffs need only prove its existence, and then at the totality of the circumstances phase the Court may evaluate its causes.

* * * * *

of race'" does not create a causation requirement. Doc. No. [228], 16 (emphasis omitted) (citing Allen, 143 S. Ct. at 1507). The majority opinion defines:

'on account of race or color' to mean 'with respect to' race or color, and does not connote any required purpose of racial discrimination A district is not equally open, in other words, when minority voters face—unlike their majority peers—bloc voting along racial lines, arising against the backdrop of substantial racial discrimination within the State, that renders a minority vote unequal to a vote by a nonminority voter.

Allen, 143 S. Ct. at 1507. The Court understands this to mean that at the preconditions phase, Plaintiffs have to prove the existence of racial bloc voting and at the totality of the circumstances phase, Plaintiffs have to show both past and present racial discrimination in Georgia that results in the voting process not being equally open to minority voters.

In summary, the Court finds that as a matter of law, to satisfy the second and third Gingles preconditions, Plaintiffs have to show (1) the existence of minority voter political cohesion and (2) that the majority votes as a bloc and usually defeats the minority voters' candidate of choice. As a part of these preconditions, Plaintiffs do not have to prove that race is the cause of voting differences between minority and majority voting blocs, nor must Plaintiffs disprove that other race-neutral reasons, such as partisanship, cause racial bloc voting. The Court rejects Defendants' arguments to the contrary.

(2) *Record evidence of racial bloc voting*

Turning to the Record evidence, the Court finds that there is sufficient Record evidence of both minority voter political cohesion and majority racial bloc voting to defeat Defendants' Motion for Summary Judgment.

Defendants argue that "Dr. Palmer's data [] only demonstrate two material facts: The race of the candidate *does not* change voting behavior of Georgia voters; and the party of the candidate *does*." Doc. No. [190-1], 33. And, "Plaintiffs' purported evidence of racial polarization is, in reality, nothing more than evidence of partisan polarization where a majority of voters support one party and a minority of voters support another party." Id. Finally, Defendants argue

that “all the Court has before it is evidence establishing that party, rather than race, explains the ‘diverge[nt]’ voting patterns at issue . . . Plaintiffs’ failure to offer any other evidence ends this case.” Id. at 34 (alternation in original) (quoting Gingles 478 U.S. at 100 (O’Connor, J., concurring)).

A defendant is entitled to summary judgment when it “shows that there is no genuine dispute as a material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A defendant can meet this burden in one of two ways: (1) no disagreement about a material fact or (2) “pointing out to the district court—that there is an absence of evidence to support [an essential element of] the [plaintiffs’] case.” Celotex Corp., 477 U.S. at 325.

The Court has already determined that Plaintiffs do not have to prove the causes of racial bloc voting to satisfy the second and third Gingles preconditions. See Section III(A)(2)(b)(1)(a) supra. The Court finds, moreover, that there is sufficient evidence in the Record that the minority population is politically cohesive. The expert testimony and Record evidence submitted shows political cohesion amongst the APBVAP in the Proposed Districts and that the majority population typically votes as a bloc to defeat the minority voters’ candidate of choice. Specifically, it is undisputed that in the 40 elections that Dr. Palmer

examined, 98.5% of Black voters supported their candidate of choice. Doc. No. [189-2], ¶ 89. Defendants' expert even testified that "Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022." Id. ¶ 87 (citing Doc. No. [178] ("Alford Dep. Tr."), Tr. 37:13-15). Accordingly, the Court finds that the testimony of both Plaintiffs' expert and Defendants' expert testimony provides evidence that Black voters are politically cohesive sufficient to defeat Defendants' Motion for Summary Judgment as to the second Gingles precondition.

Similarly, the Court finds that there is Record evidence that the white majority usually votes as a bloc to defeat the minority voters' candidate of choice for the third Gingles precondition. It is undisputed that, in the focus area, 8.3% of white voters, on average, supported Black-preferred candidates in the elections that Dr. Palmer examined, and support did not exceed 17.7%. Doc. No. [204], ¶ 92. Defendants' expert testified that "estimated white opposition to the Black-preferred candidate is typically above 80 percent" and "is remarkably stable." Id. ¶ 91. Accordingly, the Court finds that there is sufficient evidence that the white majority typically votes as a bloc and does not vote for the Black voters' preferred candidate.

(3) *Temporal limitations*

In supplemental briefing, Defendants argue that there are potential limitations about the temporal applicability of Section 2. Doc. No. [228], 21–22. Defendants argue first that courts are shifting focus away from preferences based upon the race of the candidate, which is a departure from Gingles. Id. As the Court noted above, eight of the nine Justices in Gingles agreed that the race of the candidate was not relevant at the Gingles preconditions phase of the inquiry. See Section III(A)(2)(b)(1)(c) supra. Additionally, the Eleventh Circuit and Supreme Court’s more recent jurisprudence has expressly rejected a reliance on the race of the candidate when evaluating a potential Section 2 violation. See id. Thus, the Court finds this temporal argument unavailing.

Defendants also argue that “Justice Kavanaugh’s concurring opinion – the *fifth* vote – makes abundantly clear that the constitutionality of the law is not at all settled into the future.” Doc. No. [228], 21. In Allen, Justice Kavanaugh opined:

Justice [Thomas] notes, however, that even if Congress in 1982 could constitutionally authorize race-based redistricting under § 2 for some period of time, the authority to conduct race-based redistricting cannot extend indefinitely into the future But Alabama did not raise that temporal argument in this Court, and therefore I would not consider it at this time.

143 S. Ct. at 1519. The Court finds this argument unavailing. As the precedent currently stands, five Justices agreed that the Gingles framework remains and affirmed the Allen three-judge court's decision finding that Alabama violated Section 2 of the VRA. Although the two dissents raised arguments about the constitutionality of the Gingles framework, neither stated that Section 2 of the VRA by itself should be deemed unconstitutional. See generally Allen, 143 S. Ct. at 1519–48 (Thomas, J., dissenting); id. 1548–57 (Alito, J., dissenting). In accordance with the binding majority opinion, the Court rejects Defendants' temporal argument. The Court finds that Plaintiffs may move forward with their Section 2 claims.

* * * * *

To summarize the foregoing analysis on the second and third Gingles preconditions in this case: the Court finds that, under the current binding precedent, these preconditions require Plaintiffs to show the existence of (1) political cohesion amongst minority voters and (2) that the white majority typically votes as a bloc to defeat the Black preferred candidate. The second and third Gingles preconditions specifically do not require that Plaintiffs prove that

race causes the bloc voting or disprove that race-neutral factors caused the bloc voting.

The Court also finds that Plaintiffs pointed to sufficient evidence in the Record of the existence of both minority voter cohesion and racial bloc voting to defeat Defendants' Motion for Summary Judgment as to the second and third Gingles preconditions. Accordingly, Defendants' Motion for Summary Judgment on the second and third Gingles preconditions is denied.

3. *Conclusions on Defendants' Motion for Summary Judgment*

Consequently, the Court **DENIES** Defendants' Motion for Summary Judgment. The Court finds that there are triable issues of fact as it relates to standing, the Gingles preconditions, and proportionality.³⁶ Accordingly, the Court denies Defendants' Motion for Summary Judgment.

B. Plaintiffs' Motion for Summary Judgment

The Court now turns to Plaintiffs' Motion for Partial Summary Judgment. More specifically, Plaintiffs seek summary judgment as to six of the eight Proposed Districts drawn by their expert, Mr. Esselstyn. Doc. No. [189-1], 5. The

³⁶ Defendants did not move for summary judgment on the Senate Factors. The Court, however, discusses the totality of the circumstances inquiry in its analysis of Plaintiffs' Motion below. See Section (III)(B)(4) infra.

six districts at issue are described as follows: (1) **Senate District 25**, which is in the southeastern Atlanta metropolitan area; (2) **Senate District 28**, which is in the southwestern Atlanta metropolitan area; (3) **House District 64**, which is in the western Atlanta metropolitan area; (4) **House District 117**, which is in the southern Atlanta metropolitan area; (5) **House District 145**, which is anchored in Macon-Bibb County; (6) **House District 149**, which also anchored in Macon-Bibb County.³⁷ Id. at 9–10.

Plaintiffs argue that there is no genuine dispute that they have satisfied the first of the three threshold preconditions established in Gingles, 478 U.S. at 50–51, as to these six Proposed Districts. Doc. No. [189], 3. Plaintiffs further argue that they have satisfied the second and third Gingles preconditions and that, considering the totality of circumstances, “the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by members of Georgia’s Black community. Id. (citing 52 U.S.C. § 10301(b)).

³⁷ Plaintiffs state that at trial, they will still proceed on their other two Proposed Districts (SD-23 and HD-74). Plaintiffs recognize that Defendants’ expert has “attempted” to meaningfully dispute the compactness of these two districts in his rebuttal report, such that a summary judgment motion would not be an appropriate as to said districts at this time. Doc. No. [189-1], 10–11 n.3.

For Plaintiffs to be successful, however, they must establish standing and affirmatively meet their burden of proof by showing that they are entitled to summary judgment on all three Gingles preconditions, as well as under the totality of the circumstances factors (i.e., the Senate Factors). The Court now addresses each of these requirements and ultimately concludes that questions of fact, outstanding credibility determinations, and the necessity for a trier of fact to weigh evidence on the Gingles preconditions and the Senate Factors preclude granting Plaintiffs' Motion on the grounds asserted.

1. *Standing*

Preliminarily, the Court addresses Defendants' opposition argument that Plaintiffs have failed to provide Record evidence of their standing to bring this Section 2 case. Doc. No. [203], 3. Defendants argue in response to Plaintiffs' Motion that because, in Section 2 cases, a plaintiff's injury is district specific, that Plaintiffs failed to provide adequate evidence of their residence for purposes of establishing a district-specific injury. Id. at 11-12. Defendants reject usage of the stipulated facts from the preliminary injunction phase as evidence of standing on summary judgment. Id. at n.4.

To establish standing in a vote dilution case, voter-plaintiffs must reside “in a district where their vote has been cracked or packed.” Harding v. Cnty. of Dallas, 948 F.3d 302, 307 (5th Cir. 2020);³⁸ see also Robinson v. Ardoin, 605 F. Supp. 3d 759, 817 (M.D. La. 2022) (“[I]n the context of a vote dilution claim under Section 2, the relevant standing inquiry is not whether [p]laintiffs represent every single district in the challenged map but whether [p]laintiffs have made ‘supported allegations that [they] reside in a reasonably compact area that could support additional [majority-minority districts].’”) (some alterations in original) (quoting Pope v. Cnty. of Albany, No. 1:11-CV-0736 LEK/CFH, 2014 WL 316703, at *5 (N.D.N.Y. Jan. 28, 2014)).

In the case *sub judice*, Plaintiffs reply to Defendants’ arguments by stating that they have shown they are registered voters in the districts where “their votes have been cracked or packed”³⁹ and where additional compact-majority-Black

³⁸ “‘Cracking’ occurs when redistricting lines are drawn in order to ‘divid[e] the minority group among various districts so that it is a majority in none.’” Fletcher v. Lamone, 831 F. Supp. 2d 887, 898 (D. Md. 2011) (quoting Voinovich v. Quilter, 507 U.S. 146, 153 (1993)). “‘Packing’ occurs when a redistricting plan results in an excessive concentration of minorities within a given district, thereby depriving the group of influence in surrounding districts.” Fletcher, 831 F. Supp. 2d at 898 (quoting Voinovich, 507 U.S. at 153–54).

³⁹ The Complaint alleges that the “packed” Senate Districts are: SD-10, SD-34, SD-35,

legislative districts could be drawn. Doc. No. [217], 4. In support of this argument, Plaintiffs submit declarations (and deposition excerpts)⁴⁰ from the named Plaintiffs about their residences and current voting districts under the Enacted Plan. Doc. Nos. [218-1]–[218-10]. Plaintiffs note that Defendants also included Plaintiffs’ residence information in their own statement of undisputed of material facts. Doc. No. [217], 5 (citing Doc. No. [192], ¶¶ 16, 22, 28, 31, 35, 37, 41, 44, 50, 54).

The Court determines that this evidence submitted along with Plaintiffs’ reply brief is sufficient for purposes of standing on summary judgment as said evidence shows that each named Plaintiff is a registered voter in one or more of the Enacted House and Senate Districts alleged to be subject to cracking and

SD-44 and the “cracked” Senate Districts are: SD-16, SD-17, SD-23, SD-24, SD-25, SD-28, and SD-30. Doc. No. [118], 19–20. The Complaint alleges that the “packed” House Districts are: HD-61, HD-64, HD-69, HD-75, HD-78, HD-142, HD-143 and the “cracked” House Districts are: HD-74, HD-117, HD-133, HD-144, HD-145, HD-147, and HD-149. Id. at 20–21.

⁴⁰ The Court notes that no declaration was submitted for Plaintiff Conner; however, her deposition testimony (Doc. No. [218-21]) shows that she resides in Henry County, a County in which Mr. Esselstyn drew Illustrative Senate District 25 and Illustrative House District 117. Doc. No. [216], ¶ 39; see also Esselstyn Dep. Tr. 149:14-150:14, 182:12-184:11, 185:5-8.

packing – or resides in the areas where the alleged additional compact majority-Black legislative districts could be drawn.

Admittedly there is typically great emphasis on “giving the nonmovant a meaningful opportunity to respond to a motion for summary judgment.” Atl. Specialty Ins. Co. v. Digit Dirt Worx, Inc., 793 F. App’x 896, 901 (11th Cir. 2019) (quoting Burns v. Gadsden State Cmty. Coll., 908 F.2d 1512, 1516 (11th Cir. 1990)). This principle applies to “new evidence . . . submitted . . . in a reply brief.” Id. Thus, the Court “should not consider the new evidence without giving the movant an opportunity to respond.” Id. (quoting Provenz v. Miller, 102 F.3d 1478, 1483 (9th Cir. 1996)).

Here, Defendants had the opportunity to oppose the Court’s consideration of Plaintiffs’ reply brief evidence, both by filing a motion to strike or by raising it at the summary judgment hearing. Defendants did neither. They also had the opportunity to file supplemental briefing following the Supreme Court’s Allen decision and did not raise any concern about Plaintiffs’ evidence being submitted in the reply brief. Defendants, moreover, did not move to file a sur-reply, which is not expressly prohibited by the Court’s Local Rules and within the Court’s discretion to grant. Cf. Dynamic Depth, Inc. v. Captaris, Inc., No. 1:07-CV-1488,

2009 WL 10671407, at *1 (N.D. Ga. June 9, 2009) (“[T]he court will not allow such sur-replies as a routine practice and will only permit them in exceptional circumstances.”); Chemence Med. Prod., Inc. v. Medline Indus., Inc., 119 F. Supp. 3d 1376, 1383 (N.D. Ga. 2015). (“Generally, surreplies are not authorized and may only be filed under unusual circumstances, such as when a party raises new arguments in a reply brief.”). Indeed, the Court’s consideration of new evidence in a reply brief has been affirmed by the Eleventh Circuit when an opposing party failed to move the Court for a sur-reply. Cf. United States v. Carter, 506 F. App’x 853, 860 (11th Cir. 2013).

Accordingly, considering the evidence in Plaintiffs’ declarations and deposition testimony, the Court is satisfied that the Plaintiffs have shown district-specific injury for their Section 2 case.

2. *The First Gingles Precondition: Numerosity and Compactness*

Next, the Court considers Plaintiffs’ argument that there is no genuine dispute that Plaintiffs satisfied the first Gingles precondition with respect to six of their eight illustrative districts. Doc. No. [217], 5.

As the Court has articulated, “the first Gingles precondition requires showings that the relevant minority population is ‘sufficiently large and

geographically compact to constitute a majority in a single-member district[.]” Alpha Phi Alpha, 587 F. Supp. 3d at 1252 (quoting LULAC, 548 U.S. at 425; De Grandy, 512 U.S. at 1006–07). For compactness, Plaintiffs must show that “it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate.” Davis, 139 F.3d at 1425.

Bearing the burden of proof, Plaintiffs must show undisputed evidence that the minority population is sufficiently numerous and compact to create an additional majority-minority district. Plaintiffs, moreover, must put forth an illustrative plan meeting these requirements that also could, as a legal matter, be entered as a remedial map. Nipper, 39 F.3d at 1530 (“[T]he issue of remedy is part of the plaintiff’s prima facie case in [S]ection 2 vote dilution cases.”); see also Section III(A)(2)(a)(3) supra.

In support of their Motion, Plaintiffs cite to their evidence showing that their map expert, Mr. Esselstyn, “concluded that it is possible to create three additional majority-Black State Senate districts and five additional majority-Black House districts, all in accordance with traditional redistricting principles” of population equality, contiguity, compactness, political

subdivisions, communities of interest, and incumbent pairings. Doc. No. [189-1], 8-13. Plaintiffs further assert that there is a lack of meaningful analysis or opinion from Defendants' expert, Mr. Morgan, to contest their expert's conclusions or to otherwise undermine their evidence as to the first Gingles precondition as to the six Proposed Districts at issue. Doc. No. [189-1], 14.

In opposition, Defendants reference the first prong of the Celotex summary judgment standard cited above, and assert that Plaintiffs (as movants) have not carried their initial burden of "showing there is no disputed material fact about every element they must prove at trial." Doc. No. [203], 13. Defendants further assert that "disputes exist for facts necessary to find for Plaintiffs regardless of whether an opposing expert has contested each point." Doc. No. [203], 3. In support of their argument that Plaintiffs have not carried their initial movant burden, Defendants cite to the testimony of Plaintiffs' map expert, which Defendants characterize as an "inability to explain the reasoning behind his districts beyond simply drawing more majority-Black districts." Doc. No. [203], 14 (citing Doc. No. [204], ¶ 33; Esselstyn Dep. Tr. 149:24-150:14, 152:25-153:4, 154:2-24, 180:16-23, 182:12-184:11, 185:5-8).

In response to Defendants' Statement of Additional Material Fact 17 and in reply to Defendants' opposition brief, Plaintiffs appear to concede that the deposition excerpts relied upon by Defendants demonstrate that Mr. Esselstyn "could not recall specific reasons for connecting part of Clayton County with Henry County, and that he could not recall some communities of interest at the time of his deposition." Doc. No. [217-1], 17; see also id. at 7.

Plaintiffs assert that Defendants' arguments are "red herrings" and that there is a lack of meaningful dispute on compactness and satisfaction of applicable redistricting criteria. Doc. No. [217], 8-11. The Court disagrees with this assessment. Mr. Esselstyn's inability to recall this information creates a credibility question for the Court and leads to the conclusion that summary judgment is not proper at this time. See Tippens v. Celotex Corp., 805 F.2d 949, 954 (11th Cir. 1986) ("Variations in a witness's testimony and any failure of memory throughout the course of discovery create an issue of credibility as to which part of the testimony should be given the greatest weight if credited at all. Issues concerning the credibility of witnesses and weight of the evidence are questions of fact which require resolution by the trier of fact."); United States

v. Weiss, 791 F. Supp. 2d 1183, 1196 (M.D. Fla. 2011) (“A failure to recall a fact and subsequent recollection of that fact goes to the witness’s credibility . . .”).

A determination on whether the Proposed Districts are, in fact, compact cannot be decided as a matter of law under the circumstances of the case *sub judice*; it is a question of fact that the Court cannot determine at the summary judgment phase.

3. *The Second and Third Gingles Preconditions: Political Cohesion and Bloc Voting*

The Court now assesses Plaintiffs’ arguments and evidence relating to the second and third Gingles preconditions. The second Gingles precondition analysis requires showing that Black Georgia voters, in the regions at issue, are politically cohesive. Gingles, 478 U.S. at 49. The Court looks to see if Black voters vote cohesively to “show[] that [B]lack prefer certain candidates whom they could elect in a single-member, [B]lack majority district.” Id. at 68. “The second [precondition] shows that a representative of its choice would in fact be elected.” Allen, 143 S. Ct. at 1503.

“The third precondition, focused on racially polarized voting, ‘establish[es] that the challenged districting thwarts a distinctive minority vote’ at least plausibly on account of race.” Id. Put slightly differently, this analysis

looks at whether “the white majority votes sufficiently as a bloc to . . . usually to defeat the minority’s preferred candidate.” Gingles, 478 U.S. at 51 (citations omitted).

Thus, the second Gingles precondition focuses on the voting preferences of the minority group, while the third looks at preferences of the majority.

In support of their Motion for Partial Summary Judgment, Plaintiffs rely upon the analysis of Dr. Palmer, who utilized statistical methods to conclude that Black voters in the focus areas are extremely cohesive, with a clear candidate of choice in all 40 elections he examined. Doc. No. [189-1], 17 (citing Doc. No. [189-2], ¶ 87). As for the third Gingles precondition, Plaintiffs again rely on Dr. Palmer’s analysis and indicate that their evidence in summary shows that “Black voters’ candidates of choice are consistently defeated in the focus areas by white bloc voting, except where Black voters make up a majority of eligible voters” Id. at 19.

Defendants argue, however, that this data alone presents an incomplete assessment. Doc. No. [203], 22 (“[T]he polarization that Dr. Palmer found tells us little (if anything) about the existence and extent of legally significant racially polarized voting in Georgia elections.”). It appears that Defendants contend that

Plaintiffs' evidence shows that while Black and white Georgians tend to vote for opposing candidates, this result can be attributed to partisanship. *Id.* at 17–24.

In an effort to explain this data and the empirical results at issue, Defendants first cite to the fact that Dr. Palmer assesses only general, not primary, elections. Doc. No. [203], 8 (citing Doc. No. [183] (“Palmer Dep. Tr.”), Tr. 59:23–60:1). Defendants argue that primary elections would be the best method of controlling for partisanship in order to determine if race is causing the split between white and Black voters. Doc. No. [203-1] ¶ 37; Alford Dep. Tr. 156:1–5 (encouraging an analysis to disentangle the partisanship effect from the race effect by “look[ing] at some elections where that party signal is not going to be such a strong driver,” such as in primary elections).

Defendants also make a variety of legal claims in support of their partisanship argument. As far as Defendants' legal arguments are concerned, the Court has already rejected Defendants' argument that the causes of polarization are relevant to the second and third Gingles preconditions. See Section III(A)(2)(b)(1)(a) supra. The Court has also already rejected Defendants' suggestion that the VRA as applied by Plaintiffs is unconstitutional. See Section III(A)(2)(b)(1)(b) supra.

Despite the rejection of Defendants' legal arguments, Dr. Alford's criticisms of Dr. Palmer's conclusions and Defendants' overall contention that "Dr. Palmer's data is lacking in several key respects" (Doc. No. [203], 22), nevertheless presents a credibility determination that requires the Court to assess the weight of Dr. Palmer's conclusions. See Alford Dep. Tr. 156:1–157:22 (stating that Dr. Palmer's conclusions would be stronger if he had used a different data set that included primary elections evidence); Doc. No. [203], 22 (arguing that Dr. Palmer's analysis is incomplete because it fails to consider the United States Senate race between two Black candidates). These criticisms go toward the weight and credibility of both Dr. Alford's and Dr. Palmer's opinions; thus, the Court defers such determinations for trial. Cf. Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs, 775 F.3d 1336, 1343 (11th Cir. 2015) (encouraging "scrupulous[]" compliance with Rule 52(a)'s fact-finding requirement in bench trials because "sifting through the conflicting evidence and legal arguments and applying the correct legal standards is for the district court in the first instance" (alteration adopted) and in Section 2 cases, the deferential clear error review is afforded to the district court's findings (quoting McIntosh Cnty. Branch of the NAACP v. City of Darien, 605 F.2d 753, 759 (5th Cir. 1979))). Accordingly, the

Court denies Plaintiffs' Motion for Summary Judgment on the second and third Gingles preconditions.

4. *The Senate Factors*

After evaluating the Gingles preconditions, the final assessment to determine whether vote dilution has actually occurred requires "assess[ing] the impact of the contested structure or practice on minority electoral opportunities on the basis of objective factors." Gingles, 478 U.S. at 44 (cleaned up). To do so, the Court looks at the VRA's 1982 Amendments' Senate Report, which specifies the factors relevant for a Section 2 analysis. Id.⁴¹ "[T]he totality of circumstances inquiry recognizes that application of the Gingles factors is 'peculiarly dependent upon the facts of each case.'" Allen, 143 S. Ct. at 1503 (quoting Gingles, 478 U.S. at 79). The totality of the circumstances inquiry is fact intensive and requires weighing and balancing various facts and factors, which is generally inappropriate on summary judgment. See Rose v. Raffensperger, No. 1:20-CV-02921, 2022 WL 670080, at *2 (N.D. Ga. Mar. 7, 2022) ("[T]he

⁴¹ These factors are sometimes referred to in the voting rights jurisprudence as "the Senate factors" or "the Gingles factors."

Court . . . cannot appropriately evaluate the totality of the circumstances before trial.”).

In their Motion, Plaintiffs review their evidence as to each of the relevant Senate Factors and assert that under the totality of the circumstances, the Enacted Plans deny Black voters equal opportunity to elect their preferred legislative candidates. Doc. No. [189-1], 19. In response, Defendants assert that “Plaintiffs have not carried their heavy burden to show that they can prevail without this Court weighing any evidence at trial” Doc. No. [203], 31. The Court agrees as the Eleventh Circuit has found “some merit” to an argument that the “balancing” of the Senate Factors “appears to involve a weighing of the evidence—that is, accepting [plaintiff’s] evidence of ‘practices that enhance discrimination’ as persuasive and rejecting [the other side’s] evidence as unpersuasive” Ga. State Conf. of NAACP, 775 F.3d at 1347.

In light of this authority and after consideration of the argument and evidence that Plaintiffs have submitted in support of their Motion, the Court finds that resolution of the Senate Factors will involve weighing of evidence

(even if it is asserted to be undisputed) and credibility determinations.

Accordingly, the Senate Factors will be resolved at trial.^{42, 43}

IV. CONCLUSION


For the foregoing reasons, the Court **DENIES** Plaintiffs' Motion for Partial Summary Judgment (Doc. No. [189]) and **DENIES** Defendants' Motion for Summary Judgment (Doc. No. [190]). As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to either Party. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial.

⁴² To the extent that additional merits analysis is required, the Court's analysis of the Senate Factors in the summary judgment order in the Pendergrass case controls.

⁴³ While the Court denies both Parties' Motions for Summary Judgment, as noted, there were many undisputed facts in the Parties' Statements of Material Facts. Doc. Nos. [204]; [205-1]. For purposes of evidence at trial and in the interest of judicial efficiency, the Court encourages the Parties to stipulate to facts that are not in dispute. Additionally, the Court wants to ensure that the Parties are aware that Rule 65 of the Federal Rules of Civil Procedure provides another means for the Parties to efficiently present their case. See Fed. R. Civ. P. 65 ("[E]vidence that is received on the [preliminary injunction] motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.").

Accordingly, the case will proceed to a coordinated trial with Alpha Phi Alpha Fraternity Inc., et al. v. Brad Raffensperger, (1:21-cv-5337) and Coakley Pendergrass et al. v. Brad Raffensperger et al., (1:21-cv-5339). The Second Amended Scheduling Order (Doc. No. [225]) shall govern the forthcoming proceedings.

IT IS SO ORDERED this 17th day of July, 2023.


HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

Grant Doc. 302

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

ANNIE LOIS GRANT, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

CIVIL ACTION

FILE NO. 1:22-CV-00122-SCJ

DEFENDANT'S NOTICE OF APPEAL

Notice is hereby given that, pursuant to 28 U.S.C. §§ 1291 and 1292, Defendant Secretary of State Brad Raffensperger hereby appeals to the U.S. Court of Appeals for the Eleventh Circuit in the above-captioned case from the final judgment entered in this case and from the Court's Opinion and Memorandum of Decision entered after trial on October 26, 2023 [Doc. 294], the Court's Order denying Defendants' Motion for Summary Judgment [Doc. 229], and the Court's Order denying Defendants' Motion to Dismiss [Doc. 43].

Respectfully submitted this 22nd day of November, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Notice of Appeal has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson

D

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:21-cv-05337-SCJ**

Alpha Phi Alpha Fraternity, Inc. et al v. Raffensperger
Assigned to: Judge Steve C. Jones
Case in other court: USCA - 11th Circuit, 23-13914-AA
USCA- 11th Circuit, 24-10230-A
Cause: 52:10301 Denial or abridgement of right to vote on account
of race or color

Date Filed: 12/30/2021
Date Terminated: 10/26/2023
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Date Filed	#	Docket Text
12/30/2021	1	COMPLAINT for Declaratory Judgment and Injunctive Relief filed by Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart. (Filing fee \$402, receipt number AGANDC-11487582). (Attachments: # 1 Civil Cover Sheet)(lwb) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 01/03/2022)
12/30/2021	2	Electronic Summons Issued as to Brad Raffensperger. (lwb) (Entered: 01/03/2022)
01/04/2022	3	NOTICE of Appearance by Bryan P. Tyson on behalf of Brad Raffensperger (Tyson, Bryan) (Entered: 01/04/2022)
01/04/2022	4	Unopposed MOTION for Leave to File Excess Pages in <i>Plaintiffs' Memorandum of Law in Support of Motion for a Preliminary Injunction</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/04/2022)
01/05/2022	5	ORDER granting 4 Motion for Leave to File Excess Pages. If Plaintiffs file a motion for preliminary injunction, its brief shall be no longer than thirty-five (35) pages. Because Defendant has not moved for such a page extension for any response it may file, this Order shall not be construed as granting Defendant a reciprocal ten-page extension. The Court will consider a page-extension request from Defendant if one is filed. Signed by Judge Steve C. Jones on 01/05/2022. (rsg) (Entered: 01/05/2022)
01/06/2022	6	Certificate of Interested Persons by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/06/2022)
01/06/2022	7	Return of Service Executed by Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart. Brad Raffensperger served on 1/4/2022, answer due 1/25/2022. (Garabadu, Rahul) (Entered: 01/06/2022)
01/06/2022	8	ORDER setting Rule 16 Conference set for 1/12/2022 at 01:30 PM via Zoom (connection instructions to follow by separate notice.) The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their

		positions with respect to the issues (set forth herein.) Signed by Judge Steve C. Jones on 01/06/2022. (pdw) Modified on 1/6/2022 (pdw). (Entered: 01/06/2022)
01/06/2022		NOTICE OF VIDEO PROCEEDING: RULE 16 CONFERENCE set for 1/12/2022 at 01:30 PM via Zoom before Judge Steve C. Jones, Judge Elizabeth Branch, and Judge Steven Grimberg. Connection Instructions: Topic: Rule 16 Conference: 1:21-cv-05337-SCJ; 1:21-cv-05338-SCJ-SDG-ELB; and 1:21-cv-05339-SCJ Please click the link below to join the webinar: https://ganduscourts.zoomgov.com/j/1605120572 Passcode: 851671 Or One tap mobile : US: +16692545252,,1605120572#,,,,*851671# or +16468287666,,1605120572#,,,,*851671# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666 or +1 551 285 1373 or +1 669 216 1590 Webinar ID: 160 512 0572 Passcode: 851671 International numbers available: https://ganduscourts.zoomgov.com/u/abdGvu42dG Or an H.323/SIP room system: H.323: 161.199.138.10 (US West) or 161.199.136.10 (US East) Meeting ID: 160 512 0572 Passcode: 851671 SIP: 1605120572@sip.zoomgov.com Passcode: 851671 You must follow the instructions of the Court for remote proceedings available here . The procedure for filing documentary exhibits admitted during the proceeding is available here . <i>Photographing, recording, or broadcasting of any judicial proceedings, including proceedings held by video teleconferencing or telephone conferencing, is strictly and absolutely prohibited.</i> (pdw) Modified on 1/6/2022 (pdw). (Entered: 01/06/2022)
01/07/2022	9	APPLICATION for Admission of Sophia Lin Lakin Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503263).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	10	APPLICATION for Admission of Ari J. Savitzky Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503305).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	11	APPLICATION for Admission of Jenessa Calvo-Friedman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503383).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	12	APPLICATION for Admission of Alex W Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503536).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	13	APPLICATION for Admission of Anuradha Sivaram Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503604).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	14	APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503630).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church,

		Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>15</u>	APPLICATION for Admission of Debo Patrick Adegbile Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503641).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>16</u>	APPLICATION for Admission of De'Ericka Aiken Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503661).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>17</u>	APPLICATION for Admission of Denise Tsai Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503679).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>18</u>	APPLICATION for Admission of Edward Williams Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503698).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>19</u>	APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503714).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>20</u>	APPLICATION for Admission of George P. Varghese Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503736).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>21</u>	APPLICATION for Admission of Maura Douglas Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503753).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>22</u>	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503765).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/07/2022)
01/07/2022	<u>23</u>	NOTICE of Appearance by Bryan Francis Jacoutot on behalf of Brad Raffensperger (Jacoutot, Bryan) (Entered: 01/07/2022)
01/07/2022	<u>24</u>	NOTICE of Appearance by Loree Anne Paradise on behalf of Brad Raffensperger (Paradise, Loree Anne) (Entered: 01/07/2022)

01/07/2022	25	NOTICE of Appearance by Frank B. Strickland on behalf of Brad Raffensperger (Strickland, Frank) (Entered: 01/07/2022)
01/07/2022	26	MOTION for Preliminary Injunction with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Memorandum of Law in Support, # 2 Declaration of Edward William in Support, # 3 Exhibit A Part 1 - Report of William S. Cooper, # 4 Exhibit A Part 2 - Report of William S. Cooper, # 5 Exhibit A Part 3 - Report of William S. Cooper, # 6 Exhibit A Part 4 - Report of William S. Cooper, # 7 Exhibit B - Report of Dr. Lisa Handley, # 8 Exhibit C - Report of Dr. Adrienne Jones, # 9 Exhibit D - Report of Dr. Traci Burch, # 10 Exhibit E - Report of Dr. Jason Morgan Ward, # 11 Exhibit F - Declaration of Katie Bailey Glenn, # 12 Exhibit G - Declaration of Phil S. Brown, # 13 Exhibit H - Declaration of Janice Stewart, # 14 Exhibit I - Declaration of Eric Woods, # 15 Exhibit J - Declaration of Sherman Lofton, Jr., # 16 Exhibit K - Declaration of Bishop Reginald T. Jackson, # 17 Exhibit L - 2021 Guidelines for the House Legislative and Congressional Reapportionment Committee, # 18 Exhibit M - 2021 Guidelines for the Senate Redistricting Committee, # 19 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/07/2022)
01/10/2022		DOCKET ORDER AMENDING 8 Order setting Rule 16 Conference for 1/12/2022 at 01:30 PM via Zoom (connection instructions to remain as previously issued). The parties are further ORDERED to file by 12:00 p.m. EST on TUESDAY, JANUARY 11, 2022, status report(s) explaining their positions with respect to the issues set forth in the Courts prior order at Doc. No. 8 after conferring with the parties in 1:21-cv-05338-ELB-SCJ-SDG; 1:21-cv-05339-SCJ; and 1:22-cv-00090-ELB-SCJ-SDG. Signed by Judge Steve C. Jones on 1/10/2022. (pdw) (Entered: 01/10/2022)
01/10/2022	27	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 26 MOTION for Preliminary Injunction (<i>Notice of Errata</i>) (Attachments: # 1 Declaration of William S. Cooper, # 2 Exhibit O to Declaration, # 3 Exhibit S-1 to Declaration, # 4 Exhibit T-1 to Declaration)(Garabadu, Rahul) (Entered: 01/10/2022)
01/11/2022	28	STATUS REPORT by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/11/2022)
01/11/2022	29	STATUS REPORT <i>Defendants' Status Report</i> by Brad Raffensperger. (Attachments: # 1 Exhibit A - 2022 Election Calendar, # 2 Exhibit B - Letter from B. Evans regarding redistricting)(Tyson, Bryan) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 12 APPLICATION for Admission of Alex W Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503536).. Attorney Alex W. Miller added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 9 APPLICATION for Admission of Sophia Lin Lakin Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503263).. Attorney Sophia Lin Lakin added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/11/2022)
01/11/2022	30	ORDER granting 9 Application for Admission Pro Hac Vice of Sophia Lin Lakin. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If

		they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022	31	ORDER granting 12 Application for Admission Pro Hac Vice of Alex W Miller. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022		APPROVAL by Clerks Office re: 13 APPLICATION for Admission of Anuradha Sivaram Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503604).. Attorney Anuradha Sivaram added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/11/2022)
01/11/2022	32	ORDER granting 13 Application for Admission Pro Hac Vice of Anuradha Sivaram. Signed by Judge Steve C. Jones on 1/11/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/11/2022)
01/11/2022		RETURN of 14 APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503630). to attorney for correction re: specify admitted courts. (gas) (Entered: 01/11/2022)
01/12/2022		APPROVAL by Clerks Office re: 11 APPLICATION for Admission of Jennesa Calvo-Friedman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503383).. Attorney Jennesa Calvo-Friedman added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 15 APPLICATION for Admission of Debo Patrick Adegbile Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503641).. Attorney Debo P. Adegbile added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022	33	ORDER granting 11 Application for Admission Pro Hac Vice of Jennesa Calvo-Friedman. Signed by Judge Steve C. Jones on 1/12/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/12/2022)
01/12/2022	34	ORDER granting 15 Application for Admission Pro Hac Vice Debo Patrick Adegbile. Signed by Judge Steve C. Jones on 1/12/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/12/2022)
01/12/2022	35	APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 10 APPLICATION for Admission of Ari J. Savitzky Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503305).. Attorney Ari J. Savitzky added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown,

		Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 16 APPLICATION for Admission of De'Ericka Aiken Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503661).. Attorney De'Ericka Aiken added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 17 APPLICATION for Admission of Denise Tsai Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503679).. Attorney Denise Tsai added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 21 APPLICATION for Admission of Maura Douglas Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503753).. Attorney Maura Douglas added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 18 APPLICATION for Admission of Edward Williams Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503698).. Attorney Edward Williams added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/12/2022)
01/12/2022		RETURN of 22 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503765). to attorney for correction re: courts. (nmb) (Entered: 01/12/2022)
01/12/2022		APPROVAL by Clerks Office re: 20 APPLICATION for Admission of George P. Varghese Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503736).. Attorney George P. Varghese added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/12/2022)
01/12/2022	36	ORDER setting motion(s) and briefing schedule: Plaintiffs shall file their amended motion for a preliminary injunction/ if any/ by no later than 2:00 PM EST on January 13,2022. Defendant shall file their response/ if any/ by no later than 5:00 PM EST on January 18, 2022. Plaintiffs shall file their reply/ if any/ by no later than 5:00 PM EST on January 20, 2022. Signed Judge Steve C. Jones on 1/12/2022. (pdw) (Entered: 01/12/2022)
01/12/2022	37	ORDER setting motion(s) and briefing schedule: Defendants shall file their motion to dismiss, if any, by no later than 5:00 PM EST on January 14,2022.Plaintiffs shall file their response, if any, by no later than 5:00 PM on January 18, 2022. Defendants shall file their reply, if any, by no later than 5:00 PM on January 20, 2022. Signed by Judge Steve C. Jones on 1/12/2022.(pdw) (Entered: 01/12/2022)
01/12/2022	96	Minute Entry for proceedings held before Judge Steve C. Jones: Rule 16 conference held via Zoom in Alpha Phi Alpha v. Raffensperger, 1:21-cv-5337-SCJ; Georgia State Conference of the NAACP et al v. State of Georgia, 1:21-cv-05338-SCJ-SDG-ELB; Pendergrass v. Raffensperger, 1:21-CV-5339-SCJ; Common Cause et al v. Raffensperger, 1:22-cv-00090-SCJ-SDG-ELB; Grant v. Raffensperger, 1:22-CV-0122-SCJ. (Court Reporter Viola Zbrowski)(pdw) (Entered: 02/07/2022)

01/13/2022		APPROVAL by Clerks Office re: 19 APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11503714).. Attorney Eliot Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 01/13/2022)
01/13/2022	38	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/13/2022)
01/13/2022	39	MOTION for Preliminary Injunction (<i>Renewed</i>) with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Brief in Support Thereto, # 2 Declaration of Edward Williams In Support Thereto, # 3 Exhibit A - Cooper Declaration (Part 1), # 4 Exhibit A - Cooper Declaration (Part 2), # 5 Exhibit A - Cooper Declaration (Part 3), # 6 Exhibit A - Cooper Declaration (Part 4), # 7 Exhibit B - Dr. Handley Report, # 8 Exhibit C - Dr. Jones Report, # 9 Exhibit D - Dr. Burch Report, # 10 Exhibit E - Dr. Ward Report, # 11 Exhibit F - Glenn Declaration, # 12 Exhibit G - Brown Declaration, # 13 Exhibit H - Stewart Declaration, # 14 Exhibit I - Woods Declaration, # 15 Exhibit J - Lofton, Jr. Declaration, # 16 Exhibit K - Bishop Jackson Declaration, # 17 Exhibit L - House Guidelines, # 18 Exhibit M - Senate Guidelines, # 19 Text of Proposed Order)(Garabadu, Rahul) (Entered: 01/13/2022)
01/13/2022	40	NOTICE of Appearance by Charlene S McGowan on behalf of Brad Raffensperger (McGowan, Charlene) (Entered: 01/13/2022)
01/14/2022	41	APPLICATION for Admission of Ayana Williams Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11518889).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/14/2022)
01/14/2022	42	APPLICATION for Admission of Robert Boone Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11519211).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/14/2022)
01/14/2022	43	MOTION to Dismiss <i>Plaintiffs' Complaint</i> with Brief In Support by Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendant's Motion to Dismiss)(Tyson, Bryan) (Entered: 01/14/2022)
01/18/2022	44	APPLICATION for Admission of Abigail Shaw Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11523339).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/18/2022)
01/18/2022	45	RESPONSE in Opposition re 39 MOTION for Preliminary Injunction (<i>Renewed</i>), 26 MOTION for Preliminary Injunction filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of John Morgan, # 2 Exhibit B - Dec. of Michael Barnes)(Tyson, Bryan) (Entered: 01/18/2022)
01/18/2022	46	RESPONSE in Opposition re 43 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the

		African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (Garabadu, Rahul) (Entered: 01/18/2022)
01/18/2022	47	RESPONSE in Opposition re 43 MOTION to Dismiss <i>Plaintiffs' Complaint (Corrected)</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/18/2022)
01/18/2022	48	ORDER granting 10 Application for Admission Pro Hac Vice of Ari J. Savitzky. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	49	ORDER granting 16 Application for Admission Pro Hac Vice of De'Ericka Aiken. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	50	ORDER granting 17 Application for Admission Pro Hac Vice of Denise Tsai. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	51	ORDER granting 18 Application for Admission Pro Hac Vice of Edward Williams. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	52	ORDER granting 19 Application for Admission Pro Hac Vice of Eliot Kim. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	53	ORDER granting 20 Application for Admission Pro Hac Vice of George P. Varghese. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/18/2022	54	ORDER granting 21 Application for Admission Pro Hac Vice of of Maura Douglas. Signed by Judge Steve C. Jones on 1/18/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/18/2022)
01/19/2022		APPROVAL by Clerks Office re: 35 APPLICATION for Admission of Charlotte Geaghan-Breiner Pro Hac Vice.. Attorney Charlotte Geaghan-Breiner added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/19/2022)
01/19/2022	55	COORDINATED ORDER advising that for any and every case in which the Court does not grant the motion to dismiss and does not thereafter grant a request for interlocutory

		appeal or a request to stay, the Court will hold a coordinated, in-person preliminary injunction hearing regarding the pending motions for preliminary injunction in those cases. If any preliminary injunction hearing occurs, the parties collectively will have up to six (6) days to present evidence and arguments. The presenting parties may choose not to use all six days. If any preliminary injunction hearing occurs, it will take place in the Richard B. Russell Federal Building and United States Courthouse (courtroom to be determined) and begin at 9:00 A.M. (EST) on MONDAY, FEBRUARY 7, 2022. If the parties opt to use all six days, the hearing will take place each following business day from 9:00 A.M. to 5:00 P.M. until the overall conclusion of the hearing at 5:00 P.M. on MONDAY, FEBRUARY 14, 2022. The parties shall file with the Court a consolidated presentation schedule by no later than 5:00 P.M. (EST) on WEDNESDAY, JANUARY 26, 2022. If any preliminary injunction hearing occurs, the parties in cases with still-pending motions for preliminary injunction shall file proposed findings of fact and conclusions of law by no later than 5:00 P.M. (EST) on MONDAY, FEBRUARY 21, 2022. The proposed findings of fact and conclusions of law shall be specific to each case and motion. Signed by Judge Steve C. Jones on 1/19/2022. (ddm) (Entered: 01/19/2022)
01/20/2022		APPROVAL by Clerks Office re: 41 APPLICATION for Admission of Ayana Williams Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11518889).. Attorney Ayana Williams added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/20/2022)
01/20/2022		APPROVAL by Clerks Office re: 42 APPLICATION for Admission of Robert Boone Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11519211).. Attorney Robert Boone added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/20/2022)
01/20/2022		ORDER granting 35 Application for Admission Pro Hac Vice of Charlotte Geaghan-Breiner. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	56	ORDER granting 41 Application for Admission Pro Hac Vice of Ayana Williams. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	57	ORDER granting 42 Application for Admission Pro Hac Vice of Robert Boone. Signed by Judge Steve C. Jones on 1/20/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/20/2022)
01/20/2022	58	REPLY to Response to Motion re 43 MOTION to Dismiss <i>Plaintiffs' Complaint</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 01/20/2022)
01/20/2022	59	REPLY to Response to Motion re 39 MOTION for Preliminary Injunction (<i>Renewed</i>) filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Supplemental Declaration of Edward Williams, Esq., # 2 Exhibit A - Rebuttal Cooper Declaration (Part 1), # 3 Exhibit A - Rebuttal Cooper Declaration (Part 2), # 4 Exhibit A - Rebuttal Cooper Declaration (Part 3), # 5 Exhibit A - Rebuttal Cooper Declaration (Part

		4), # 1 Exhibit A- Rebuttal Cooper Declaration (Part 5), # 2 Exhibit B- Rebuttal Handley Declaration)(Garabadu, Rahul) (Entered: 01/20/2022)
01/20/2022		RETURN of 38 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice. to attorney for correction re: Unable to Confirm Bar Membership. (nmb) (Entered: 01/20/2022)
01/21/2022		APPROVAL by Clerks Office re: 44 APPLICATION for Admission of Abigail Shaw Pro Hac Vice (Application fee \$ 150, receipt number BGANDC-11523339).. Attorney Abigail Shaw added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 01/21/2022)
01/24/2022	60	APPLICATION for Admission of Cassandra Mitchell Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11538422).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/24/2022)
01/25/2022	61	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods of <i>Supplemental Authority in support of Plaintiffs' Motion for Preliminary Injunction and Opposition to Motion to Dismiss</i> (Attachments: # 1 Exhibit A- Rose v. Raffensperger, # 2 Exhibit B- Singleton v. Merrill)(Garabadu, Rahul) (Entered: 01/25/2022)
01/26/2022	62	<i>Parties' Consolidated Presentation Schedule</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 1/27/2022 to edit docket text (ddm). (Entered: 01/26/2022)
01/27/2022		APPROVAL by Clerks Office re: 60 APPLICATION for Admission of Cassandra Mitchell Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11538422).. Attorney Cassandra Mitchell added appearing on behalf of Alpha Phi Alpha Fraternity, Inc. (gas) (Entered: 01/27/2022)
01/27/2022	63	ORDER granting 44 Application for Admission Pro Hac Vice of Abigail Shaw. Signed by Judge Steve C. Jones on 1/27/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/27/2022	64	ORDER granting 60 Application for Admission Pro Hac Vice of Cassandra Mitchell. Signed by Judge Steve C. Jones on 1/27/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2022)
01/27/2022	66	COORDINATED ORDER issued for purposes of perfecting the record as to the February 7-14, 2022 coordinated in-person hearing on the Motion for Preliminary Injunction. See Order for specifics on pre-hearing deadlines, stipulations, hearing schedule and covid-19 mitigation protocols. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) Modified on 1/28/2022 to edit signature date (ddm). (Entered: 01/28/2022)
01/28/2022	65	ORDER denying 43 Defendant's Motion to Dismiss Plaintiffs' Complaint. Defendant's request for certification of this ruling for immediate appeal under 28 U.S.C. § 1292(b) is denied. Signed by Judge Steve C. Jones on 1/27/2022. (ddm) (Entered: 01/28/2022)

01/31/2022	67	APPLICATION for Admission of Taeyoung Kim Pro Hac Vice by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/31/2022)
01/31/2022	68	Witness List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 01/31/2022)
01/31/2022	69	NOTICE Of Filing Defendants' Lists of Witnesses and Exhibits by Brad Raffensperger re 66 Order, (Attachments: # 1 Exhibit 7, # 2 Exhibit 9, # 3 Exhibit 10, # 4 Exhibit 11, # 5 Exhibit 12, # 6 Exhibit 13, # 7 Exhibit 14 Part 1, # 8 Exhibit 14 Part 2, # 9 Exhibit 15, # 10 Exhibit 16, # 11 Exhibit 17, # 12 Exhibit 18, # 13 Exhibit 19, # 14 Exhibit 20, # 15 Exhibit 21, # 16 Exhibit 22, # 17 Exhibit 23, # 18 Exhibit 24, # 19 Exhibit 25, # 20 Exhibit 26, # 21 Exhibit 27, # 22 Exhibit 28, # 23 Exhibit 29, # 24 Exhibit 30, # 25 Exhibit 31, # 26 Exhibit 32, # 27 Exhibit 33, # 28 Exhibit 34, # 29 Exhibit 35, # 30 Exhibit 36, # 31 Exhibit 37)(Tyson, Bryan) (Entered: 01/31/2022)
01/31/2022	70	Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.. (Attachments: # 1 Declaration of Bishop Reginald T. Jackson, # 2 Declaration of of Sherman Lofton Jr.)(Garabadu, Rahul) (Entered: 01/31/2022)
01/31/2022	71	APPLICATION for Admission of Samuel E. Weitzman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11557092).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/31/2022)
02/01/2022	72	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Hearing on Motion for Preliminary Injunction</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/01/2022)
02/01/2022		APPROVAL by Clerks Office re: 67 APPLICATION for Admission of Taeyoung Kim Pro Hac Vice.. Attorney Taeyoung Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (nmb) (Entered: 02/01/2022)
02/01/2022	73	RESPONSE to 61 <i>Plaintiffs' Notice of Supplemental Authority</i> filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Barber Report in Rose v. Raffensperger, # 2 Exhibit B - Amicus Brief Joined by Georgia in Merrill v. Milligan)(Tyson, Bryan) Modified on 2/1/2022 to edit docket text (ddm). (Entered: 02/01/2022)
02/01/2022	74	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/01/2022)
02/02/2022	75	Emergency MOTION to Exclude Expert Testimony with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Memorandum in Support Thereto, # 2 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/02/2022)
02/02/2022	76	<i>Plaintiffs' Notice Regarding Objections to Defendants Witnesses</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist

		Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 2/3/2022 to edit docket text (ddm). (Entered: 02/02/2022)
02/02/2022	77	<i>Plaintiffs' Notice Regarding Objections to Defendants Exhibits</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 2/3/2022 to edit docket tetx (ddm). (Entered: 02/02/2022)
02/02/2022	78	NOTICE Of Filing Defendants' Objections to Plaintiffs' Witnesses and Exhibits by Brad Raffensperger re 66 Order, (Tyson, Bryan) (Entered: 02/02/2022)
02/03/2022	79	RESPONSE in Opposition re 75 Emergency MOTION to Exclude Expert Testimony filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 02/03/2022)
02/03/2022	80	ORDER granting 72 Plaintiffs' Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on 2/04/2022 - 2/14/2022 at 9:00 AM: laptops and cellular telephones that may contain cameras, including iPhones, Androids, or other smart phones/personal digital assistants (PDAs), external hard drives, mice, presentation remotes, adapters, tech table, hdmi signal switch, and related peripherals: Randall Carter; Anthony Barko. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022		APPROVAL by Clerks Office re: 71 APPLICATION for Admission of Samuel E. Weitzman Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11557092).. Attorney Samuel Weitzman added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (gas) (Entered: 02/03/2022)
02/03/2022	81	ORDER granting 74 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on 2/7/2022 -2/14/2022 at 9:00 AM: laptops and/or cellular telephones that may contain cameras, including iPhones, Androids, or other smart phones/personal digital assistants (PDAs): Rahul Garabadu; Sophia Lakin; Ari Savitzky; Jenessa Calvo-Friedman; Sean Young; Kelsey Miller; Brett Schratz; Iyanna Barker; Debo Adegbile; George Varghese; Robert Boone; Edward Williams; Anuradha Sivaram; DeEricka Aiken; Ayana Williams; Abigail Shaw; Alex Miller; Cassandra Mitchell; Tae Kim; Denise Tsai; Maura Douglas; Charlotte Geaghan-Breiner; Samuel Weitzman; Matthew Howard; Leighton Crawford; and Lenise Jennings. Signed by Judge Steve C. Jones on 2/3/2022. (pdw) (Entered: 02/03/2022)
02/03/2022	82	ORDER granting 67 Application for Admission Pro Hac Vice of Taeyoung Kim. Signed by Judge Steve C. Jones on 2/3/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/03/2022)
02/03/2022	83	ORDER granting 71 Application for Admission Pro Hac Vice of Samuel E. Weitzman. Signed by Judge Steve C. Jones on 2/3/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/03/2022)
02/03/2022		Submission of 26 MOTION for Preliminary Injunction , 39 MOTION for Preliminary Injunction (<i>Renewed</i>), to District Judge Steve C. Jones. (pdw) (Entered: 02/03/2022)
02/03/2022	84	REPLY to Response to Motion re 75 Emergency MOTION to Exclude Expert Testimony filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/03/2022)

02/03/2022		Submission of 75 Emergency MOTION to Exclude Expert Testimony, to District Judge Steve C. Jones. (rsg) (Entered: 02/03/2022)
02/03/2022	85	ORDER directing Defendant to file on the docket expert reports by Lynn Bailey, Gina Wright, and Dr. John Alford by no later than 12:00 p.m. (EST) on Friday, February 4, 2022. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/03/2022	86	COORDINATED ORDER regarding Defendants' Objections to Plaintiffs' witnesses and exhibits 78 . The Court declines to rule on these objections prior to the preliminary injunction hearing. The Court instructs Defendants to raise their objections to a specific exhibit when Plaintiffs move to introduce the exhibit into evidence. At that time, the Court will rule on the Defendants' objection to that particular exhibit. Signed by Judge Steve C. Jones on 02/03/2022. (ddm) (Entered: 02/03/2022)
02/04/2022	87	Expert Report of John R. Alford, Ph.D. by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	88	Expert Report of Lynn Bailey by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022	89	Expert Report of Gina Wright by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/04/2022)
02/04/2022		COURT'S NOTICE REGARDING THE PRELIMINARY INJUNCTION HEARING SCHEDULED TO COMMENCE ON FEBRUARY 7, 2022 AT 9:00 AM IN COURTROOM 1907: As part of the Court's COVID-19 safety protocols, a maximum of 24 non-party observers will be permitted to attend. A maximum of 7 members of press will be permitted to sit in the jury box; however, entrance to and egress from the jury box will be limited to prior to start of court and during breaks only. COURTROOM 2105 WILL BE USED FOR OVERFLOW SEATING, WITH A LIVE AUDIO STREAM PROVIDED. (pdw) Modified on 2/4/2022 (pdw). (Entered: 02/04/2022)
02/04/2022	90	MOTION for Leave to File Proposed Brief of Amici Curiae with Brief In Support by Fair Districts GA, Election Law Clinic at Harvard Law School. (Attachments: # 1 Brief [Proposed] Brief of Amici Curiae in Support of Plaintiffs)(Pearson, Albert) (Entered: 02/04/2022)
02/04/2022	91	APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569828).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	92	APPLICATION for Admission of Theresa J. Lee Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569886).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	93	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569912).by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/04/2022)
02/04/2022	94	STIPULATION (<i>Joint Stipulated Facts for Preliminary Injunction Proceedings</i>) by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Election Law Clinic at Harvard Law School, Fair Districts GA, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/04/2022)

02/06/2022	95	Unopposed MOTION for Judicial Notice with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/06/2022)
02/07/2022	97	ORDER - In light of the Supreme Court's decision this Court hereby ORDERS the parties to arrive to court tomorrow morning prepared to discuss whether this Court should continue to hold the current hearing regarding Plaintiffs' motions for preliminary injunctions. Signed by Judge Steve C. Jones on 2/7/2022. (pdw) (Entered: 02/07/2022)
02/07/2022	126	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing held on 2/7/2022 re 26 and 39 MOTIONS for Preliminary Injunction. <i>Preliminary Injunction hearing began. Opening statements heard. Pendergrass/Grant plaintiffs' exhibits 1-26, 38-40, 53, 55-58, 60, 62, 66 admitted. Alpha plaintiffs' exhibits A1-A18, A22, A37, A46-A49 admitted. Pendergrass/Grant witness Dr. William Cooper sworn and testified. Dr. William Cooper recalled by Alpha plaintiffs. Alpha plaintiffs' exhibit 47 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)</i>
02/08/2022	127	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/8/2022 re 26 and 39 MOTIONS for Preliminary Injunction. The Court heard argument regarding SCOTUS ruling issued 2/7/2022 in Alabama cases. Court adjourned for three hours to allow counsel time to prepare for presentation of evidence. Defendants' witness Mark Barnes sworn and testified. Pendergrass/Grant witness Blakeman Esselstyn sworn and testified. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/09/2022	98	NOTICE Of Filing of Plaintiffs' Supplemental Memorandum by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (Garabadu, Rahul) (Entered: 02/09/2022)
02/09/2022	128	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/9/2022 re 26 and 39 MOTIONS for preliminary Injunction. Defendants' witness Lynn Bailey sworn and testified. Defendants' exhibits 38 and 7 admitted. Pendergrass/Grant witnesses Richard Barron and Nancy Boren sworn and testified. Pendergrass/Grant exhibit 68 admitted. Alpha Plaintiffs' witness Bishop Jackson sworn and testified. Blakeman Esselstyn recalled by Pendergrass/Grant Plaintiffs. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/10/2022		RETURN of 91 APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569828). to attorney for correction re: Incorrect Local Counsel Address. (nmb) (Entered: 02/10/2022)
02/10/2022		RETURN of 93 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569912). to attorney for correction re: Incorrect Local Counsel Address and Courts. (nmb) (Entered: 02/10/2022)
02/10/2022		RETURN of 92 APPLICATION for Admission of Theresa J. Lee Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-11569886). to attorney for correction re: Incorrect Local Counsel Address. (nmb) (Entered: 02/10/2022)
02/10/2022	99	Consent MOTION for Extension of Time to File Answer re 1 Complaint,, by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 02/10/2022)
02/10/2022	129	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/10/2022 re 26 and 39 MOTIONS for Preliminary Injunction. Pendergrass/Grant witness sworn and testified via Zoom. Pendergrass/Grant witness Dr.

		Maxwell Palmer sworn and testified. Alpha witness Lisa Handley sworn and testified. Alpha exhibit A52 admitted. Pendergrass/Grant witness Jason Carter sworn and testified. Alpha witness Adrienne Jones sworn and testified. Alpha exhibit A5 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/11/2022		DOCKET ORDER granting 95 Unopposed MOTION for Judicial Notice. Entered by Judge Steve C. Jones on 2/11/2022. (pdw) (Entered: 02/11/2022)
02/11/2022	100	ORDER granting the 99 Defendant's Motion to Extend the Time to Answer Plaintiffs' Complaint. Defendant's answer to Plaintiffs' Complaint is due on or before February 25, 2022. Signed by Judge Steve C. Jones on 02/11/2022. (ddm) (Entered: 02/11/2022)
02/11/2022	130	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing continued on 2/11/2022 re 26 and 39 MOTIONS for Preliminary Injunction. Defendants' witness Gina Wright sworn and testified. Defendants' exhibits 1-37, 38, 41 admitted. Pendergrass/Grant exhibits 69 and 70 admitted. Defendants' exhibit 41 admitted. Defendants' witness John Morgan sworn and testified. Defendants' witness John Alford sworn and testified via Zoom. Defendants' exhibit 42 admitted Alpha exhibit 207.6 admitted. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/14/2022	101	Unopposed MOTION for Judicial Notice with Brief In Support by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/14/2022)
02/14/2022	102	COORDINATED ORDER directing the parties to file proposed findings of fact and conclusions of law no later than 5:00 P.M. (EST) on FRIDAY, FEBRUARY 18, 2022. Parties are further ORDERED to file their proposed findings of fact and conclusions of law to CM/ECF and e-mail a word copy the Court's Courtroom Deputy (see order for contact information). Signed by Judge Steve C. Jones on 02/14/2022. (ddm) Modified on 2/15/2022 to edit docket text (ddm). (Entered: 02/15/2022)
02/14/2022	131	Minute Entry for proceedings held before Judge Steve C. Jones: Motion Hearing concluded on 2/14/2022 re 39 MOTION for Preliminary Injunction. Alpha exhibit A53 admitted. John Morgan recalled, testified via Zoom. Defendants' exhibits 43-47 admitted. Pendergrass/Grant exhibits 27-37, 41-54, 59, 61, 63-67 admitted. Alpha exhibits 50 and 51 admitted. Closing arguments heard. The matter was taken under advisement by the Court with ruling to follow. (Court Reporter V. Zbrowski & M. Brock)(pdw) (Entered: 02/28/2022)
02/15/2022	103	APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/15/2022	104	APPLICATION for Admission of Theresa J. Lee Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/15/2022	105	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice.by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/15/2022)
02/16/2022	106	TRANSCRIPT of Proceedings held on February 7, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due

		3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	107	TRANSCRIPT of Proceedings held on February 8, 2020, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	108	TRANSCRIPT of Proceedings held on February 9, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	109	TRANSCRIPT of Proceedings held on February 10, 2020, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	110	TRANSCRIPT of Proceedings held on February 11, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	111	TRANSCRIPT of Proceedings held on February 14, 2022, before Judge Steve C Jones. Court Reporter/Transcriber Melissa Brock. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of filing of transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/16/2022	112	TRANSCRIPT of Preliminary Injunction Proceedings held on 2/7/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full

		<p>directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Affidavit Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	113	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/8/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 2. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	114	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/9/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 3. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	115	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/10/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 4. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	116	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/11/2022 - A.M. Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 5. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)</p>
02/16/2022	117	<p>TRANSCRIPT of Preliminary Injunction Proceedings held on 2/14/2022 - Afternoon Session, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at</p>

		www.gand.uscourts.gov directory-court-reporters. Tape Number: 6. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/9/2022. Redacted Transcript Deadline set for 3/21/2022. Release of Transcript Restriction set for 5/17/2022. (Attachments: # 1 Appendix Notice of Filing of Transcript) Modified on 2/17/2022 to remove QC date (ddm). (Entered: 02/16/2022)
02/17/2022	118	AFFIDAVIT of <i>Rahul Garabadu</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A52 - Corrected Appendix A to Report of Dr. Handley, # 2 Exhibit A53 - Affidavit of Lisa Handley)(Garabadu, Rahul) (Entered: 02/17/2022)
02/18/2022	119	NOTICE by Brad Raffensperger of <i>Supplemental Authority</i> (Attachments: # 1 Exhibit A - Order in Arkansas State Conf. of the NAACP v. Arkansas Board of Apportionment) (Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	120	Proposed Findings of Fact by Brad Raffensperger. (Tyson, Bryan) (Entered: 02/18/2022)
02/18/2022	121	Proposed Findings of Fact by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 02/18/2022)
02/22/2022		APPROVAL by Clerks Office re: 103 APPLICATION for Admission of Ruth M. Greenwood Pro Hac Vice.. Attorney Ruth M. Greenwood added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 02/22/2022)
02/22/2022		APPROVAL by Clerks Office re: 104 APPLICATION for Admission of Theresa J. Lee Pro Hac Vice.. Attorney Theresa J. Lee added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 02/22/2022)
02/22/2022		RETURN of 105 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice. to attorney for correction re: specify admitted courts. (gas) (Entered: 02/22/2022)
02/22/2022	122	ORDER granting 103 Application for Admission Pro Hac Vice of Ruth M. Greenwood. Signed by Judge Steve C. Jones on 2/22/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/22/2022)
02/22/2022	123	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods of <i>Supplemental Authority in support of Plaintiffs' Motion for Preliminary Injunction</i> (Attachments: # 1 Exhibit A- Order in Baltimore Cty Branch of NAACP et al v Baltimore County et al)(Garabadu, Rahul) (Entered: 02/22/2022)
02/24/2022	124	<i>Defendant's Response to Plaintiffs' Notice of Supplemental Authority</i> 123 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 2/25/2022 to edit docket text (ddm). (Entered: 02/24/2022)
02/25/2022	125	ANSWER to 1 COMPLAINT by Brad Raffensperger. Discovery ends on 7/25/2022. (Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 02/25/2022)
02/28/2022	132	ORDER granting 101 Plaintiffs' Second Unopposed Motion for Judicial Notice. The Motion for Leave to File Brief as Amici Curiae in Support of Plaintiffs 90 filed by Fair District GA and the Election Law Clinic at Harvard Law School is granted and the Clerk

		is to update the case style/docket to show Fair District GA and the Election Law Clinic at Harvard Law School as non-party, Amici Curiae filers. In the exercise of the Court's discretion, all objections made during the February 2022 preliminary injunction hearing are overruled as to the exhibit rulings that were taken under advisement in the course of the preliminary injunction hearing. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) Modified on 3/1/2022 to edit docket text (ddm). (Entered: 03/01/2022)
02/28/2022	133	SCHEDULING ORDER. See Order for all specific deadlines. The parties are encouraged to abide by their previously expressed commitments to coordinate with the parties in all of the redistricting cases (currently pending in the Northern District of Georgia) in terms of discovery, so as to limit redundancies and diminish discovery burdens. Except as modified herein, the Federal Rules of Civil Procedure and the Local Rules of this Court, shall govern any remaining deadlines. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
02/28/2022	134	ORDER denying the [26,39] Motions for Preliminary Injunction. Having determined that a preliminary injunction should not issue, the Court cautions that this is an interim, non-final ruling that should not be viewed as an indication of how the Court will ultimately rule on the merits at trial. Under the specific circumstances of this case, the Court finds that proceeding with the Enacted Maps for the 2022 election cycle is the right decision. But it is a difficult decision. And it is a decision the Court did not make lightly. Signed by Judge Steve C. Jones on 02/28/2022. (ddm) (Entered: 03/01/2022)
03/01/2022	135	APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice by Election Law Clinic at Harvard Law School, Fair Districts GA. (Pearson, Albert) Documents for this entry are not available for viewing outside the courthouse. (Entered: 03/01/2022)
03/04/2022		APPROVAL by Clerks Office re: 135 APPLICATION for Admission of Daniel J. Hessel Pro Hac Vice.. Attorney Daniel J. Hessel added appearing on behalf of Election Law Clinic at Harvard Law School, Fair Districts GA (gas) (Entered: 03/04/2022)
03/14/2022	136	ORDER granting 104 Application for Admission Pro Hac Vice of Theresa J. Lee. Signed by Judge Steve C. Jones on 3/14/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 03/14/2022)
03/14/2022	137	ORDER granting 135 Application for Admission Pro Hac Vice of Daniel J. Hessel. Signed by Judge Steve C. Jones on 3/14/2022. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov. If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 03/14/2022)
03/28/2022	138	JOINT PRELIMINARY REPORT AND DISCOVERY PLAN filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 03/28/2022)
03/28/2022	139	CERTIFICATE OF SERVICE of <i>Plaintiffs' Initial Disclosures upon Counsel of Record for Defendant</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Sivaram, Anuradha) (Entered: 03/28/2022)
03/29/2022	140	ORDER denying 75 Plaintiffs' Emergency Motion to Exclude Expert Testimony. Signed by Judge Steve C. Jones on 03/29/2022. (ddm) (Entered: 03/29/2022)
03/30/2022	141	First AMENDED COMPLAINT for <i>Declaratory Judgment and Injunctive Relief</i> against Brad Raffensperger filed by Phil Brown, Sixth District of the African Methodist Episcopal Church, Alpha Phi Alpha Fraternity, Inc., Katie Bailey Glenn, Eric T. Woods,

		Janice Stewart. (Lakin, Sophia) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 03/30/2022)
03/31/2022	142	CERTIFICATE OF SERVICE <i>for Defendant's Initial Disclosures</i> by Brad Raffensperger. (Tyson, Bryan) (Entered: 03/31/2022)
04/04/2022	143	Notice for Leave of Absence for the following date(s): April 7 - April 8, 2022, May 1 - May 6, 2022, July 5 - July 8, 2022, by Sophia Lin Lakin. (Lakin, Sophia) (Entered: 04/04/2022)
04/13/2022	144	<i>Defendant's</i> ANSWER to 141 Amended Complaint by Brad Raffensperger.(Tyson, Bryan) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 04/13/2022)
04/14/2022	145	MOTION to Withdraw Sean Young as Attorneyby Alpha Phi Alpha Fraternity, Inc.. (Young, Sean) (Entered: 04/14/2022)
05/16/2022	146	ORDER advising the parties that the Court declines the parties' request for another scheduling conference. The Court also DENIES Plaintiffs' requests to alter the previously issued scheduling orders. Said scheduling orders remain the Order of the Court. Signed by Judge Steve C. Jones on 05/16/2022. (ddm) (Entered: 05/16/2022)
05/23/2022	147	Request for Leave of Absence for the following date(s): 6/13/22 - 6/24/22; 6/27/22 - 7/1/22; 7/5/22 - 7/15/22, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 05/23/2022)
05/31/2022		DOCKET ORDER granting 145 Motion to Withdraw as Attorney. Attorney Sean Young terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 5/31/2022. (pdw) (Entered: 05/31/2022)
07/21/2022	148	MOTION to Withdraw Samuel E. Weitzman as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 07/21/2022)
07/27/2022		ORDER (by docket entry only): The parties are hereby ORDERED to file a joint status report no later than 12:00 PM on August 2, 2022 setting forth the following information: 1.) the current posture of the litigation; and 2.) if the parties will be prepared to proceed to trial either in late April or the month of May, 2023. Entered by Judge Steve C. Jones on 7/27/2022. (pdw) (Entered: 07/27/2022)
08/02/2022	149	STATUS REPORT <i>Joint Status Report</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 08/02/2022)
08/04/2022	150	ORDER advising the parties that, after having read and considered the parties' Joint Status Report in response to the Court's order of July 27, 2022, the Court exercises its discretion to leave the scheduling order (dated February 28, 2022) in place. No changes will be made at this time. Signed by Judge Steve C. Jones on 08/04/2022. (ddm) (Entered: 08/04/2022)
08/05/2022	151	CERTIFICATE OF SERVICE <i>for Defendant's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 08/05/2022)
08/24/2022	152	Joint MOTION for Protective Order by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice

		Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Lakin, Sophia) (Entered: 08/24/2022)
08/25/2022	153	STIPULATED PROTECTIVE ORDER. Signed by Judge Steve C. Jones on 08/25/2022. (ddm) (Entered: 08/25/2022)
09/01/2022	154	Joint MOTION for Order <i>Regarding Entry of Stipulated ESI Agreement</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1: Proposed Stipulated ESI Agreement)(Lakin, Sophia) (Entered: 09/01/2022)
09/02/2022	155	STIPULATION AND ORDER REGARDING DISCOVERY. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) (Entered: 09/02/2022)
09/02/2022	156	ORDER granting 148 Motion to Withdraw as Attorney filed by Samuel E. Weitzman. Signed by Judge Steve C. Jones on 09/02/2022. (ddm) Modified on 9/2/2022 to edit docket text (ddm). (Entered: 09/02/2022)
09/13/2022	157	MOTION to Withdraw Loree Anne Paradise as Attorneyby Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Paradise, Loree Anne) (Entered: 09/13/2022)
09/15/2022	158	ORDER granting 157 Motion to Withdraw as Attorney filed by Loree Anne Paradise. Signed by Judge Steve C. Jones on 09/15/2022. (ddm) (Entered: 09/15/2022)
09/21/2022	159	NOTICE of Appearance by Cory Isaacson on behalf of Phil Brown, Alpha Phi Alpha Fraternity, Inc., Sixth District of the African Methodist Episcopal Church, Eric T. Woods, Katie Bailey Glenn, Janice Stewart (Isaacson, Cory) Modified text on 9/22/2022 (rsg). (Entered: 09/21/2022)
09/23/2022	160	CERTIFICATE OF SERVICE <i>for Plaintiffs' First Set of Interrogatories and Requests for Production of Documents</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 09/23/2022)
10/05/2022	161	NOTICE of Appearance by Caitlin Felt May on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (May, Caitlin) (Entered: 10/05/2022)
10/05/2022	162	CERTIFICATE OF SERVICE <i>of Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 10/05/2022)
10/06/2022	163	STIPULATION <i>AND ORDER REGARDING DISCOVERY</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Lakin, Sophia) (Entered: 10/06/2022)
10/07/2022	164	STIPULATION AND ORDER REGARDING DISCOVERY. (See Order for specific deadlines.) Signed by Judge Steve C. Jones on 10/07/2022. (ddm) (Entered: 10/07/2022)
10/11/2022	165	CERTIFICATE OF SERVICE filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Plaintiffs' Notice of Deposition of Defendant Secretary</i> (Garabadu, Rahul) (Entered: 10/11/2022)
10/24/2022	166	CERTIFICATE OF SERVICE <i>for Plaintiffs' Set of Requests for Admission</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 10/24/2022)

11/02/2022	167	CERTIFICATE OF SERVICE for Defendant's Responses and Objections to Plaintiffs' First Set of Discovery Requests by Brad Raffensperger.(Tyson, Bryan) (Entered: 11/02/2022)
11/23/2022	168	CERTIFICATE OF SERVICE for Defendant's Production (APA00000001 - APA00001539) by Brad Raffensperger.(Tyson, Bryan) (Entered: 11/23/2022)
12/01/2022	169	CERTIFICATE OF SERVICE for Defendant's Objections and Responses to Plaintiffs' Set of Requests for Admission by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/01/2022)
12/06/2022	170	CERTIFICATE OF SERVICE for the Expert Report of John B. Morgan by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/06/2022)
12/06/2022	171	CERTIFICATE OF SERVICE of Discovery by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 12/06/2022)
12/08/2022	172	APPLICATION for Admission of Kelsey Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12248030).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/08/2022)
12/09/2022	173	CERTIFICATE OF SERVICE for Defendant's Notices to take the Depositions of Katie Bailey Glenn, Phil Brown, Eric T. Woods and Janice Stewart by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/09/2022)
12/09/2022	174	CERTIFICATE OF SERVICE for Defendant's Second Notice to take the Deposition of Janice Stewart by Brad Raffensperger.(Tyson, Bryan) (Entered: 12/09/2022)
12/13/2022	175	NOTICE of Appearance by Daniel H Weigel on behalf of Brad Raffensperger (Weigel, Daniel) (Entered: 12/13/2022)
12/14/2022		RETURN of 172 APPLICATION for Admission of Kelsey Miller Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12248030) to attorney for correction. Re: List all specific courts admitted. (pdt) (Entered: 12/14/2022)
12/15/2022	176	APPLICATION for Admission of Kelsey A. Miller Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 12/15/2022)
12/15/2022	177	Joint MOTION to Amend Stipulation and Order Regarding Discovery by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/15/2022)
12/16/2022	178	NOTICE of Appearance by Donald P. Boyle, Jr on behalf of Brad Raffensperger (Boyle, Donald) (Entered: 12/16/2022)
12/20/2022		APPROVAL by Clerks Office re: 176 APPLICATION for Admission of Kelsey A. Miller Pro Hac Vice. Attorney Kelsey A. Miller added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 12/20/2022)
01/03/2023	179	ORDER granting the 177 Joint Motion to Amend Stipulation and Order Regarding Discovery. Fact depositions for persons associated with the Office of the Georgia Secretary of State and Plaintiffs Rule 30(b)(6) designees may be held until January 13,

		2023, and fact depositions for third parties may be held until January 20, 2023. Signed by Judge Steve C. Jones on 01/03/2023. (ddm) (Entered: 01/03/2023)
01/09/2023	180	ORDER granting 176 Application for Admission Pro Hac Vice filed by Kelsey A. Miller. Signed by Judge Steve C. Jones on 01/09/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(ddm) (Entered: 01/09/2023)
01/09/2023		Clerk's Certificate of Mailing to Kelsey A. Miller re 180 Order. (ddm) (Entered: 01/09/2023)
01/09/2023	181	Notice for Leave of Absence for the following date(s): 4/3/23 - 4/7/23, 5/22/23 - 5/26/23, 10/5/23 - 10/19/23 and 11/9/23 - 11/10/23, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 01/09/2023)
01/17/2023	182	CERTIFICATE OF SERVICE of <i>Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 01/17/2023)
01/20/2023	183	Joint MOTION to Amend <i>Stipulation and Order Regarding Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(May, Caitlin) (Entered: 01/20/2023)
01/20/2023	184	ORDER granting the 183 Joint Motion to Amend Stipulation and Order Regarding Discovery. Fact depositions for Gina Wright and the Legislative and Congressional Reapportionment Office of the Georgia General Assembly may be held until January 26, 2023. Signed by Judge Steve C. Jones on 01/20/2023. (ddm) (Entered: 01/20/2023)
01/23/2023	185	APPLICATION for Admission of Juan M. Ruiz Toro Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337634).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	186	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337641).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	187	APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/23/2023)
01/23/2023	188	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (<i>Of Change of Address and Contact Information</i>) (Sivaram, Anuradha) (Entered: 01/23/2023)
01/26/2023		APPROVAL by Clerk's Office re: 185 APPLICATION for Admission of Juan M. Ruiz Toro Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337634). Attorney Juan M. Ruiz Toro added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 01/26/2023)

01/26/2023		RETURN of 186 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337641) to attorney for correction. Returned for list of courts, please clarify. Please contact 404-215-1600 for more information. (rvb) (Entered: 01/26/2023)
01/26/2023		RETURN of 187 APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651) to attorney for correction. Returned for list of courts, please clarify. Please contact 404-215-1600 for more information. (rvb) (Entered: 01/26/2023)
01/26/2023	189	NOTICE of Appearance by Diane Festin LaRoss on behalf of Brad Raffensperger (LaRoss, Diane) (Entered: 01/26/2023)
01/27/2023		DOCKET ORDER granting 185 Application for Admission Pro Hac Vice of Juan M. Ruiz Toro. Entered by Judge Steve C. Jones on 1/27/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 01/27/2023)
01/27/2023	190	APPLICATION for Admission of Ming Cheung Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12350880).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 01/27/2023)
01/31/2023	191	CERTIFICATE OF SERVICE for Defendant's expert disclosure of John Morgan's Report by Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023	192	CERTIFICATE OF SERVICE for Amended 30(b)(6) Notices of Deposition of Alpha Phi Alpha Fraternity Inc. and Sixth District of the African Methodist Episcopal Church by Brad Raffensperger.(Tyson, Bryan) (Entered: 01/31/2023)
01/31/2023		RETURN of 190 APPLICATION for Admission of Ming Cheung Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12350880). to attorney for correction re: Local counsel's address must match what is in the NDGA database. (cdg) (Entered: 01/31/2023)
02/01/2023	193	CERTIFICATE OF SERVICE for Defendant's Notices to take the Expert Depositions of Jason Morgan Ward, Ph.D. and William S. Cooper by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/01/2023)
02/03/2023	194	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	195	APPLICATION for Admission of Marisa A DiGiuseppe Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	196	APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)

02/03/2023	197	APPLICATION for Admission of Ming Cheung Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/03/2023)
02/03/2023	198	CERTIFICATE OF SERVICE <i>for Notice to take the Expert Deposition of John B. Morgan</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 02/03/2023)
02/06/2023	199	CERTIFICATE OF SERVICE <i>for the Expert Report of John R. Alford, Ph.D.</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/06/2023)
02/09/2023		RETURN of 194 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 195 APPLICATION for Admission of Marisa A DiGiuseppe Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 196 APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179). to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/09/2023		RETURN of 197 APPLICATION for Admission of Ming Cheung Pro Hac Vice. to attorney for correction re: Local counsel's address. (cdg) (Entered: 02/09/2023)
02/10/2023	200	APPLICATION for Admission of Ming Cheung Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/10/2023)
02/13/2023	201	CERTIFICATE OF SERVICE <i>for Defendant's Notices to take the Expert Depositions of Drs. Lisa Handley, Adrienne Jones and Traci Burch</i> by Brad Raffensperger.(Tyson, Bryan) (Entered: 02/13/2023)
02/14/2023		APPROVAL by Clerks Office re: 200 APPLICATION for Admission of Ming Cheung Pro Hac Vice. Attorney Ming Cheung added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 02/14/2023)
02/14/2023		DOCKET ORDER granting 200 Application for Admission Pro Hac Vice of Ming Cheung. Entered by Judge Steve C. Jones on 2/14/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/14/2023)
02/15/2023	202	Certification of Consent to Substitution of Counsel. Elizabeth Marie Wilson Vaughan replacing attorney Charlene S McGowan. (Vaughan, Elizabeth) (Entered: 02/15/2023)
02/16/2023	203	MOTION to Withdraw Eliot Kim as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) Modified on 2/16/2023 to edit docket entry (ddm). (Entered: 02/16/2023)
02/16/2023	204	MOTION to Withdraw Anuradha Sivaram as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)

		(Garabadu, Rahul) Modified on 2/16/2023 to edit docket entry (ddm) (Entered: 02/16/2023)
02/16/2023	205	APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 02/16/2023)
02/16/2023	206	APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. Modified on 2/27/2023 confirmed with counsel via email that he is a member of the California Supreme Court (rvb). (Entered: 02/16/2023)
02/16/2023	207	APPLICATION for Admission of Anuj Dixit Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. Modified on 2/24/2023 confirmed with counsel via email that he is a member of the California Supreme Court (rvb). (Entered: 02/16/2023)
02/16/2023	208	Joint MOTION to Amend <i>Stipulation and Order Regarding Discovery</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 02/16/2023)
02/17/2023	209	ORDER granting the parties' 208 Joint Motion to Amend Stipulation and Order regarding Discovery. Dr. John Alford's deposition may be held until February 27, 2023. Signed by Judge Steve C. Jones on 02/17/2023. (ddm) (Entered: 02/17/2023)
02/24/2023		APPROVAL by Clerks Office re: 205 APPLICATION for Admission of Joseph D. Zabel Pro Hac Vice. Attorney Joseph D. Zabel added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 02/24/2023)
02/24/2023		DOCKET ORDER granting 205 Application for Admission Pro Hac Vice of Joseph D. Zabel. Entered by Judge Steve C. Jones on 2/24/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/24/2023)
02/24/2023		APPROVAL by Clerks Office re: 207 APPLICATION for Admission of Anuj Dixit Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12365179). Attorney Anuj Dixit added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (rvb) (Entered: 02/24/2023)
02/24/2023	210	CERTIFICATE OF SERVICE <i>for Notice to take the Expert Deposition of John R. Alford, Ph.D</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.(Garabadu, Rahul) (Entered: 02/24/2023)
02/27/2023		APPROVAL by Clerks Office re: 206 APPLICATION for Admission of Marisa A. DiGiuseppe Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12337651). Attorney Marisa A. DiGiuseppe added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (rvb) (Entered: 02/27/2023)

02/28/2023		DOCKET ORDER granting 206 Application for Admission Pro Hac Vice of Marisa A. DiGiuseppe. Entered by Judge Steve C. Jones on 2/28/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/28/2023)
02/28/2023		DOCKET ORDER granting 207 Application for Admission Pro Hac Vice Anuj Dixit. Entered by Judge Steve C. Jones on 2/28/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 02/28/2023)
03/07/2023	211	MOTION to Withdraw Abigail Shaw as Attorney filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 3/7/2023 to edit docket text (ddm). (Entered: 03/07/2023)
03/09/2023		Submission of 204 MOTION to Withdraw Rahul Garabadu as Attorney, 203 MOTION to Withdraw Rahul Garabadu as Attorney, to District Judge Steve C. Jones. (pdw) (Entered: 03/09/2023)
03/09/2023	212	ORDER granting 203 Motion to Withdraw as Attorney filed by Eliot Kim. Signed by Judge Steve C. Jones on 03/09/2023. (ddm) (Entered: 03/09/2023)
03/09/2023	213	ORDER granting 204 Motion to Withdraw as Attorney filed by Anuradha Sivaram. Signed by Judge Steve C. Jones on 03/09/2023. (ddm) (Entered: 03/09/2023)
03/15/2023	214	Consent MOTION for Leave to File Excess Pages <i>for Summary Judgment Briefing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 03/15/2023)
03/15/2023	215	ORDER granting the 214 Consent Motion for Additional Pages for Summary Judgment Briefing. Signed by Judge Steve C. Jones on 03/15/2023. (ddm) (Entered: 03/16/2023)
03/17/2023	216	DEPOSITION of Reginald Jackson - 30(b)(6) deposition of Sixth District of the African Methodist Episcopal Church taken on 1.09.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Reginald Jackson Deposition, # 2 Supplement Part 3 of Reginald Jackson Deposition)(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	217	DEPOSITION of Eric Woods taken on 12.15.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	218	DEPOSITION of Katie Bailey Glenn taken on 12.14.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	219	DEPOSITION of Phil Brown taken on 12.15.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	220	DEPOSITION of Janice Stewart taken on 12.16.22 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/17/2023)
03/17/2023	221	DEPOSITION of William S. Cooper taken on 2.10.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of William S. Cooper Deposition, # 2 Supplement Part 3 of William S. Cooper Deposition, # 3 Supplement Part 4 of William S. Cooper Deposition, # 4 Supplement Part 5 of William S. Cooper Deposition, # 5 Supplement Part 6 of William S. Cooper Deposition, # 6 Supplement Part 7 of William S. Cooper Deposition, # 7 Supplement Part 8 of William S. Cooper Deposition, # 8 Supplement Part 9 of William S. Cooper Deposition, # 9 Supplement Part 10 of William S. Cooper Deposition, # 10 Supplement Part 11 of William S. Cooper Deposition, # 11 Supplement

		Part 12 of William S. Cooper Deposition, # 12 Supplement Part 13 of William S. Cooper Deposition, # 13 Supplement Part 14 of William S. Cooper Deposition)(Tyson, Bryan) (Entered: 03/17/2023)
03/20/2023	222	DEPOSITION of Lisa Handley taken on 2.16.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	223	DEPOSITION of Sherman Macawayne Lofton, Jr. taken on 1.10.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Sherman Macawayne Lofton, Jr. Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	224	COORDINATED ORDER in anticipation of the Parties' filing their motions for summary judgment. The Court will hold a hearing on the Parties' motions for summary judgment on May 18, 2023 at 10:00 AM. The Court will hold a pretrial conference on August 15, 2023 at 10:00 AM. The Court specially sets the above-listed Actions for a coordinated trial to begin on September 5, 2023. All proceedings will be in person and held in Courtroom No. 1907, in the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. Unless otherwise notified, all proceedings will begin at 9:00 AM. The Court will not permit counsel to argue or witnesses to offer live testimony via Zoom. The Court will permit a witness to testify via video deposition, per a prior agreement between the Parties. Signed by Judge Steve C. Jones on 03/20/2023. (ddm) (Entered: 03/20/2023)
03/20/2023	225	DEPOSITION of Gina Wright taken on 1.26.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	226	DEPOSITION of John F. Kennedy taken on 1.20.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	227	DEPOSITION of Bonnie Rich taken on 1.18.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Bonnie Rich Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	228	DEPOSITION of Derrick Jackson taken on 2.20.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of Derrick Jackson Deposition, # 2 Supplement Part 3 of Derrick Jackson Deposition, # 3 Supplement Part 4 of Derrick Jackson Deposition, # 4 Supplement Part 5 of Derrick Jackson Deposition)(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	229	DEPOSITION of John R. Alford taken on 2.27.23 by Brad Raffensperger.(Tyson, Bryan) (Entered: 03/20/2023)
03/20/2023	230	MOTION for Summary Judgment with Brief In Support by Brad Raffensperger. (Attachments: # 1 Brief in Support of Defendant's Motion for Summary Judgment) (Tyson, Bryan) --Please refer to http://www.gand.uscourts.gov to obtain the Notice to Respond to Summary Judgment Motion form contained on the Court's website.-- (Entered: 03/20/2023)
03/20/2023	231	Statement of Material Facts re 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Expert Report of William Cooper (Part 1), # 2 Exhibit A - Expert Report of William Cooper (Part 2), # 3 Exhibit A - Expert Report of William Cooper (Part 3), # 4 Exhibit A - Expert Report of William Cooper (Part 4), # 5 Exhibit A - Expert Report of William Cooper (Part 5), # 6 Exhibit B - Expert Report of John Morgan (Part 1), # 7 Exhibit B - Expert Report of John Morgan (Part 2), # 8 Exhibit B - Expert Report of John Morgan (Part 3), # 9 Exhibit B - Expert Report of John Morgan (Part 4), # 10 Exhibit C - Expert Report of Blakeman Esselstyn in Grant, # 11 Exhibit D - Cooper Deposition Excerpts, # 12 Exhibit E - Wright Deposition Excerpts, # 13 Exhibit F - Kennedy Deposition Excerpts, # 14 Exhibit G - Rich Deposition Excerpts, # 15 Exhibit H - Jackson Deposition Excerpts, # 16 Exhibit I - Woods Deposition Excerpts, # 17 Exhibit J - Glenn Deposition Excerpts, # 18 Exhibit K - Brown Deposition Excerpts, # 19

		Exhibit L - Stewart Deposition Excerpts, # 21 Exhibit M - Handley Deposition Excerpts, # 21 Exhibit N - Alford Deposition Excerpts)(Tyson, Bryan) (Entered: 03/20/2023)
03/24/2023	232	ORDER granting 211 Motion to Withdraw as Attorney filed by Abigail Shaw. Signed by Judge Steve C. Jones on 03/24/2023. (ddm) (Entered: 03/24/2023)
03/29/2023	233	APPLICATION for Admission of Sonika Data Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12494309).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 03/29/2023)
04/04/2023		APPROVAL by Clerks Office re: 233 APPLICATION for Admission of Sonika Data Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12494309).Attorney Sonika Data added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (cdg) (Entered: 04/04/2023)
04/05/2023		DOCKET ORDER granting 233 Application for Admission Pro Hac Vice of Sonika Data. Entered by Judge Steve C. Jones on 4/5/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 04/05/2023)
04/11/2023	234	Consent MOTION for Leave to File Excess Pages <i>for Plaintiffs' Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 04/11/2023)
04/12/2023	235	ORDER granting 234 Plaintiffs' Consent Motion for an Extension of the Page Limitations. Signed by Judge Steve C. Jones on 04/12/2023. (ddm) (Entered: 04/12/2023)
04/18/2023	236	DEPOSITION of John Morgan taken on 2.09.23 by Brad Raffensperger. (Attachments: # 1 Supplement Part 2 of John Morgan Deposition, # 2 Supplement Part 3 of John Morgan Deposition, # 3 Supplement Part 4 of John Morgan Deposition, # 4 Supplement Part 5 of John Morgan Deposition, # 5 Supplement Part 6 of John Morgan Deposition, # 6 Supplement Part 7 of John Morgan Deposition, # 7 Supplement Part 8 of John Morgan Deposition, # 8 Supplement Part 9 of John Morgan Deposition)(Tyson, Bryan) (Entered: 04/18/2023)
04/18/2023	237	NOTICE Of Filing Amended Exhibits to William Cooper Deposition by Brad Raffensperger re 221 Deposition,,, (Attachments: # 1 Exhibit Amended Exhibit 1 to William Cooper Deposition taken on 2.10.23, # 2 Supplement Part 2 of Amended Exhibit 1, # 3 Supplement Part 3 of Amended Exhibit 1, # 4 Supplement Part 4 of Amended Exhibit 1, # 5 Supplement Part 5 of Amended Exhibit 1, # 6 Exhibit Amended Exhibit 5 to William Cooper Deposition taken on 2.10.23, # 7 Supplement Part 2 of Amended Exhibit 5, # 8 Supplement Part 3 of Amended Exhibit 5, # 9 Supplement Part 4 of Amended Exhibit 5, # 10 Supplement Part 5 of Amended Exhibit 5, # 11 Supplement Part 6 of Amended Exhibit 5, # 12 Exhibit Amended Exhibit 6 to William Cooper Deposition taken on 2.10.23, # 13 Supplement Part 2 of Amended Exhibit 6, # 14 Supplement Part 3 of Amended Exhibit 6, # 15 Supplement Part 4 of Amended Exhibit 6, # 16 Supplement Part 5 of Amended Exhibit 6, # 17 Supplement Part 6 of Amended Exhibit 6)(Tyson, Bryan) (Entered: 04/18/2023)
04/18/2023	238	Notice for Leave of Absence for the following date(s): June 12-15, 2023, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 04/18/2023)

04/19/2023	239	DEPOSITION of Adrienne Jones, Ph. D. taken on February 15, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3 (Part 1), # 4 Exhibit 3 (Part 2), # 5 Exhibit 4 (Part 1), # 6 Exhibit 4 (Part 2), # 7 Exhibit 5 (Part 1), # 8 Exhibit 5 (Part 2), # 9 Exhibit 5 (Part 3), # 10 Exhibit 6, # 11 Exhibit 7, # 12 Exhibit 8)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	240	DEPOSITION of Erick Allen taken on February 21, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6 (Part 1), # 7 Exhibit 6 (Part 2), # 8 Exhibit 6 (Part 3), # 9 Exhibit 6 (Part 4), # 10 Exhibit 6 (Part 5), # 11 Exhibit 6 (Part 6)) (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	241	DEPOSITION of Jan Jones taken on January 17, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Grant - Exhibit 1, # 15 Grant - Exhibit 2, # 16 Grant - Exhibit 3)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	242	DEPOSITION of Jason M. Ward, Ph.D. taken on February 8, 2023 by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6)(Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	243	(DOCUMENT RESTRICTED PER 250) RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 5/2/2023 (ddm). (Entered: 04/19/2023)
04/19/2023	244	RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	245	RESPONSE re 231 Statement of Material Facts,,,,, filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/19/2023)
04/19/2023	246	Plaintiffs' Statement of Additional Facts in re 244 Response in Opposition to Motion, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Exhibit Q, # 18 Exhibit R, # 19 Exhibit S, # 20 Exhibit T, # 21 Exhibit U)(Garabadu, Rahul) Modified on 5/2/2023 to edit docket entry per 250 (ddm). (Entered: 04/19/2023)
04/20/2023	247	MOTION to Strike 243 Response in Opposition to Motion, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 04/20/2023)

04/20/2023	248	ORDER advising the parties that the Court requests two courtesy copies of the documents filed relating to the parties' summary judgment motions. Counsel shall have said courtesy copies delivered to the Court's Atlanta Chambers, 1967 United States Courthouse, 75 Ted Turner Drive, S.W. by 10 A.M., THURSDAY, MAY 4, 2023. Signed by Judge Steve C. Jones on 04/20/2023. (ddm) (Entered: 04/21/2023)
04/28/2023	249	ORDER outlining the schedule for the May 18, 2023 hearing on the Parties' Motions for Summary Judgment. The Court notes that it reserves the right to amend the schedule of the argument. (Please read Order for specific timing of these hearings.) Signed by Judge Steve C. Jones on 04/28/2023. (ddm) (Entered: 05/01/2023)
05/02/2023	250	ORDER DENYING Plaintiffs' Motion to Strike (Doc. No. 247). However, the Court, in an effort to perfect the Docket, DIRECTS the Clerk that access to (Doc. No. 243) shall be restricted to Court users. The Clerk shall also modify the CM/ECF docket text to show the document as RESTRICTED. The Court further perfects the record to state that it will give no consideration to Doc. No. 243 as it prepares to issue a ruling on the pending summary judgment motion. Any reference to Plaintiffs' Response to Defendant's Statement of Material Facts shall be to (Doc. No. 245). The Clerk is further DIRECTED to modify the description for Doc. No. 246 to Plaintiffs' Statement of Additional Facts. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/02/2023	251	CLARIFICATION ORDER specifying the preferred format for the courtesy copies to be provided to the Court. Signed by Judge Steve C. Jones on 05/02/2023. (ddm) (Entered: 05/02/2023)
05/03/2023	252	REPLY <i>in Support of Motion for Summary Judgment</i> 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/03/2023	253	<i>Defendant's Responses and Objections to Plaintiffs' Statement of Additional Material Facts</i> re 230 MOTION for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Wright Deposition Excerpts, # 2 Exhibit B - Cooper Deposition Excerpts, # 3 Exhibit C - Morgan Deposition Excerpts, # 4 Exhibit D - Ward Deposition Excerpts, # 5 Exhibit E - Expert Report of John Alford)(Tyson, Bryan) Modified on 5/3/2023 to edit docket text (ddm). (Entered: 05/03/2023)
05/12/2023	254	APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 05/12/2023)
05/12/2023	255	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Hearing on Motion for Summary Judgement</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 05/12/2023)
05/15/2023	256	ORDER granting 255 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on May 18th, 2023. Signed by Judge Steve C. Jones on 05/15/2023. (rsg) (Entered: 05/15/2023)
05/15/2023		RETURN of 254 APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476) to attorney for correction. Reason for Return: Applicant must list all parties she is representing on the application. Please check the box that you represent more than one party and enter the additional parties in the text box on the application. (rvb) (Entered: 05/15/2023)

05/16/2023		Submission of 230 MOTION for Summary Judgment , to District Judge Steve C. Jones. (pdw) (Entered: 05/16/2023)
05/18/2023	257	Minute Entry for proceedings held before Judge Steve C. Jones: Hearing held on Defendant's Motion for Summary Judgment 230 , together with argument in civil actions 1:21-cv-5339-SCJ and 1:22-cv-122-SCJ. The Court heard oral argument and took the matter under advisement. (Court Reporter Viola Zborowski)(ddm) (Entered: 05/19/2023)
05/19/2023	258	(ORDER VACATED PER 261) AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 05/19/2023. (ddm) Modified on 6/8/2023 (ddm). (Entered: 05/19/2023)
05/25/2023	259	APPLICATION for Admission of Casey Smith Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 05/25/2023)
05/26/2023		APPROVAL by Clerks Office re: 259 APPLICATION for Admission of Casey Smith Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12594476) Attorney Casey Katharine Smith added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (djs) (Entered: 05/26/2023)
05/26/2023		DOCKET ORDER granting 259 Application for Admission Pro Hac Vice of Casey Smith. Entered by Judge Steve C. Jones on 5/26/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 05/26/2023)
06/01/2023	260	TRANSCRIPT of Proceedings held on 5/18/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/22/2023. Redacted Transcript Deadline set for 7/3/2023. Release of Transcript Restriction set for 8/30/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 06/01/2023)
06/08/2023	261	SECOND AMENDED SCHEDULING ORDER. (See Order for deadlines.) Signed by Judge Steve C. Jones on 06/08/2023. (ddm) (Entered: 06/08/2023)
06/22/2023	262	SUPPLEMENTAL RESPONSE in Opposition re 230 MOTION for Summary Judgment filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/22/2023	263	<i>Supplemental Brief Regarding Summary Judgment Briefing Based on Allen v. Milligan</i> 230 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 6/23/2023 to edit docket text (ddm). (Entered: 06/22/2023)
06/27/2023	264	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods of <i>Supplemental Authority in Opposition to Defendant's Motion for Summary Judgment</i> 230 (Attachments: # 1 Exhibit A - Excerpt of June 26, 2023 Order List)(Garabadu, Rahul) (Entered: 06/27/2023)

06/28/2023	265	MOTION to Withdraw Ayana Williams as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 6/29/2023 to edit docket text (ddm). (Entered: 06/28/2023)
06/28/2023	266	MOTION to Withdraw Jenessa Calvo-Friedman as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) Modified on 6/29/2023 to edit docket text (ddm). (Entered: 06/28/2023)
06/30/2023	267	RESPONSE 264 to Plaintiffs' Notice of Supplemental Authority in Opposition to Defendant's Motion for Summary Judgment filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Memorandum to Counsel or Parties)(Tyson, Bryan) Modified on 7/3/2023 to edit docket text (ddm). (Entered: 06/30/2023)
07/17/2023	268	ORDER denying 230 Motion for Summary Judgment. As the Court noted consistently throughout this Order, there are material disputes of fact and credibility determinations that foreclose the award of summary judgment to Defendant. Additionally, given the gravity and importance of the right to an equal vote for all American citizens, the Court will engage in a thorough and sifting review of the evidence that the Parties will present in this case at a trial. Accordingly, the case will proceed to a coordinated trial with Coakley Pendergrass, et al. v. Brad Raffensperger, et al., No. 1:21-cv-5339-SCJ, and Annie Lois Grant, et al. v. Brad Raffensperger, et al., No.1:22-cv-122-SCJ. The Second Amended Scheduling Order shall govern the forthcoming proceedings. Doc. No. 261 . Signed by Judge Steve C. Jones on 7/17/2023. (rsg) (Entered: 07/17/2023)
07/18/2023		Submission of 266 MOTION to Withdraw Rahul Garabadu as Attorney, 265 MOTION to Withdraw Rahul Garabadu as Attorney, to District Judge Steve C. Jones. (pdw) (Entered: 07/18/2023)
07/18/2023		DOCKET ORDER granting 265 and 266 Motions to Withdraw as Attorney. Attorneys Jenessa Calvo-Friedman and Ayana Williams terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 7/18/2023. (pdw) (Entered: 07/18/2023)
07/21/2023	269	ORDER: Having read and considered Plaintiffs' proposal regarding amending the existing pretrial deadlines and learned of Defendants' agreement thereto, it is hereby ORDERED that exhibit lists and deposition designations shall be exchanged by all Parties and filed with the Court no later than JULY 31, 2023 and objections to the same shall be exchanged by all Parties and filed with the Court no later than AUGUST 4, 2023.1 Except as amended herein, the remainder of the Court's Second Amended Scheduling Order remains in effect, this includes the July 25, 2023 and August 1, 2023 deadlines for filing and responding to motions in limine and Daubert motions. Signed by Judge Steve C. Jones on 07/21/2023. (rsg) (Entered: 07/21/2023)
07/25/2023	270	Proposed Pretrial Order by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit C-1: Pendergrass Plaintiffs' Outline of the Case, # 2 Exhibit C-2: Grant Plaintiffs' Outline of the Case, # 3 Exhibit C-3: Alpha Phi Alpha Plaintiffs' Outline of the Case, # 4 Exhibit D: Defendants' Outline of the Case, # 5 Exhibit E: Joint Stipulated Facts, # 6 Exhibit F-1: Pendergrass Plaintiffs' Witness List, # 7 Exhibit F-2: Grant Plaintiffs' Witness List, # 8 Exhibit F-3: Alpha Phi Alpha Plaintiffs' Witness List, # 9 Exhibit F-4: Defendants' Witness List)(Garabadu, Rahul) (Entered: 07/25/2023)
07/31/2023	271	NOTICE Of Filing Defendant's Trial Exhibit List and Defendant's Deposition Designations by Brad Raffensperger (Attachments: # 1 Exhibit A - Defendant's Trial

		Exhibit List, # 2 Exhibit B - Defendants Deposition Designations)(Tyson, Bryan) (Entered: 07/31/2023)
07/31/2023	272	NOTICE Of Filing Plaintiffs' Trial Exhibit List and Learned Treatise List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods (Attachments: # 1 Exhibit A: Exhibit List, # 2 Exhibit B: Learned Treatise List)(Garabadu, Rahul) (Entered: 07/31/2023)
07/31/2023	273	Joint Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods.. (Garabadu, Rahul) (Entered: 07/31/2023)
08/04/2023	274	NOTICE Of Filing Plaintiffs' Objections to Defendant's Trial Exhibit List by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 271 Notice of Filing, (Attachments: # 1 Exhibit A: Plaintiffs' Objections to Defendant's Trial Exhibit List) (Garabadu, Rahul) (Entered: 08/04/2023)
08/04/2023	275	NOTICE Of Filing Objections to Exhibits and Deposition Designations by Brad Raffensperger re 269 Scheduling Order,, (Attachments: # 1 Exhibit A - APA Plaintiffs' Exhibit List with Defendant's Objections, # 2 Exhibit B - Grant Plaintiffs' Exhibit List with Defendants' Objections, # 3 Exhibit C - Pendergrass Plaintiffs' Exhibit List with Defendants' Objections, # 4 Exhibit D - Defendant's Deposition Designations and Objections to APA Plaintiffs, # 5 Exhibit E - Defendants' Deposition Designations and Objections to Pendergrass and Grant Plaintiffs)(Tyson, Bryan) (Entered: 08/04/2023)
08/04/2023	276	MOTION for Order <i>Taking Judicial Notice</i> by Brad Raffensperger. (Attachments: # 1 Exhibit A - Census Table 4b CPS 2018, # 2 Exhibit B - Census Table 4b CPS 2020, # 3 Exhibit C - Census Table 4b CPS 2022, # 4 Exhibit D - Members of the Georgia State Senate, # 5 Exhibit E - Members of the Georgia House of Representatives, # 6 Exhibit F - 2022 US Senate Primary Election Results by County, # 7 Exhibit G - 2022 PSC Primary Election Results, # 8 Exhibit H - 2018 District 6 Election Results, # 9 Exhibit I - Biography of Commissioner John King, # 10 Exhibit J - 2022 Commissioner of Insurance Election Results, # 11 Exhibit K - Justice Carla McMillian Biography)(Tyson, Bryan) (Entered: 08/04/2023)
08/11/2023	277	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Pretrial Conference</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/11/2023)
08/14/2023	278	ORDER granting 277 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on August 15, 2023. Signed by Judge Steve C. Jones on 8/14/23. (rsg) (Entered: 08/14/2023)
08/14/2023	279	RESPONSE re 276 MOTION for Order <i>Taking Judicial Notice</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit 1: 2022 Election Results, # 2 Exhibit 2: 2014 Election Results)(Garabadu, Rahul) (Entered: 08/14/2023)
08/15/2023	280	PRETRIAL ORDER. Signed by Judge Steve C. Jones on 8/15/23. (rsg) (Entered: 08/15/2023)
08/15/2023	296	Minute Entry for proceedings held before Judge Steve C. Jones: Pretrial Conference held on 8/15/2023. Bench trial to proceed on September 5, 2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)

08/18/2023	281	LOGISTICS ORDER entered in preparation for the trial. The Court ORDERS the Parties to provide the Court with courtesy copies of the deposition transcripts that they intend to introduce into evidence at the Trial. The Court ORDERS these courtesy copies be delivered to the Court no later than THURSDAY, AUGUST 24, 2023. The Court will discuss trial presentation of evidence with the Parties at a conference call to be held on Tuesday, August 22, 2023 at 2:00 P.M. Signed by Judge Steve C. Jones on 08/18/2023. (rsg) (Entered: 08/18/2023)
08/18/2023	282	REPLY BRIEF re 276 MOTION for Order <i>Taking Judicial Notice</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 08/18/2023)
08/22/2023	283	MOTION for Order <i>to Take Judicial Notice</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 08/22/2023)
08/22/2023	297	Minute Entry for proceedings held before Judge Steve C. Jones: Telephone Conference held on 8/22/2023 regarding presentation of witness testimony during bench trial beginning 9/05/2023. (Court Reporter Viola Zborowski)(pdw) (Entered: 09/01/2023)
08/23/2023	284	ORDER DENYING Defendants' 276 Motion to Take Judicial Notice with regard to the data contained in Census Bureau Table 4b for the 2018, 2020 and 2022 elections. The Court GRANTS the remainder of the Motion. Signed by Judge Steve C. Jones on 08/23/2023. (rsg) (Entered: 08/23/2023)
08/24/2023	285	TRANSCRIPT of Pretrial Proceedings held on 8/15/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/14/2023. Redacted Transcript Deadline set for 9/25/2023. Release of Transcript Restriction set for 11/22/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/24/2023)
08/24/2023	286	ORDER perfecting the Record on trial logistics and advising the parties how the presentation of evidence will proceed. The Court notes that at the telephone conference, the Plaintiffs indicated that they would like to come to an agreement on the order in which the Plaintiffs will present their cases-in-chief, i.e., Alpha Phi Alpha first, Pendergrass second, and Grant third, or some other order. For purposes of judicial efficiency and to ensure that all Parties are adequately prepared, the Court requires Plaintiffs to submit a notice of the order in which they will present their cases-in-chief on or before 5:00 PM on SEPTEMBER 1, 2023. The Parties are ordered to comply with this Order when presenting the evidence in the coordinated cases at trial. The Court reserves the right to amend or alter this Order in the future. Signed by Judge Steve C. Jones on 08/24/2023. (rsg) (Entered: 08/24/2023)
08/25/2023	287	ORDER directing Defendants to respond to the Alpha Phi Alpha Plaintiffs' 283 Motion to Take Judicial Notice, Alpha Phi Alpha Doc. No. 283 by 5:00 PM on August 28, 2023. If the Pendergrass or Grant Plaintiffs wish to respond they are also ORDERED to do so by 5:00PM on August 28, 2023. Signed by Judge Steve C. Jones on 08/25/2023. (rsg)(rsg) (Entered: 08/25/2023)
08/28/2023	288	RESPONSE in Opposition re 283 MOTION for Order <i>to Take Judicial Notice</i> filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 08/28/2023)
08/29/2023	289	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Trial</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African

		Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/29/2023)
08/30/2023	290	ORDER granting 289 Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom on September 1, 2023 through September 15, 2023. Signed by Judge Steve C. Jones on 8/30/23. (rsg) (Entered: 08/30/2023)
08/30/2023	291	ORDER denying Alpha Phi Alpha's 283 Motion to Take Judicial Notice. Signed by Judge Steve C. Jones on 08/30/2023. (rsg) (Entered: 08/30/2023)
08/30/2023	292	ORDER resolving the Parties' outstanding objections to the depositions that they wish to introduce into evidence at trial. Signed by Judge Steve C. Jones on 08/30/2023. (ddm) (Entered: 08/31/2023)
08/31/2023	293	TRANSCRIPT of Conference Call held on 8/22/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/21/2023. Redacted Transcript Deadline set for 10/2/2023. Release of Transcript Restriction set for 11/29/2023. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 08/31/2023)
08/31/2023	294	MOTION for Clarification re: 286 Order,,, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A- B. Tyson Email, # 2 Text of Proposed Order)(Garabadu, Rahul) (Entered: 08/31/2023)
08/31/2023	295	ORDER issued to Clarify its August 24, 2023 Order (Alpha Phi Alpha Doc. No. 286 ; Pendergrass Doc. No. 236 ; Grant Doc. No. 248). The August 24, 2023 Orders are amended in so far as to comply with this Order. Signed by Judge Steve C. Jones on 08/31/2023.(rsg) (Entered: 09/01/2023)
09/01/2023	298	Unopposed MOTION to Amend <i>Plaintiffs' Exhibit and Witness Lists</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Exhibit A: Amended Exhibit List, # 2 Exhibit B: Amended Witness List)(Garabadu, Rahul) (Entered: 09/01/2023)
09/05/2023	299	Minute Entry for proceedings held before Judge Steve C. Jones: Bench trial began. Opening statements heard. Plaintiffs' case began. Alpha Plaintiffs' (1:21-cv-5337-SCJ) witness William Cooper sworn and testified as expert. Alpha exhibits 1, 327, 53, 54, 325 admitted. Joint Exhibits 1 and 2 admitted. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/06/2023. (Court Reporter Viola Zborowski)(ddm) (Entered: 09/06/2023)
09/06/2023	300	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/6/2023. Testimony of expert witness William Cooper concluded. Alpha Plaintiffs' exhibits 328-339 admitted. Alpha Phi Alpha witness Bishop Reginald Jackson sworn and testified. Pendergrass and Grant Plaintiffs' expert witness Dr. Maxwell Palmer sworn and testified. Grant exhibits 2 and 3, and Pendergrass exhibits 2 and 3 admitted. Grant expert witness Blakeman Esselstyn sworn and testified. Grant exhibits 1 and 6 admitted. Defendants' exhibits 89 and 92 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/07/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/07/2023)

09/07/2023	301	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/7/2023. Grant witness Dr. Diane Evans sworn and testified. Grant witness Fenika Miller sworn and testified. Grant and Pendergrass expert witness Dr. Loren Collingwood sworn and testified. Grant exhibit 5 and Pendergrass exhibit 5 admitted. William Cooper recalled by Pendergrass plaintiffs as expert witness. Pendergrass exhibit 1 admitted. Defendants' exhibits 21 and 154 admitted. Alpha Phi Alpha ("APA") expert witness Dr. Lisa Handley sworn and testified. APA exhibits 5 and 10 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/08/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/08/2023)
09/08/2023	303	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/8/2023. Testimony of Alpha Phi Alpha expert witness Dr. Lisa Handley concluded. Grant and Pendergrass witness Jason Carter sworn and testified. Grant and Pendergrass witness Erik Allen sworn and testified. APA witness Dr. Traci Burch sworn and testified as expert. APA exhibit 6 admitted. APA witness Dr. Adrienne Jones sworn and testified as expert. APA exhibits 2, 3, 340, 31, 266 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/11/2023. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/11/2023)
09/10/2023	302	APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12873361).by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/10/2023)
09/11/2023		RETURN of 302 APPLICATION for Admission of Eliot Kim Pro Hac Vice (Application fee \$ 150, receipt number AGANDC-12873361) to attorney for correction. Reason for return: Applicant must list all parties he is representing on the PHV application. Please select the check box to indicate you represent more than one party and then add the parties in the text box provided on the application. (rvb) (Entered: 09/11/2023)
09/11/2023	304	APPLICATION for Admission of Eliot Kim Pro Hac Vice.by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Documents for this entry are not available for viewing outside the courthouse. (Entered: 09/11/2023)
09/11/2023	305	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/11/2023. APA exhibits 31 and 266, and direct and cross testimony of Dr. Adrienne Jones admitted into the Grant and Pendergrass records. Testimony of APA expert witness Dr. Adrienne Jones concluded. Defendants' exhibit 59 admitted. APA witness Sherman Lofton sworn and testified. APA witness Dr. Jason Ward sworn and testified as expert. APA exhibit 4 admitted. Grant and Pendergrass expert witness Dr. Orville Burton sworn and testified. Pendergrass exhibit 4 and Grant exhibit 4 admitted. Pendergrass exhibit 14 and Grant exhibit 15 admitted over objection (these exhibits, as well as testimony of Dr. Burton also admitted as part of the APA record.) Defendants' exhibit 107 admitted. All Plaintiffs rested. Oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). Oral argument heard. Matter taken under advisement. Trial not concluded. Court adjourned and will reconvene at 9:30 AM on 9/12/2023. (Court Reporter V. Zborowski & P. Coudriet)(rsg) (Entered: 09/12/2023)
09/11/2023		ORAL MOTION by Defendant for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). (ddm) (Entered: 09/13/2023)
09/12/2023		APPROVAL by Clerks Office re: 304 APPLICATION for Admission of Eliot Kim Pro Hac Vice. Attorney Eliot Kim added appearing on behalf of Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal

		Church, Janice Stewart, Eric T. Woods. E-filing access may be requested after an order granting the application is entered. (djs) (Entered: 09/12/2023)
09/12/2023		DOCKET ORDER granting 304 Application for Admission Pro Hac Vice of Eliot Kim. Entered by Judge Steve C. Jones on 9/12/2023. If the applicant does not have CM/ECF access in the Northern District of Georgia already, they must request access at http://pacer.gov . If they have electronically filed in this district in a previous case, please omit this step.(pdw) (Entered: 09/12/2023)
09/12/2023	306	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/12/2023. The Court issued a verbal order denying Defendants' oral motion for Judgment on Partial Findings Pursuant to Fed.R.Civ.P. 52(c) as made on 9/11/2023. Defendants' case began. Witness Gina Wright sworn and testified. Defendants' exhibits 186, 187, 185 admitted. John Morgan sworn and testified as expert witness. Defendants' exhibits 1, 2, 5 admitted in re: APA plaintiffs; exhibits 1, 3, 6 admitted in re: Grant plaintiffs; and exhibits 4 and 7 admitted in re: Pendergrass plaintiffs. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 09/13/2023)
09/13/2023	307	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial continued on 9/13/2023. Testimony of John Morgan continued and concluded. Dr. John Alford sworn and testified as expert witness for Defendants. Defendants exhibit 8 (exclusive of pages 2-9) and exhibit 97 admitted. Trial not concluded. Court adjourned and will reconvene at 9:00 AM on 9/14/2023. Exhibits retained to be forwarded to the Clerks Office. (Court Reporter V. Zborowski and P. Coudriet)(rsg) (Entered: 09/13/2023)
09/14/2023	308	Minute Entry for proceedings held before Judge Steve C. Jones: Bench Trial concluded on 9/14/2023. Testimony of Dr. John Alford continued and concluded. Ryan Germany sworn and testified. APA cross examination of witness German incorporated into Pendergrass and Grant records. Defendants rested. Renewed oral motion by Defendants for Judgment on Partial Findings pursuant to Fed.R.Civ.P. 52(c). The Court issued a verbal order denying Defendants' motion. Closing arguments heard. This matter was taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet) (rsg) (Entered: 09/15/2023)
09/15/2023	309	Witness List filed by Plaintiffs'. (rsg) (Entered: 09/15/2023)
09/15/2023	310	Witness List filed by Defendants. (rsg) (Entered: 09/15/2023)
09/15/2023	311	Exhibit List filed jointly by Plaintiffs and Defendants. (rsg) (Entered: 09/15/2023)
09/15/2023	312	Exhibit List by Alpha Phi Alpha Fraternity, Inc.. (rsg) (Entered: 09/15/2023)
09/15/2023	313	Exhibit List by Coakley Pendergrass. (rsg) (Entered: 09/15/2023)
09/15/2023	314	Exhibit List by Annie Lois Grant. (rsg) (Entered: 09/15/2023)
09/15/2023	315	Exhibit List by Brad Raffensperger. (rsg) (Entered: 09/15/2023)
09/18/2023	316	<i>Plaintiffs' Notice of Submitting Proposed Corrections to Trial Transcript</i> filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 9/19/2023 to edit docket text (ddm). (Entered: 09/18/2023)
09/25/2023	317	Proposed Findings of Fact by Brad Raffensperger. (Tyson, Bryan) (Entered: 09/25/2023)
09/25/2023	318	Proposed Findings of Fact by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) (Entered: 09/25/2023)

10/04/2023	319	ORDER certifying to the United States Attorney General that the constitutionality of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301(b) has been called into question as affirmative defenses in the Pretrial Order. The Attorney General is requested to submit his position as to intervention in reference to this issue no later than 60 DAYS of the date of this Certification Order. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023	320	ORDER directing Defendants to promptly comply with the requirements of compliance with Rule 5.1 (on CM/ECF) on or before Tuesday, October 10, 2023. Signed by Judge Steve C. Jones on 10/04/2023. (rsg) (Entered: 10/04/2023)
10/04/2023		Clerk's Certificate of Mailing to Honorable Merrick Garland re 319 Order. (rsg) (Entered: 10/04/2023)
10/06/2023	321	MOTION to Withdraw Elizabeth Marie Wilson Vaughan as Attorneyby Brad Raffensperger. (Vaughan, Elizabeth) (Entered: 10/06/2023)
10/10/2023	322	NOTICE by Brad Raffensperger re 320 Order, Set Submission Deadline of <i>Constitutional Question</i> (Tyson, Bryan) (Entered: 10/10/2023)
10/17/2023	323	ORDER advising that if the Parties have any additional concerns/questions as to the corrected transcripts, they shall notify the court reporters by 5:00 P.M., THURSDAY, OCTOBER 19, 2023. After said deadline, the Court will request that the court reporters finalize the transcripts. Signed by Judge Steve C. Jones on 10/17/2023. (ddm) (Entered: 10/17/2023)
10/18/2023	324	Notice for Leave of Absence for the following date(s): January 9, 2024 - January 19, 2024, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 10/18/2023)
10/25/2023		DOCKET ORDER granting 321 Motion to Withdraw as Attorney. Attorney Elizabeth Marie Wilson Vaughan terminated as counsel for Defendant. Entered by Judge Steve C. Jones on 10/25/2023. (pdw) (Entered: 10/25/2023)
10/25/2023	325	TRANSCRIPT of Proceedings held on 9/5/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 1 A.M. Session. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	326	TRANSCRIPT of Bench Trial Proceedings held on 9/6/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 2 A.M. SESSION. Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Appendix Notice of Filing Transcript) Modified on 2/1/2024 to update text (anc). (Entered: 10/25/2023)
10/25/2023	327	TRANSCRIPT of Bench Trial Proceedings held on 9/7/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 3 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.

		Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Entered: 10/25/2023)
10/25/2023	328	TRANSCRIPT of Bench Trial Proceedings held on 9/8/23, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 4 P.M. SESSION. Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Appendix Notice of Filing Transcript) Modified on 2/1/2024 in order to update text (anc). (Entered: 10/25/2023)
10/25/2023	329	TRANSCRIPT of Bench Trial Proceedings held on 9/11/23, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 5 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	330	TRANSCRIPT of Bench Trial Proceedings held on 9/12/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 6 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	331	TRANSCRIPT of Bench Trial Proceedings held on 9/13/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 7 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/25/2023	332	TRANSCRIPT of Bench Trial Proceedings held on 9/14/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Tape Number: 8 A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/15/2023. Redacted Transcript Deadline set for 11/27/2023. Release of Transcript Restriction set for 1/23/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 10/25/2023)
10/26/2023	333	OPINION AND MEMORANDUM OF DECISION advising of the Court's findings and conclusions following a non-jury trial and consideration of the evidence. It is ordered that the Pendergrass and Grant Plaintiffs lack standing to bring suit against the members of the State Election Board; thus, Sarah Tindall Ghazal, Janice W. Johnston, Edward Lindsey, and Matthew Mashburn are DISMISSED from this case. Alpha Phi Alpha Plaintiffs have

carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 34, 43, 44, and Enacted House Districts 74 and 78.¹³⁸ Alpha Phi Alpha Plaintiffs have not met their burden as to the remaining challenged districts. Pendergrass Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plan, SB 2EX, as to the following enacted district/ areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. Grant Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 44, and Enacted House Districts 61, 64, 78, 117, 133, 142, 143, 145, 147, and 149.¹³⁹ Grant Plaintiffs have not met their burden as to the remaining challenged districts. This Court further concludes that declaratory and permanent injunctive relief are appropriate. The Court, therefore, DECLARES the rights of the parties as follows. SB 2EX violates Section 2 of the Voting Rights Act as to the following districts/areas: Enacted Congressional Districts 3, 6, 11, 13, and 14. SB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 43, and 44. HB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted House Districts 61, 64, 74, 78, 117, 133, 142, 143, 145, 147, and 149. The Court PERMANENTLY ENJOINS Defendant Raffensperger, as well as his agents and successors in office, from using SB 2EX, SB 1EX, and HB 1EX in any future election. The Court's injunction affords the State a limited opportunity to enact new plans that comply with the Voting Rights Act by DECEMBER 8, 2023. This timeline balances the relevant equities and serves the public interest by providing the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one as the Court will not allow another election cycle on redistricting plans that the Court has determined on a full trial record to be unlawful. The Court is confident that the General Assembly can accomplish its task by DECEMBER 8, 2023: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced nearly 22 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult. The Clerk is DIRECTED to enter judgment in favor of the Alpha Phi Alpha Plaintiffs (in Civil Action No. 1:21-cv-05337), Pendergrass Plaintiffs (in Civil Action No. 1:21-cv-05339), and Grant Plaintiffs (in Civil Action No. 1:22-cv-00122) and against Brad Raffensperger. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. After entry of judgment, the Clerk is DIRECTED to close these three cases. The Court will retain jurisdiction over these matters for oversight and further remedial proceedings, if necessary. The Court reiterates that Georgia has made great strides since 1965 towards equality in voting. However, the evidence before this Court shows that Georgia has not reached the point where the political process has equal openness and equal opportunity for everyone. Accordingly, the Court issues this Order to ensure that Georgia continues to move toward equal openness and equal opportunity for everyone to participate in the electoral system. Signed by Judge Steve C. Jones on 10/26/2023. (ddm) Modified on 10/26/2023 to edit text (ddm). (Entered: 10/26/2023)

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CLERK'S JUDGMENT entered in favor of PLAINTIFFS and against remaining Defendants in accordance with this Court's Order of October 26, 2023. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988. (ddm)--Please refer to <http://www.ca11.uscourts.gov> to obtain an appeals jurisdiction checklist-- (Entered: 10/26/2023)

10/26/2023		Civil Case Terminated. (ddm) (Entered: 10/26/2023)
11/03/2023	335	NOTICE by United States of America <i>Notice of Intervention Pursuant to 28 U.S.C. § 2403(a)</i> (Attachments: # 1 Brief)(Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	336	NOTICE of Appearance by Daniel J. Freeman on behalf of United States of America (Freeman, Daniel) (Entered: 11/03/2023)
11/03/2023	337	NOTICE of Appearance by Michael Elliot Stewart on behalf of United States of America (Stewart, Michael) (Entered: 11/03/2023)
11/08/2023	338	Unopposed MOTION for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 11/08/2023)
11/09/2023	339	ORDER GRANTING 338 Plaintiffs' Unopposed Motion for Extension of Time to File Bill of Costs and Motion for Attorneys' Fees. Plaintiffs shall have until 30 days after the Court receives the Eleventh Circuit's mandate in Defendant's appeal to file a motion for attorneys' fees and expenses and a bill of costs. If Defendant does not appeal, Plaintiffs shall have until 30 days following the expiration of Defendant's time to appeal to file a motion for attorneys' fees and expenses. Signed by Judge Steve C. Jones on 11/09/2023. (ddm) (Entered: 11/09/2023)
11/17/2023	340	<i>Response to United States on Constitutionality of Section 2 of the Voting Rights Act</i> 335 filed by Brad Raffensperger. (Tyson, Bryan) Modified on 11/20/2023 to edit docket text (ddm). (Entered: 11/17/2023)
11/22/2023	341	NOTICE OF APPEAL as to 333 Order,,,,,,,,,,,,, 334 Clerk's Judgment, 268 Order on Motion for Summary Judgment,, 65 Order on Motion to Dismiss, by Brad Raffensperger. Filing fee \$ 505, receipt number AGANDC-13050589. Transcript Order Form due on 12/6/2023 (Tyson, Bryan) (Entered: 11/22/2023)
11/28/2023	342	ORDER perfecting the trial record in this case and providing the parties with the case name and docket location of the depositions used at trial. Signed by Judge Steve C. Jones on 11/28/2023. (rsg) (Entered: 11/28/2023)
11/28/2023	343	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 341 Notice of Appeal, filed by Brad Raffensperger. (pjm) (Entered: 11/28/2023)
11/28/2023	344	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Judgment, Orders and Docket Sheet to US Court of Appeals re: 341 Notice of Appeal. (pjm) (Entered: 11/28/2023)
11/30/2023	349	EXHIBITS (Parties Joint Exhibits 1 and 2) admitted and retained at the 308 Bench Trial - Concluded,, 301 Bench Trial - Continued, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Joint Ex. 1, # 2 Joint Ex. 2)(sct) (Entered: 12/07/2023)
11/30/2023	357	EXHIBITS (Plaintiff's Exhibits: 1-6,10,31,53-54,266,325,327-340) admitted and retained at the 301 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, 308 Bench Trial - Concluded, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1

		Pltf Ex. 1 (pages 1-96), # 1 Pltf Ex. 1 (pages 97-202), # 2 Pltf Ex. 1 (pages 203-304), # 4 Pltf Ex. 1 (pages 305-447), # 5 Pltf Ex. 1 (pages 448-588), # 6 Pltf Ex. 1 (pages 589-643), # 7 Pltf Ex. 1 (pages 644-747), # 8 Pltf Ex. 1 (pages 748-870), # 9 Pltf Ex. 2, # 10 Pltf Ex. 3, # 11 Pltf Ex. 4, # 12 Pltf Ex. 5, # 13 Pltf Ex. 6, # 14 Pltf Ex. 10, # 15 Pltf Ex. 31, # 16 Pltf Ex. 53, # 17 Pltf Ex. 54, # 18 Pltf Ex. 266, # 19 Pltf Ex. 325, # 20 Pltf Ex. 327, # 21 Pltf Ex. 328, # 22 Pltf Ex. 329, # 23 Pltf Ex. 330, # 24 Pltf Ex. 331, # 25 Pltf Ex. 332, # 26 Pltf Ex. 333, # 27 Pltf Ex. 334, # 28 Pltf Ex. 335, # 29 Pltf Ex. 336, # 30 Pltf Ex. 337, # 31 Pltf Ex. 338, # 32 Pltf Ex. 339, # 33 Pltf Ex. 340)(sct) (Additional attachment(s) added on 1/4/2024: # 34 Exhibit Pltf Ex. 1 (pgs 103-106)) (sct). (Additional attachment(s) added on 1/4/2024: # 35 Exhibit Pltf Ex. 1 (pgs 177-178)) (sct). (Entered: 12/13/2023)
11/30/2023	359	EXHIBITS AUDIO/VIDEO (Plaintiff's Exh. 1) admitted and retained at the 308 Bench Trial - Concluded, 301 Bench Trial - Continued, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, have been received from Courtroom Deputy and placed in the custody of the Records Clerks. (Attachments: # 1 Pltf A/V Ex. 1)(sct) (Entered: 12/13/2023)
11/30/2023	360	EXHIBITS (Defendant's Exhibits: 1-8,21,59,89,92,97,107,154,185-187) admitted and retained at the 301 Bench Trial - Continued, 307 Bench Trial - Continued, 299 Order on Motion to Amend, Bench Trial - Begun, 308 Bench Trial Concluded, 300 Bench Trial - Continued, 305 Bench Trial - Continued, 306 Order on Motion for Judgment on Partial Findings, Bench Trial - Continued, 303 Bench Trial - Continued, have been received from Courtroom Deputy and placed in the custody of the Records Clerks.. (Attachments: # 1 Deft Ex. 1, # 2 Deft Ex. 2 (pages 1-181), # 3 Deft Ex. 2 (pages 181-220), # 4 Deft Ex. 2 (pages 221-362), # 5 Deft Ex. 3, # 6 Deft Ex. 4, # 7 Deft. Ex 5, # 8 Deft Ex. 6, # 9 Deft Ex. 7, # 10 Deft. Ex 8, # 11 Deft Ex. 21, # 12 Deft Ex. 59, # 13 Deft Ex. 89, # 14 Deft Ex. 92, # 15 Deft Ex. 97, # 16 Deft Ex. 107, # 17 Deft Ex. 154, # 18 Deft Ex. 185, # 19 Deft Ex. 186, # 20 Deft Ex. 187)(sct) (Additional attachment(s) added on 12/15/2023: # 21 Deft Ex. 3 part 2, # 22 Deft Ex. 3 part 3) (kdw). (Entered: 12/13/2023)
12/04/2023	345	MOTION for Entry of Remedial Scheduling Order 333 Order,,,,,,,,,,,,, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/04/2023)
12/04/2023	346	USCA Acknowledgment of 341 Notice of Appeal, filed by Brad Raffensperger. Case Appealed to USCA- 11th Circuit. Case Number 23-13914-D. (pjm) (Entered: 12/05/2023)
12/05/2023		DOCKET ORDER re 345 MOTION for Entry of Remedial Scheduling Order filed by Plaintiffs. Defendant is ORDERED to file an expedited response no later than 9:00 AM on 12/06/2023, to include Defendant's proposed schedule. Entered by Judge Steve C. Jones on 12/05/2023. (pdw) (Entered: 12/05/2023)
12/06/2023	347	RESPONSE re 345 MOTION for Entry of Remedial Scheduling Order 333 Order,,,,,,,,,,,,, filed by Brad Raffensperger. (Tyson, Bryan) (Entered: 12/06/2023)
12/06/2023	348	ORDER granting 345 Plaintiffs' Joint Motion for Entry of Remedial Scheduling Order. However, because time is of the essence in this matter, the Court finds it necessary to enter a more compressed schedule than that proposed by either Party. See order for new deadlines. A hearing, set for December 20, 2023, at 9:00 a.m., will be held at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia, in Courtroom 1907. Each set of Plaintiffs will have one hour to present evidence and argument and may proceed in any order they prefer. Defendant will have one hour to present evidence and argument directly following each set of Plaintiffs. To be clear, the presentations will be ordered as follows: One set of Plaintiffs will begin and will

		have up to one hour to present; Defendant will respond to that presentation and will have up to one hour to do so. The next set of Plaintiffs will make their presentation (up to one hour) and Defendant will then have up to one hour to respond. Finally, the final set of Plaintiffs will present (up to one hour), and Defendant will have up to one hour to respond. Signed by Judge Steve C. Jones on 12/06/2023. (rsg) (Entered: 12/06/2023)
12/06/2023		Set Hearings: Status Conference set for 12/20/2023 at 09:00 AM in ATLA Courtroom 1907 before Judge Steve C. Jones. (rsg) (Entered: 12/06/2023)
12/07/2023	350	NOTICE TO COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5th, 2023 through September 14th, 2023 pursuant to Local Rule 79.1D. Re: 349 Exhibits, (sct) (Entered: 12/07/2023)
12/08/2023	351	NOTICE by Brad Raffensperger of <i>Adoption of Remedial Plans</i> (Tyson, Bryan) (Entered: 12/08/2023)
12/11/2023	352	ADMINISTRATIVE ORDER NO. 23-08: IN RE USE OF CELLULAR TELEPHONES AND ELECTRONIC EQUIPMENT ON THE 19TH FLOOR OF THE RICHARD B. RUSSELL BUILDING ON DECEMBER 20, 2023. Signed by Judge Timothy C. Batten, Sr. on 12/11/2023. (pdw) (Entered: 12/11/2023)
12/12/2023	353	Appellant's BRIEF by Georgia State Conference of the NAACP, et al.. (Attachments: # 1 Exhibit Amici Curiae Brief, # 2 Exhibit Declaration of Dr. Moon Duchin)(Kastorf, Kurt) (Entered: 12/12/2023)
12/12/2023	354	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Plaintiffs' Objections to Defendant's Remedial Map</i> (Attachments: # 1 Affidavit Cooper Declaration)(Garabadu, Rahul) (Entered: 12/12/2023)
12/12/2023	355	NOTICE by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods <i>Supplemental Documents in Support of Plaintiffs' Objections to Defendant's Remedial Maps</i> (Attachments: # 1 Exhibit Appendix 1, # 2 Exhibit Ex A-1, # 3 Exhibit Ex A-2, # 4 Exhibit Ex A-3, # 5 Exhibit Ex B, # 6 Exhibit Ex C, # 7 Exhibit Ex D, # 8 Exhibit Ex E, # 9 Exhibit Ex F, # 10 Exhibit Ex G-1, # 11 Exhibit Ex G-2, # 12 Exhibit Ex G-3, # 13 Exhibit Ex H-1, # 14 Exhibit Ex h-2, # 15 Exhibit Ex H-3, # 16 Exhibit Ex H-4, # 17 Exhibit Ex H-5, # 18 Exhibit Ex H-6, # 19 Exhibit Ex I-1, # 20 Exhibit Ex I-2, # 21 Exhibit Ex I-3, # 22 Exhibit Ex J, # 23 Exhibit Ex K-1, # 24 Exhibit Ex K2, # 25 Exhibit Ex L1, # 26 Exhibit Ex L-2, # 27 Exhibit Ex L-3, # 28 Exhibit Ex M-1, # 29 Exhibit Ex M-2, # 30 Exhibit Ex M-3, # 31 Exhibit Ex M-4, # 32 Exhibit Ex M-5, # 33 Exhibit Ex M-6, # 34 Exhibit Ex N, # 35 Exhibit Appendix 3)(Garabadu, Rahul) (Entered: 12/12/2023)
12/12/2023	356	NOTICE Of Filing (Corrected) by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods re 355 Notice (Other),,,, (Attachments: # 1 Appendix 1, # 2 Appendix 2, # 3 Appendix 3, # 4 Exhibit A-1, # 5 Exhibit A-2, # 6 Exhibit A-3, # 7 Exhibit B, # 8 Exhibit C, # 9 Exhibit D, # 10 Exhibit E, # 11 Exhibit F, # 12 Exhibit G-1, # 13 Exhibit G-2, # 14 Exhibit G-3, # 15 Exhibit H-1, # 16 Exhibit H-2, # 17 Exhibit H-3, # 18 Exhibit H-4, # 19 Exhibit H-5, # 20 Exhibit H-6, # 21 Exhibit I-1, # 22 Exhibit I-2, # 23 Exhibit I-3, # 24 Exhibit J, # 25 Exhibit K-1, # 26 Exhibit K-2, # 27 Exhibit L-1, # 28 Exhibit L-2, # 29 Exhibit L-3, # 30 Exhibit M-1, # 31 Exhibit M-2, # 32 Exhibit M-3, # 33 Exhibit M-4, # 34 Exhibit M-5, # 35 Exhibit M-6, # 36 Exhibit N)(Garabadu, Rahul) (Entered: 12/12/2023)

12/13/2023	358	NOTICE TO PLAINTIFF'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 357 Exhibits (sct) (Entered: 12/13/2023)
12/13/2023	361	NOTICE TO DEFENDANT'S COUNSEL OF RECORD regarding RECLAMATION AND DISPOSITION OF UNCLAIMED Documentary EXHIBITS from the bench trial held on September 5, 2023 through September 14, 2023 pursuant to Local Rule 79.1D. Re: 360 Exhibits. (sct) Modified on 1/18/2024 (mec). (Entered: 12/13/2023)
12/14/2023	362	ORDER GRANTING the Motion for Leave to File Brief as Amici Curiae in Opposition to Defendant's Proposed Remedial Maps. Alpha Doc. No. 353 , Grant Doc. No. 316 , Pendergrass Doc. No. 316 . The Clerk is DIRECTED to refile Alpha Doc. Nos. [353-1], Grant Doc. No. [316-1], and Pendergrass Doc. No. [316-1] as a new docket entry in each case on CM/ECF. Signed by Judge Steve C. Jones on 12/14/2023. (ddm) (Entered: 12/14/2023)
12/14/2023	363	AMICUS CURIAE BRIEF in opposition to Defendants' Proposed Remedial Maps filed by Georgia State Conference of the NAACP, et al. (Attachments: # 1 Declaration of Dr. Moon Duchin)(ddm) (Entered: 12/14/2023)
12/14/2023	364	MOTION to Withdraw Joseph D. Zabel as Attorney by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 12/15/2023 to edit docket text (ddm). (Entered: 12/14/2023)
12/15/2023	365	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>for Remedial Hearing</i> by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order)(Garabadu, Rahul) (Entered: 12/15/2023)
12/15/2023	366	Motion to Bring Audio/Visual/Electronic Equipment in the Courtroom <i>During Remedial Hearing</i> by Brad Raffensperger. (Attachments: # 1 Text of Proposed Order)(Tyson, Bryan) (Entered: 12/15/2023)
12/18/2023	367	ORDER allowing counsel for the Plaintiffs and accompanying staff to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	368	ORDER allowing counsel for the Defendants to bring electronic equipment into the Courthouse on Wednesday, December 20, 2023 for a hearing scheduled to begin at 9:00 a.m. before the undersigned in Courtroom 1907. The Court notes that the prohibition pursuant to Administrative Order No. 23-08 on cellular phones and other electronic devices with camera or other recording technology remains in full force and effect for all persons, including counsel and parties. Signed by Judge Steve C. Jones on 12/18/2023. (ddm) (Entered: 12/18/2023)
12/18/2023	369	<i>Consolidated Response to Plaintiffs' Objections Regarding Remedial Plans</i> 354 filed by Brad Raffensperger. (Attachments: # 1 Exhibit A - Dec. of Gina Wright, # 2 Exhibit B - Report of Dr. Michael Barber, # 3 Exhibit C - Senate Committee Hearing (11-29-2023), # 4 Exhibit D - House Committee Hearing (11/29/2023), # 5 Exhibit E - House Committee Hearing (11/30/2023), # 6 Exhibit F - Senate Committee Hearing (12/4/2023), # 7 Exhibit G - Senate Floor Debate (12/1/2023), # 8 Exhibit H - House Floor Debate (12/1/2023), #

		Exhibit F - House Floor Debate (12/7/2023), # 102 Exhibit G - 2024 Election Calendar (Tyson, Bryan) Modified on 12/19/2023 to edit docket text (ddm). (Entered: 12/18/2023)
12/19/2023	370	Plaintiffs' Reply Brief in Support of their Objections to Defendants' Remedial Proposal 354 filed by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Garabadu, Rahul) Modified on 12/20/2023 to edit docket text (ddm). (Entered: 12/19/2023)
12/20/2023	371	Minute Entry for proceedings held before Judge Steve C. Jones: Evidentiary Hearing held on 12/20/2023 pursuant to the Court's Order of 12/06/2023 regarding the remedial phase of these proceedings following the anticipated enactment of remedial state legislative and congressional plans by the Georgia General Assembly. The Court heard oral argument from counsel. Gina Wright called by Defendants, sworn and testified. These matters were taken under advisement by the Court, with ruling by written order to follow in due course. (Court Reporter V. Zborowski & P. Coudriet)(ddm) (Entered: 12/20/2023)
12/21/2023	372	TRANSCRIPT of Remedial Hearing Proceedings held on 12/20/2023, before Judge Steve C. Jones. Court Reporter/Transcriber Viola S. Zborowski. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Tape Number: 1 - A.M. SESSION. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/11/2024. Redacted Transcript Deadline set for 1/22/2024. Release of Transcript Restriction set for 3/20/2024. (Attachments: # 1 Appendix Notice of Filing Transcript) (Entered: 12/21/2023)
12/27/2023	373	TRANSCRIPT of Proceedings held on 12/20/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/17/2024. Redacted Transcript Deadline set for 1/29/2024. Release of Transcript Restriction set for 3/26/2024. (Attachments: # 1 Notice of Filing) (ppc) (Entered: 12/27/2023)
12/27/2023	374	Notice for Leave of Absence for the following date(s): 1/9/24 - 1/31/24; 4/1/24 - 4/5/24; 5/20/24 - 5/24/24; 6/3/24 - 6/14/24; 11/14/24 - 11/16/24, by Bryan P. Tyson. (Tyson, Bryan) (Entered: 12/27/2023)
12/28/2023	375	ORDER finding that the General Assembly fully complied with this Court's order requiring the creation of Black-majority districts in the regions of the State where vote dilution was found. Hence, the Court OVERRULES Plaintiffs' objections (Doc. No. 354) and HEREBY APPROVES SB 1EX and HB 1EX. Signed by Judge Steve C. Jones on 12/28/2023. (ddm) (Entered: 12/28/2023)
01/05/2024		DOCKET ORDER granting 364 Motion to Withdraw as Attorney. Attorney Joseph D. Zabel terminated as counsel for Plaintiffs. Entered by Judge Steve C. Jones on 1/05/2024. (pdw) (Entered: 01/05/2024)
01/05/2024	376	MOTION to Withdraw Rahul Garabadu as Attorneyby Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. (Attachments: # 1 Text of Proposed Order) (Garabadu, Rahul) (Entered: 01/05/2024)
01/11/2024	377	ORDER granting 376 Motion to Withdraw as Attorney. Attorney Rahul Garabadu terminated. Signed by Judge Steve C. Jones on 1/11/2024. (rsg) (Entered: 01/11/2024)

01/16/2024	378	Appeal Remark: Absent objection filed within 14 days of this letter, this appeal will be consolidated by the Clerk with 23-13916 and 23-13921 pursuant to FRAP 3(b)(2) and 11th Cir. R. 12-2. re 341 Notice of Appeal,.Case Appealed to USCA - 11th Circuit Case Number 23-13914-AA. (rlh) (Entered: 01/16/2024)
01/22/2024	379	NOTICE OF APPEAL as to 375 Order, by Alpha Phi Alpha Fraternity, Inc., Phil Brown, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church, Janice Stewart, Eric T. Woods. Case Appealed to USCA - 11th Circuit. Filing fee \$ 605, receipt number AGANDC-13171907. Transcript Order Form due on 2/5/2024 (Lakin, Sophia) (Entered: 01/22/2024)
01/22/2024	380	USCA Appeal Transmission Letter to USCA- 11th Circuit re: 379 Notice of Appeal, filed by Eric T. Woods, Alpha Phi Alpha Fraternity, Inc., Phil Brown, Janice Stewart, Katie Bailey Glenn, and Sixth District of the African Methodist Episcopal Church. (pjm) (Entered: 01/22/2024)
01/22/2024	381	Transmission of Certified Copy of Notice of Appeal, USCA Appeal Fees, Order and Docket Sheet to USCA - 11th Circuit re: 379 Notice of Appeal. (pjm) (Entered: 01/22/2024)
01/25/2024	382	USCA Acknowledgment of 379 Notice of Appeal, filed by Eric T. Woods, Alpha Phi Alpha Fraternity, Inc., Phil Brown, Janice Stewart, Katie Bailey Glenn, Sixth District of the African Methodist Episcopal Church. Case Appealed to USCA- 11th Circuit. Case Number 24-10230-A. (pjm) (Entered: 01/25/2024)
01/31/2024	383	TRANSCRIPT of Proceedings held on 9/5/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	384	TRANSCRIPT of Proceedings held on 9/6/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	385	TRANSCRIPT of Proceedings held on 9/7/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 to update text (anc). (Entered: 01/31/2024)
01/31/2024	386	TRANSCRIPT of Proceedings held on 9/8/2023, before Judge Steven. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)

01/31/2024	387	TRANSCRIPT of Proceedings held on 9/11/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	388	TRANSCRIPT of Proceedings held on 9/12/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	389	TRANSCRIPT of Proceedings held on 9/13/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
01/31/2024	390	TRANSCRIPT of Proceedings held on 9/14/2023, before Judge Steven Jones. Court Reporter/Transcriber PENNY COUDRIET. A full directory of court reporters and their contact information can be found at www.gand.uscourts.gov/directory-court-reporters . Transcript originally filed in 1:21-cv-5339 on 10/30/2023 and re-filed in 1:21-cv-5337 and 1:22-cv-112 at the parties' request. The transcript deadlines has expired. (Attachments: # 1 Notice of Filing) (ppc) Modified on 2/1/2024 in order to update text (anc). (Entered: 01/31/2024)
02/05/2024	391	TRANSCRIPT ORDER FORM for proceedings held on December 20, 2024 (Evidentiary Hrg) before Judge Steve C. Jones, re: 379 Notice of Appeal. Court Reporter: V. Zborowski & P. Coudriet. (Lakin, Sophia) Modified on 2/6/2024 to update text (pjm). (Entered: 02/05/2024)

PACER Service Center			
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02/08/2024 10:29:45			
PACER Login:	bptyson1981	Client Code:	state
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APA Doc. 229

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

ALPHA PHI ALPHA FRATERNITY,
INC., a nonprofit organization
on behalf of members residing
in Georgia, et al.,

Plaintiffs,

CASE NO.

1:21-CV-05337-SCJ

vs.

BRAD RAFFENSPERGER, in his
official capacity as Secretary
of State of Georgia,

Defendant.

VIDEOTAPED DEPOSITION OF JOHN R. ALFORD, Ph.D.
APPEARING REMOTE FROM
ATLANTA, GEORGIA

FEBRUARY 27, 2023

10:01 A.M. EASTERN

Reported By:

Judith L. Leitz Moran

RPR, RSA, CCR-B-2312

APPEARING REMOTELY

REMOTE APPEARANCES OF COUNSEL

On behalf of the Plaintiffs:

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MAURA DOUGLAS, ESQUIRE

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On behalf of the Plaintiffs in Pendergrass v
Raffensperger and Grant v Raffensperger matters:

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Page 3

1 REMOTE APPEARANCES OF COUNSEL (CONT.)

2
3 On behalf of the Defendant and the Witness:

4 BRYAN F. JACOUTOT, ESQUIRE

5 TAYLOR ENGLISH DUMA LLP

6 1600 Parkwood Circle

7 Suite 200

8 Atlanta, Georgia 30339

9
10 ALSO PRESENT:

11 * SCHUYLER ATKINS, WILMERHALE

12 SUMMER ASSOCIATE

13 * CASEY SMITH

14 * MIKE BAKER, VIRTUAL VIDEO TECHNICIAN

I N D E X

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E X H I B I T S

(EXHIBITS SUBMITTED ELECTRONICALLY)

EXHIBIT NO.		PAGE
Exhibit 1	Plaintiffs' Notice to Take the Expert Deposition of John R. Alford, Ph.D.	10
Exhibit 2	Rebuttal Expert Report of John R. Alford, Ph.D.	18
Exhibit 3	12/23/2022 Expert Report of Dr. Lisa Handley	86

APPENDIX A1			Estimates of Voting Patterns by Race in Recent Statewide Elections											
Eastern Atlanta Metro Region			Black Voters						White Voters					
Map Area 1			95% confidence interval						95% confidence interval					
General and Runoff Elections			Race	Party	EI rxc	interval	EI	ER	HP	EI rxc	interval	EI	ER	HP
2021 Runoffs														
US Special Senate														
Raphael Warnock	B	D	98.9	98.5, 99.3	99.6	103.7	-			34.6	33.9, 35.4	33.7	37.2	-
Kelly Loeffler	W	R	1.1	.7, 1.5	0.4	-3.7	-			65.4	64.5, 66.1	66.4	62.7	-
US Senate														
Jon Ossoff	W	D	98.9	98.5, 99.3	99.5	103.7	-			33.8	33.1, 34.6	32.9	36.3	-
David Perdue	W	R	1.1	.7, 1.5	0.5	-3.7	-			66.2	65.4, 66.9	67.0	63.7	-
Public Service Commission 4														
Daniel Blackman	B	D	98.9	98.4, 99.2	99.2	103.7	-			32.4	31.6, 33.3	32.7	34.7	-
Lauren McDonald Jr	W	R	1.1	.8, 1.6	0.5	-3.7	-			67.6	66.7, 68.4	67.4	65.3	-
2020 General														
US Senate														
Jon Ossoff	W	D	98.6	98.1, 98.8	99.3	100.6	-			34.1	32.9, 35.3	31.6	34.7	-
David Perdue	W	R	0.9	.6, 1.3	0.6	-2.6	-			65.3	64.1, 66.4	68.8	63.2	-
Shane Hazel	W	L	0.6	.4, .8	2.0	2.0	-			0.6	.5, .8	2.1	2.1	-
US Special Senate														
Raphael Warnock	B	D	74.9	74.0, 75.8	75.3	71.5	-			36.7	35.8, 37.6	27.2	30.1	-
Doug Collins	W	R	0.6	.4, .9	0.6	-1.1	-			22.6	21.9, 23.1	23.8	22.2	-
Kelly Loeffler	W	R	0.6	.4, .9	0.7	-2.6	-			38.9	38.2, 39.4	40.0	37.5	-
Others			23.8	23.0, 24.7	31.8	32.2	-			1.8	1.4, 2.3	8.7	10.3	-
Public Service Commission 1														
Robert Bryant	B	D	98.0	92.1, 98.8	99.3	100.0	-			33.8	32.1, 43.5	29.5	31.6	-
Jason Shaw	W	R	1.5	.7, 7.1	0.5	-2.9	-			65.4	55.5, 67.1	69.7	63.9	-
Elizabeth Melton	W	L	0.5	.4, .8	2.7	2.9	-			0.8	.7, 1.0	4.3	4.3	-

Estimates of Voting Patterns by Race in Recent Statewide Elections												
APPENDIX A1			Black Voters					White Voters				
Eastern Atlanta Metro Region												
Map Area 1												
General and Runoff Elections			95% confidence interval					95% confidence interval				
	Race	Party	El rxc	interval	El	ER	HP	El rxc	interval	El	ER	HP
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	97.9	89.8, 99.0	99.4	101.1	-	33.8	32.0, 44.6	30.0	32.2	-
Lauren McDonald Jr	W	R	1.6	.6, 9.5	0.5	-3.0	-	65.5	54.6, 67.3	68.6	64.1	-
Nathan Wilson	W	L	0.5	.3, .7	1.8	1.9	-	0.8	.6, .9	3.9	3.9	-
 2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	99.1	98.8, 99.3	99.5	103.2	98.0	34.4	33.6, 35.2	34.3	33.8	-
Brian Kemp	W	R	0.6	.4, .9	0.4	-3.4	1.8	65.2	64.4, 66.0	64.7	64.6	-
Ted Metz	W	L	0.2	.2, .3	0.1	0.1	0.2	0.4	.3, .6	1.3	1.5	-
 <i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.9	98.6, 99.2	99.5	101.4	96.2	33.4	32.6, 34.4	31.2	30.8	-
Jim Beck	W	R	0.7	.4, .9	0.5	-3.0	2.3	65.8	64.9, 66.7	66.7	65.4	-
Donnie Foster	W	L	0.4	.3, .5	1.4	1.6	1.5	0.7	.6, .9	3.9	3.8	-
 <i>School Superintendent</i>												
Otha Thornton	B	D	98.9	98.5, 99.3	99.4	102.9	96.9	30.6	29.6, 31.7	30.5	29.2	-
Richard Woods	W	R	1.1	.7, 1.5	0.5	-2.9	3.1	69.4	68.3, 70.4	69.4	70.7	-

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APPENDIX A2			Estimates of Voting Patterns by Race in Recent Statewide Elections										
Southern Atlanta Metro Region			Black Voters					White Voters					
Map Area 2			95% confidence interval					95% confidence interval					
General and Runoff Elections			Race	Party	El rxc	El	ER	HP	El rxc	El	ER	HP	
2022 General													
<i>US Senate</i>													
Raphael Warnock	B	D	98.5	98.2, 99.1	-	113.6	-		9.5	8.6, 10.4	7.5	6.2	-
Herschel Walker	B	R	1.0	.6, 1.3	-	-14.4	-		88.9	88.2, 89.7	89.6	90.8	-
Chase Oliver	W	L	0.4	.3, .7	-	0.7	-		1.6	1.0, 2.1	3.3	3.0	-
<i>Governor</i>													
Stacey Abrams	B	D	96.8	78.2, 99.2	99.1	113.2	-		6.6	3.0, 27.0	3.8	1.8	-
Brian Kemp	W	R	2.9	.5, 21.3	0.8	-13.5	-		93.1	72.5, 95.8	95.7	97.3	-
Shane Hazel	W	L	0.3	.2, .5	0.6	0.4	-		0.3	.2, .5	1.0	0.9	-
<i>Commissioner of Agriculture</i>													
Nakita Hemingway	B	D	98.3	97.0, 98.9	99.2	112.0	-		4.8	3.9, 6.6	3.0	1.0	-
Tyler Harper	W	R	1.2	.7, 2.4	0.8	-13.9	-		94.5	92.7, 95.5	95.1	96.6	-
David Raudabaugh	W	L	0.5	.3, .7	2.1	1.9	-		0.6	.4, .9	2.6	2.3	-
<i>Commissioner of Insurance</i>													
Janice Laws Robinson	B	D	98.8	98.3, 99.2	99.2	113.4	-		3.6	2.9, 4.3	3.8	2.0	-
John King	W	R	1.2	.8, 1.7	0.8	-13.4	-		96.4	95.7, 97.1	96.2	97.9	-
<i>Commissioner of Labor</i>													
William Boddie	B	D	98.4	97.9, 98.9	99.3	111.3	-		5.7	4.8, 6.4	3.5	2.1	-
Bruce Thompson	W	R	1.1	.6, 1.5	0.8	-14.1	-		93.7	93.0, 94.6	94.2	95.5	-
Emily Anderson	W	L	0.5	.4, .7	2.9	2.8	-		0.6	.5, .9	2.4	2.4	-
<i>School Superintendent</i>													
Alisha Thomas Searcy	B	D	98.8	98.3, 99.2	99.2	113.5	-		3.4	2.9, 4.1	3.7	1.9	-
Richard Woods	W	R	1.2	.8, 1.7	0.7	-13.5	-		96.6	95.9, 97.1	96.3	98.1	-

APPENDIX A2			Estimates of Voting Patterns by Race in Recent Statewide Elections											
Southern Atlanta Metro Region			Black Voters					White Voters						
Map Area 2			95% confidence interval					95% confidence interval						
General and Runoff Elections			Race	Party	El rxc	interval	El	ER	HP	El rxc	interval	El	ER	HP
2021 Runoffs														
US Special Senate														
Raphael Warnock	B	D	99.0	98.7, 99.3	99.3	114.4	-	8.5	8.0, 9.1	8.2	7.2	9.9		
Kelly Loeffler	W	R	1.0	.6, 1.3	0.7	-14.4	-	91.5	90.9, 92.0	91.8	92.8	90.1		
US Senate														
Jon Ossoff	W	D	98.9	98.5, 99.2	99.3	114.2	-	7.7	7.3, 8.3	7.5	6.6	9.6		
David Perdue	W	R	1.1	.8, 1.5	0.7	-14.2	-	92.3	91.7, 92.7	92.5	93.4	90.4		
Public Service Commission 4														
Daniel Blackman	B	D	98.9	98.5, 99.2	99.3	114.1	-	6.0	5.5, 6.6	6.2	5.2	8.9		
Lauren McDonald Jr	W	R	1.1	.8, 1.5	0.7	-14.1	-	94.0	93.4, 94.5	94.1	94.8	91.1		
2020 General														
US Senate														
Jon Ossoff	W	D	98.4	97.9, 98.8	99.3	110.7	-	9.1	8.3, 9.9	6.0	5.8	9.0		
David Perdue	W	R	1.0	.7, 1.5	0.6	-12.9	-	90.2	89.4, 90.9	91.3	91.9	89.6		
Shane Hazel	W	L	0.7	.5, .8	2.2	2.3	-	0.7	.6, 1.0	2.4	2.3	1.4		
US Special Senate														
Raphael Warnock	B	D	70.4	67.0, 73.0	76.8	77.2	-	8.1	6.4, 9.8	5.2	5.5	7.0		
Doug Collins	W	R	0.6	.4, .9	0.7	-5.4	-	33.7	33.2, 34.1	34.1	34.6	33.9		
Kelly Loeffler	W	R	0.6	.4, .9	0.5	-8.7	-	51.9	51.5, 52.3	51.7	52.3	50.9		
Others			28.4	25.7, 30.9	27.2	36.9	-	6.2	4.5, 7.9	7.5	7.6	8.2		
Public Service Commission 1														
Robert Bryant	B	D	97.9	90.2, 98.8	99.4	110.0	-	8.1	6.7, 16.7	4.0	3.9	8.5		
Jason Shaw	W	R	1.4	.6, 8.7	0.6	-13.1	-	90.5	82.3, 91.8	93.1	92.4	88.9		
Elizabeth Melton	W	L	0.7	.5, 1.0	3.1	3.2	-	1.4	.9, 2.0	3.7	3.7	2.6		

Estimates of Voting Patterns by Race in Recent Statewide Elections

APPENDIX A2
Southern Atlanta Metro Region
Map Area 2
General and Runoff Elections

APPENDIX A2			Black Voters					White Voters				
Southern Atlanta Metro Region			95% confidence interval					95% confidence interval				
Map Area 2												
General and Runoff Elections												
	Race	Party	EI rxc		EI	ER	HP	EI rxc		EI	ER	HP
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	97.5	83.3, 98.7	99.4	111.3	-	8.0	6.5, 20.1	4.2	4.2	8.6
Lauren McDonald Jr	W	R	1.9	.8, 15.9	0.7	-13.6	-	90.5	78.8, 91.8	92.9	92.5	88.8
Nathan Wilson	W	L	0.6	.4, .9	2.2	2.3	-	1.5	.9, 2.0	3.7	3.3	2.6
2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	99.0	98.7, 99.2	99.2	112.5	-	5.7	5.2, 6.2	5.5	4.2	10.3
Brian Kemp	W	R	0.7	.5, 1.0	0.7	-12.7	-	93.7	93.2, 94.1	93.5	94.5	88.9
Ted Metz	W	L	0.3	.2, .4	0.4	0.2	-	0.6	.4, .8	1.4	1.4	0.7
<i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.8	98.4, 99.0	99.4	110.2	-	6.2	5.6, 6.8	4.0	3.4	10.5
Jim Beck	W	R	0.7	.5, 1.1	0.7	-12.0	-	92.9	92.3, 93.5	93.4	93.7	87.7
Donnie Foster	W	L	0.5	.4, .7	1.8	1.9	-	0.8	.6, 1.2	3.2	2.9	1.8
<i>School Superintendent</i>												
Otha Thornton	B	D	98.9	98.5, 99.2	99.2	111.0	-	3.6	3.0, 4.3	3.8	2.9	10.2
Richard Woods	W	R	1.1	.8, 1.5	0.6	-11.0	-	96.4	95.7, 97.0	96.3	97.1	89.8

APPENDIX A3 East Central Region Map Area 3 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections											
			Black Voters					White Voters						
			Race	Party	EI rxc	95% confidence interval	EI	ER	HP	EI rxc	95% confidence interval	EI	ER	HP
2022 General														
<i>US Senate</i>														
Raphael Warnock	B	D	97.7	92.6, 98.8	99.1	108.8	-	9.5	8.5, 13.5	8.1	5.2	12.2		
Herschel Walker	B	R	1.8	.7, 5.7	0.8	-9.6	-	90.0	86.0, 90.9	90.0	92.9	86.0		
Chase Oliver	W	L	0.5	.4, .7	0.7	0.8	-	0.5	.4, .6	2.2	1.9	1.8		
<i>Governor</i>														
Stacey Abrams	B	D	93.5	64.9, 99.0	99.1	108.1	-	9.4	5.3, 30.0	5.7	1.5	9.3		
Brian Kemp	W	R	6.1	.7, 35.1	0.8	-8.6	-	90.3	69.7, 94.4	93.9	97.8	90.1		
Shane Hazel	W	L	0.4	.3, .5	0.7	0.4	-	0.2	.2, .3	0.6	0.7	0.6		
<i>Commissioner of Agriculture</i>														
Nakita Hemingway	B	D	97.7	92.2, 98.8	99.0	106.7	-	5.9	4.9, 10.5	5.0	1.3	9.1		
Tyler Harper	W	R	1.6	.7, 6.0	0.8	-8.6	-	93.6	90.0, 94.6	93.7	96.9	89.3		
David Raudabaugh	W	L	0.6	.4, .8	1.8	1.8	-	0.5	.4, .6	1.7	1.8	1.5		
<i>Commissioner of Insurance</i>														
Janice Laws Robinson	B	D	98.6	98.1, 99.0	99.1	108.2	-	4.6	4.1, 5.0	5.6	1.9	10.0		
John King	W	R	1.4	1.0, 1.9	0.8	-8.2	-	95.4	95.0, 95.9	94.4	98.1	90.0		
<i>Commissioner of Labor</i>														
William Boddie	B	D	97.9	92.8, 98.8	99.1	106.8	-	6.2	5.4, 9.2	5.4	1.8	9.7		
Bruce Thompson	W	R	1.5	.6, 6.4	0.7	-9.0	-	93.2	90.3, 94.1	92.9	96.3	88.8		
Emily Anderson	W	L	0.7	.5, .9	2.8	2.3	-	0.5	.4, .7	1.6	1.9	1.5		
<i>School Superintendent</i>														
Alisha Thomas Searcy	B	D	98.6	98.1, 99.0	99.3	107.9	-	4.4	3.9, 4.9	5.6	1.8	9.9		
Richard Woods	W	R	1.4	1.0, 1.9	0.8	-7.8	-	95.7	95.1, 96.1	94.4	98.2	90.1		

APPENDIX A3 East Central Region Map Area 3 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections													
			Black Voters					White Voters								
			Race	Party	EI rxc	95% confidence interval	EI	ER	HP	EI rxc	95% confidence interval	EI	ER	HP		
2021 Runoffs																
US Special Senate																
Raphael Warnock	B	D	98.9	98.5, 99.2	99.3	109.5	97.0	8.3	8.0, 8.7	8.6	5.9	13.0				
Kelly Loeffler	W	R	1.1	.8, 1.5	0.8	-9.5	3.0	91.7	91.3, 92.1	91.9	94.1	87.0				
US Senate																
Jon Ossoff	W	D	98.9	98.5, 99.2	99.1	109.3	96.9	8.0	7.6, 8.4	8.3	5.8	12.7				
David Perdue	W	R	1.1	.8, 1.5	0.8	-9.3	3.1	92.0	91.6, 92.4	91.7	94.2	87.3				
Public Service Commission 4																
Daniel Blackman	B	D	98.9	98.5, 99.2	99.1	109.0	96.7	6.5	6.1, 6.9	7.1	4.6	11.9				
Lauren McDonald Jr	W	R	1.1	.8, 1.5	0.7	-9.0	3.3	93.5	93.1, 93.9	92.9	95.4	88.1				
2020 General																
US Senate																
Jon Ossoff	W	D	97.6	97.0, 98.1	99.0	105.0	-	7.8	7.3, 8.4	6.4	5.2	12.0				
David Perdue	W	R	1.4	.9, 1.9	0.8	-7.4	-	91.6	91.0, 92.0	91.9	93.0	86.4				
Shane Hazel	W	L	1.0	.8, 1.3	2.4	2.4	-	0.6	.5, .8	1.9	1.8	1.6				
US Special Senate																
Raphael Warnock	B	D	66.4	65.2, 67.6	72.3	70.3	-	7.4	6.5, 8.3	4.0	4.2	8.7				
Doug Collins	W	R	0.6	.5, .9	0.5	-3.4	-	34.3	34.0, 34.5	32.0	35.8	35.3				
Kelly Loeffler	W	R	0.7	.5, .9	0.9	-6.0	-	51.5	51.1, 51.8	51.4	52.8	46.7				
Others			32.3	31.0, 33.5	30.1	39.1	-	6.9	6.0, 7.7	6.9	7.2	9.3				
Public Service Commission 1																
Robert Bryant	B	D	96.7	76.0, 98.3	99.1	105.4	-	7.9	6.4, 23.5	5.0	3.4	10.9				
Jason Shaw	W	R	2.3	.8, 22.6	0.9	-8.3	-	91.3	75.7, 92.7	92.4	93.8	86.7				
Elizabeth Melton	W	L	1.0	.7, 1.4	3.0	2.9	-	0.9	.7, 1.1	2.9	2.9	2.4				

Estimates of Voting Patterns by Race in Recent Statewide Elections

APPENDIX A3 East Central Region Map Area 3 General and Runoff Elections			Black Voters					White Voters				
			95% confidence interval		EI	ER	HP	95% confidence interval		EI	ER	HP
<i>Public Service Commission 4</i>	Race	Party	EI rxc					EI rxc				
Daniel Blackman	B	D	96.2	73.8, 98.4	99.3	106.4	-	8.7	6.8, 26.7	5.4	3.6	11.1
Lauren McDonald Jr	W	R	3.0	.9, 25.2	0.9	-8.5	-	90.5	72.7, 92.4	92.1	93.8	86.7
Nathan Wilson	W	L	0.8	.6, 1.0	2.3	2.3	-	0.8	.7, .9	2.7	2.6	2.2
2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	99.0	98.7, 99.2	99.3	107.8	96.0	6.7	6.3, 7.2	6.9	3.5	10.7
Brian Kemp	W	R	0.7	.5, .9	0.7	-8.2	3.7	92.9	92.5, 93.4	92.3	95.6	88.7
Ted Metz	W	L	0.4	.3, .5	0.5	0.3	0.3	0.3	.2, .4	0.8	0.9	0.6
<i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.6	98.2, 98.9	99.0	105.3	94.2	6.5	6.1, 7.0	5.5	3.0	10.8
Jim Beck	W	R	0.9	.6, 1.2	0.8	-6.8	4.7	92.8	92.3, 93.3	92.8	94.8	87.6
Donnie Foster	W	L	0.6	.4, .7	1.5	1.5	1.1	0.7	.5, .8	2.2	2.2	1.6
<i>School Superintendent</i>												
Otha Thornton	B	D	98.8	98.4, 99.2	99.2	106.1	94.8	4.8	4.4, 5.4	5.6	2.8	10.6
Richard Woods	W	R	1.2	.8, 1.6	0.8	-6.1	5.2	95.2	94.6, 95.6	94.5	97.2	89.4

APPENDIX A4			Estimates of Voting Patterns by Race in Recent Statewide Elections									
Southeastern Atlanta Metro Region			Black Voters					White Voters				
Map Area 4			95% confidence interval					95% confidence interval				
General and Runoff Elections			Race	Party	EI rxc	EI	ER	HP	EI rxc	EI	ER	HP
2022 General												
US Senate												
Raphael Warnock	B	D	98.4	97.9, 99.0	99.2	113.2	-	9.1	8.2, 10.0	7.5	6.9	16.4
Herschel Walker	B	R	1.1	.6, 1.5	0.8	-14.0	-	89.3	88.6, 90.1	89.9	90.3	81.1
Chase Oliver	W	L	0.4	.3, .7	0.8	0.8	-	1.6	1.1, 2.1	3.1	2.8	2.5
Governor												
Stacey Abrams	B	D	97.4	81.2, 99.1	99.2	112.8	-	6.1	4.3, 21.0	4.3	2.6	12.6
Brian Kemp	W	R	2.4	.6, 18.5	0.7	-13.1	-	93.5	78.7, 95.3	95.3	96.6	86.6
Shane Hazel	W	L	0.3	.2, .4	0.5	0.4	-	0.3	.3, .5	0.8	0.8	0.8
Commissioner of Agriculture												
Nakita Hemingway	B	D	98.6	98.0, 99.1	99.2	111.5	-	5.0	4.2, 5.6	3.8	2.1	12.3
Tyler Harper	W	R	0.9	.5, 1.4	0.7	-13.4	-	94.3	93.7, 95.1	95.0	95.8	85.9
David Raudabaugh	W	L	0.5	.3, .7	1.9	0.4	-	0.7	.5, .9	2.1	2.1	1.9
Commissioner of Insurance												
Janice Laws Robinson	B	D	98.8	98.3, 99.2	99.2	112.9	-	4.4	3.8, 5.1	4.5	3.1	13.4
John King	W	R	1.2	.8, 1.7	0.7	-12.9	-	95.6	94.9, 96.2	95.6	96.9	86.6
Commissioner of Labor												
William Boddie	B	D	98.4	97.8, 98.9	99.4	110.8	-	5.9	5.2, 6.5	4.3	3.2	13.1
Bruce Thompson	W	R	1.1	.6, 1.6	0.8	-13.6	-	93.5	92.9, 94.2	94.1	94.7	85.0
Emily Anderson	W	L	0.5	.4, .7	3.0	2.9	-	0.6	.4, .8	2.0	2.1	1.8
School Superintendent												
Alisha Thomas Searcy	B	D	98.8	98.2, 99.2	99.2	113.0	-	4.3	3.7, 5.0	4.3	3.0	13.3
Richard Woods	W	R	1.2	.8, 1.7	0.7	-13.0	-	95.7	95.0, 96.3	95.7	97.0	86.7

APPENDIX A4 Southeastern Atlanta Metro Region Map Area 4 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections										
			Black Voters					White Voters					
			EI rxc	95% confidence interval	EI	ER	HP	EI rxc	95% confidence interval	EI	ER	HP	
Race	Party												
2021 Runoffs													
US Special Senate													
Raphael Warnock	B	D	98.9	98.5, 99.2	99.2	113.7	-	8.1	7.6, 8.7	7.9	7.9	16.1	
Kelly Loeffler	W	R	1.1	.8, 1.5	0.7	-13.7	-	91.9	91.3, 92.4	92.1	92.1	83.9	
US Senate													
Jon Ossoff	W	D	98.9	98.4, 99.2	99.2	113.5	-	7.4	6.9, 8.0	7.4	7.5	15.9	
David Perdue	W	R	1.1	.8 1.6	0.8	-13.6	-	92.6	92.0, 93.1	92.8	92.5	84.1	
Public Service Commission 4													
Daniel Blackman	B	D	98.8	98.4, 99.2	99.3	113.4	-	6.0	5.5, 6.6	6.0	6.2	14.9	
Lauren McDonald Jr	W	R	1.2	.8, 1.6	0.8	-13.5	-	94.0	93.4, 94.5	94.0	93.8	85.1	
2020 General													
US Senate													
Jon Ossoff	W	D	98.3	97.8, 98.9	99.3	109.9	-	8.8	8.1, 9.5	6.6	6.9	15.0	
David Perdue	W	R	1.0	.7, 1.5	0.6	-12.2	-	90.5	89.7, 91.2	91.2	91.0	83.1	
Shane Hazel	W	L	0.6	.5, .9	2.3	2.3	-	0.7	.5, 1.0	2.0	2.1	2.0	
US Special Senate													
Raphael Warnock	B	D	71.5	68.8, 74.0	76.9	76.9	-	8.7	7.3, 9.9	5.9	6.2	11.0	
Doug Collins	W	R	0.7	.5, .9	0.1	-7.6	-	36.3	35.9, 36.7	37.1	38.7	45.3	
Kelly Loeffler	W	R	0.7	.5, 1.0	0.6	-6.1	-	49.7	49.3, 50.2	48.4	48.0	34.7	
Others			27.1	24.7, 29.9	27.1	36.9	-	5.3	4.1, 6.6	7.2	7.1	9.0	
Public Service Commission 1													
Robert Bryant	B	D	97.8	90.5, 98.7	99.3	109.1	-	7.9	6.8, 15.8	5.2	5.3	13.9	
Jason Shaw	W	R	1.5	.7, 8.6	0.6	-12.5	-	90.6	83.2, 91.6	91.7	91.4	83.4	
Elizabeth Melton	W	L	0.7	.5, 1.1	3.2	3.3	-	1.5	1.0, 2.0	3.3	3.3	2.7	

APPENDIX A4			Estimates of Voting Patterns by Race in Recent Statewide Elections									
Southeastern Atlanta Metro Region			Black Voters					White Voters				
Map Area 4			95% confidence interval					95% confidence interval				
General and Runoff Elections			Race	Party	El rxc	El	ER	HP	El rxc	El	ER	HP
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	97.9	89.3, 98.8	99.4	110.5	-	7.9	6.7, 15.5	5.3	5.5	14.3
Lauren McDonald Jr	W	R	1.6	.7, 9.9	0.6	-13.0	-	90.6	83.3, 91.8	91.8	91.4	83.2
Nathan Wilson	W	L	0.6	.4, .9	2.3	2.3	-	1.5	1.1, 2.0	3.1	3.0	2.5
2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	98.9	98.6, 99.2	99.3	112.0	-	5.6	5.1, 6.1	5.5	5.0	14.0
Brian Kemp	W	R	0.8	.5, 1.1	0.7	-12.1	-	93.9	93.3, 94.4	93.6	93.8	85.2
Ted Metz	W	L	0.3	.2, .4	0.3	0.2	-	0.6	.4, .8	1.1	1.2	0.9
<i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.7	98.3, 99.1	99.4	109.3	-	6.3	5.7, 6.9	4.6	4.7	14.5
Jim Beck	W	R	0.8	.5, 1.2	0.7	-11.3	-	92.9	92.3, 93.5	93.4	92.8	83.7
Donnie Foster	W	L	0.5	.3, .7	1.9	2.0	-	0.8	.6, 1.1	2.7	2.5	1.8
<i>School Superintendent</i>												
Otha Thornton	B	D	99.0	98.6, 99.3	99.4	110.4	-	4.4	3.8, 5.0	4.3	4.0	13.8
Richard Woods	W	R	1.0	.7, 1.4	0.5	-10.4	-	95.6	95.0, 96.2	95.7	96.0	86.2

APPENDIX A5 Central Georgia Region Map Area 5 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections									
			Black Voters					White Voters				
			95% confidence interval					95% confidence interval				
			Race	Party	El rxc		El	ER	HP	El rxc		El
2022 General												
US Senate												
Raphael Warnock	B	D	96.9	92.5, 98.8	99.2	108.1	-	11.2	9.6, 15.7	9.4	3.8	8.8
Herschel Walker	B	R	2.6	.7, 13.8	0.8	-8.8	-	88.4	83.9, 89.9	89.1	94.9	90.1
Chase Oliver	W	L	0.5	.3, .8	0.9	0.8	-	0.5	.3, .6	1.7	1.3	1.1
Governor												
Stacey Abrams	B	D	92.9	63.6, 98.9	99.1	107.1	-	9.5	5.2, 32.6	6.8	1.1	7.1
Brian Kemp	W	R	6.8	.7, 36.0	0.9	-7.6	-	90.2	67.2, 94.5	92.8	98.4	92.5
Shane Hazel	W	L	0.3	.2, .5	0.5	0.5	-	0.2	.1, .3	0.5	0.5	0.4
Commissioner of Agriculture												
Nakita Hemingway	B	D	97.6	85.6, 99.0	98.1	105.4	-	6.4	5.2, 15.0	6.2	1.2	7.4
Tyler Harper	W	R	1.8	.5, 13.7	2.0	-7.4	-	93.2	84.5, 94.4	92.2	97.5	91.5
David Raudabaugh	W	L	0.6	.4, .9	2.0	1.9	-	0.4	.3, .6	1.3	1.3	1.1
Commissioner of Insurance												
Janice Laws Robinson	B	D	98.5	97.7, 99.1	98.2	106.8	-	5.5	4.9, 6.2	7.0	1.5	7.7
John King	W	R	1.5	.9, 2.3	1.9	-6.8	-	94.5	93.8, 95.1	93.0	98.5	92.3
Commissioner of Labor												
William Boddie	B	D	97.4	84.7, 98.8	98.7	105.7	-	7.3	6.0, 16.3	6.8	1.5	7.4
Bruce Thompson	W	R	2.0	.6, 14.6	1.0	-7.9	-	92.2	83.2, 93.5	91.4	97.4	91.7
Emily Anderson	W	L	0.7	.4, 1.0	2.2	2.1	-	0.5	.3, .7	1.4	1.2	0.9
School Superintendent												
Alisha Thomas Searcy	B	D	98.3	97.4, 99.0	99.0	106.4	-	5.2	4.6, 6.0	6.7	1.4	7.7
Richard Woods	W	R	1.7	1.0, 2.6	0.9	-6.4	-	94.8	94.0, 95.4	93.3	98.7	92.3

APPENDIX A5 Central Georgia Region Map Area 5 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections																			
			Black Voters					White Voters														
			EI rxc	95% confidence interval	EI	ER	HP	EI rxc	95% confidence interval	EI	ER	HP										
Race	Party																					
2021 Runoffs																						
US Special Senate																						
Raphael Warnock	B	D	98.7	97.9, 99.2	99.2	108.0	-	10.3	9.6, 11.1	10.3	4.7	9.5										
Kelly Loeffler	W	R	1.3	.8, 2.1	0.8	-8.1	-	89.7	88.9, 90.4	89.6	95.3	90.5										
US Senate																						
Jon Ossoff	W	D	98.7	97.9, 99.2	99.2	107.8	-	9.9	9.2, 10.6	9.9	4.7	9.6										
David Perdue	W	R	1.3	.8, 2.1	0.8	-7.8	-	90.1	89.4, 90.8	90.2	95.3	90.4										
Public Service Commission 4																						
Daniel Blackman	B	D	98.8	98.2, 99.3	99.1	107.2	-	8.0	7.4, 8.7	8.5	3.6	8.9										
Lauren McDonald Jr	W	R	1.2	.7, 1.8	0.8	-7.2	-	92.0	91.3, 92.6	91.5	96.3	91.1										
2020 General																						
US Senate																						
Jon Ossoff	W	D	97.7	96.9, 98.3	98.7	103.0	-	9.3	8.5, 10.2	7.9	4.4	9.9										
David Perdue	W	R	1.4	.9, 2.2	0.8	-5.3	-	90.1	89.2, 90.9	90.3	94.1	88.6										
Shane Hazel	W	L	0.9	.6, 1.2	2.7	2.2	-	0.6	.4, .8	1.7	1.6	1.4										
US Special Senate																						
Raphael Warnock	B	D	68.2	66.2, 70.2	74.3	73.5	-	7.2	5.3, 9.3	3.4	3.1	6.8										
Doug Collins	W	R	0.7	.4, 1.2	0.8	-3.5	-	36.9	36.4, 37.4	37.2	39.5	36.1										
Kelly Loeffler	W	R	0.9	.5, 1.4	0.8	-3.9	-	47.3	46.7, 47.8	47.6	50.1	48.2										
Others			30.2	28.1, 32.2	35.2	33.9	-	8.6	6.5, 10.5	6.9	7.2	9.0										
Public Service Commission 1																						
Robert Bryant	B	D	95.5	70.5, 98.5	98.8	103.8	-	10.4	7.8, 28.8	6.4	3.1	9.1										
Jason Shaw	W	R	3.7	.7, 28.7	0.8	-6.5	-	88.9	70.5, 91.6	90.7	94.8	88.8										
Elizabeth Melton	W	L	0.8	.6, 1.2	2.9	2.8	-	0.7	.4, .9	2.4	2.1	2.2										

Estimates of Voting Patterns by Race in Recent Statewide Elections												
APPENDIX A5 Central Georgia Region Map Area 5 General and Runoff Elections			Black Voters					White Voters				
Race	Party	El rxc	95% confidence interval	El	ER	HP	El rxc	95% confidence interval	El	ER	HP	
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	95.7	70.7, 98.6	98.8	104.3	-	10.5	8.1, 29.6	6.9	3.3	9.2
Lauren McDonald Jr	W	R	3.7	.8, 28.5	0.8	-6.7	-	88.8	67.7, 91.3	90.5	94.8	88.8
Nathan Wilson	W	L	0.7	.4, 1.0	2.5	2.2	-	0.7	.5, .9	2.4	2.0	2.0
2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	98.9	98.4, 99.2	99.1	106.1	95.7	7.7	7.2, 8.3	8.2	3.1	8.7
Brian Kemp	W	R	0.8	.5, 1.2	0.9	-6.4	4.0	92.0	91.5, 92.5	91.2	96.4	90.8
Ted Metz	W	L	0.3	.2, .5	0.3	0.3	0.3	0.3	.2, .4	0.5	0.6	0.4
<i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.5	97.9, 99.0	97.1	103.0	94.0	7.7	7.1, 8.4	6.9	3.3	9.0
Jim Beck	W	R	1.0	.6, 1.5	1.0	-4.7	4.9	91.8	91.1, 92.3	91.4	95.2	89.6
Donnie Foster	W	L	0.5	.4, .8	1.8	1.6	1.1	0.5	.4, .7	1.6	1.5	1.4
<i>School Superintendent</i>												
Otha Thornton	B	D	98.7	98.0, 99.2	98.8	103.8	94.6	5.8	5.3, 6.5	6.6	3.1	9.1
Richard Woods	W	R	1.3	.8, 2.0	1.1	-3.8	5.4	94.2	93.5, 94.7	93.3	96.7	90.9

APPENDIX A6 Southwest Georgia Region Map Area 6 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections									
			Black Voters					White Voters				
			95% confidence interval					95% confidence interval				
2022 General			Race	Party	El rxc	El	ER	HP	El rxc	El	ER	HP
<i>US Senate</i>												
Raphael Warnock	B	D	97.5	94.0, 98.9	99.1	104.5	96.5	6.7	5.5, 9.8	5.5	2.4	9.8
Herschel Walker	B	R	2.0	.6, 5.2	0.6	-5.3	2.9	92.9	94.9, 94.1	92.8	96.2	88.9
Chase Oliver	W	L	0.6	.3, .8	1.0	0.8	0.6	0.4	.3, .6	1.7	1.4	1.3
<i>Governor</i>												
Stacey Abrams	B	D	95.6	68.5, 99.0	99.2	103.8	95.5	5.2	2.6, 22.3	3.2	-0.2	7.6
Brian Kemp	W	R	4.1	.6, 31.1	0.9	-4.1	4.2	94.6	77.4, 97.2	96.4	99.8	91.9
Shane Hazel	W	L	0.4	.2, .5	0.5	0.3	0.3	0.2	.1, .3	0.5	0.5	0.5
<i>Commissioner of Agriculture</i>												
Nakita Hemingway	B	D	97.4	90.3, 98.5	99.1	101.8	94.1	3.4	2.2, 8.5	2.4	-0.5	7.5
Tyler Harper	W	R	2.0	.9, 9.0	0.8	-3.5	4.2	96.3	91.1, 97.5	96.6	99.4	91.5
David Raudabaugh	W	L	0.6	.4, .9	1.9	1.7	1.7	0.3	.2, .4	0.8	1.1	1.1
<i>Commissioner of Insurance</i>												
Janice Laws Robinson	B	D	98.4	97.6, 99.0	99.2	103.1	95.1	2.8	2.2, 3.6	3.1	0.2	8.1
John King	W	R	1.6	1.0, 2.4	0.8	-3.2	4.9	97.2	96.4, 97.8	96.9	99.9	91.9
<i>Commissioner of Labor</i>												
William Boddie	B	D	97.5	92.5, 98.6	99.0	102.0	94.2	3.9	2.8, 7.4	3.0	0.2	8.1
Bruce Thompson	W	R	1.8	.7, 6.8	0.8	-3.9	3.9	95.7	92.2, 96.8	95.6	98.6	90.8
Emily Anderson	W	L	0.7	.5, 1.0	2.0	1.9	1.9	0.3	.2, .5	1.2	1.2	1.1
<i>School Superintendent</i>												
Alisha Thomas Searcy	B	D	98.5	97.7, 99.1	98.8	103.0	95.2	2.3	1.8, 2.9	2.9	0.0	7.8
Richard Woods	W	R	1.5	.9, 2.3	1.0	-3.0	4.8	97.7	97.1, 98.2	97.0	100.0	92.2

APPENDIX A6			Estimates of Voting Patterns by Race in Recent Statewide Elections									
Southwest Georgia Region			Black Voters					White Voters				
Map Area 6			95% confidence interval					95% confidence interval				
General and Runoff Elections			Race	Party	El rxc	El	ER	HP	El rxc	El	ER	HP
2021 Runoffs												
<i>US Special Senate</i>												
Raphael Warnock	B	D	98.9	98.3, 99.4	99.3	105.7	97.3	5.5	5.0, 6.1	6.2	3.1	10.3
Kelly Loeffler	W	R	1.1	.6, 1.7	0.9	-5.7	2.7	94.5	93.9, 95.0	93.9	96.9	89.7
<i>US Senate</i>												
Jon Ossoff	W	D	98.9	98.2, 99.4	99.4	105.4	97.1	5.6	5.0, 6.3	6.2	3.0	10.2
David Perdue	W	R	1.1	.6, 1.8	0.6	-5.4	2.9	94.4	93.7, 95.0	93.8	97.0	89.8
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	98.8	98.1, 99.3	99.3	104.7	96.7	4.4	3.9, 5.2	5.2	2.2	9.4
Lauren McDonald Jr	W	R	1.2	.7, 1.9	0.7	-4.8	3.3	95.6	94.9, 96.1	94.8	97.8	90.6
2020 General												
<i>US Senate</i>												
Jon Ossoff	W	D	97.3	96.4, 98.1	99.0	100.9	93.4	6.1	5.1, 7.2	4.1	2.9	10.7
David Perdue	W	R	2.0	1.2, 2.9	0.8	-2.7	5.3	93.5	92.3, 94.4	94.3	95.6	87.8
Shane Hazel	W	L	0.7	.5, 1.1	1.7	1.7	1.3	0.4	.3, .6	1.5	1.4	1.5
<i>US Special Senate</i>												
Raphael Warnock	B	D	63.5	61.8, 65.3	69.3	67.0	67.3	2.1	1.1, 3.3	0.8	-0.5	5.6
Doug Collins	W	R	1.0	.6, 1.6	0.8	-2.1	1.3	39.9	39.3, 40.4	40.6	42.2	38.3
Kelly Loeffler	W	R	1.2	.7, 1.7	0.4	-2.6	1.9	46.7	46.0, 47.3	47.3	47.8	44.7
Others			34.3	32.5, 36.1	39.7	37.7	29.6	11.3	10.0, 12.5	9.1	10.5	11.4
<i>Public Service Commission 1</i>												
Robert Bryant	B	D	95.6	73.9, 98.1	98.6	100.7	93.2	6.6	4.3, 23.1	3.0	1.8	9.7
Jason Shaw	W	R	3.4	.9, 25.1	0.8	-3.3	4.8	92.9	76.4, 95.2	94.8	96.2	88.3
Elizabeth Melton	W	L	1.0	.7, 1.4	2.9	2.7	2.0	0.5	.3, .7	1.6	1.9	2.0

Estimates of Voting Patterns by Race in Recent Statewide Elections												
APPENDIX A6 Southwest Georgia Region Map Area 6 General and Runoff Elections			Black Voters					White Voters				
			95% confidence interval		El	ER	HP	95% confidence interval		El	ER	HP
Race Party			El rxc					El rxc				
<i>Public Service Commission 4</i>												
Daniel Blackman	B	D	95.4	69.5, 98.6	99.1	101.6	93.5	7.3	4.7, 24.9	3.3	2.2	10.1
Lauren McDonald Jr	W	R	3.8	.8, 29.7	0.7	-3.8	4.4	92.3	74.7, 94.9	94.4	96.1	88.3
Nathan Wilson	W	L	0.7	.5, 1.1	2.5	2.1	2.1	0.4	.3, .6	1.9	1.7	1.7
2018 General												
<i>Governor</i>												
Stacey Abrams	B	D	98.9	98.5, 99.2	99.3	104.3	97.2	3.8	3.4, 4.3	4.9	1.7	9.3
Brian Kemp	W	R	0.8	.5, 1.2	0.6	-4.6	2.6	95.9	95.4, 96.4	94.8	97.8	90.1
Ted Metz	W	L	0.3	.2, .5	0.0	0.3	0.2	0.3	.2, .4	0.6	0.5	0.5
<i>Commissioner of Insurance</i>												
Janice Laws	B	D	98.0	97.5, 98.5	98.7	101.5	95.2	4.5	3.9, 5.1	3.2	1.9	9.5
Jim Beck	W	R	1.1	.7, 1.6	0.9	-3.4	3.3	95.0	94.4, 95.6	94.6	96.9	89.2
Donnie Foster	W	L	0.9	.6, 1.2	1.7	1.9	1.5	0.5	.3, .7	1.5	1.2	1.3
<i>School Superintendent</i>												
Otha Thornton	B	D	98.3	97.7, 98.8	98.9	101.8	95.6	2.4	1.9, 3.0	2.8	1.3	8.8
Richard Woods	W	R	1.7	1.2, 2.3	1.1	-1.8	4.4	97.6	97.0, 98.1	96.9	98.7	91.2

APPENDIX A7 Macon Metro Region Map Area 7 General and Runoff Elections			Estimates of Voting Patterns by Race in Recent Statewide Elections									
			Black Voters					White Voters				
			EI	95% confidence interval	EI	ER	HP	EI	95% confidence interval	EI	ER	HP
2022 General			Race	Party	El rxc							
<i>US Senate</i>												
Raphael Warnock	B	D	96.3	92.7, 98.8	99.2	106.4	-	14.9	12.5, 19.6	10.7	8.5	-
Herschel Walker	B	R	3.1	.7, 9.7	0.8	-7.0	-	84.6	78.7, 87.1	87.0	89.3	-
Chase Oliver	W	L	0.6	.3, 1.0	1.0	0.5	-	0.5	.2, .8	2.4	2.2	-
<i>Governor</i>												
Stacey Abrams	B	D	89.6	57.7, 97.9	98.9	105.8	-	15.7	7.4, 39.0	7.2	3.9	-
Brian Kemp	W	R	10.0	1.7, 41.9	0.9	-6.2	-	84.1	60.7, 92.4	92.3	95.1	-
Shane Hazel	W	L	0.3	.2, .6	0.6	0.3	-	0.2	.1, .4	0.7	0.9	-
<i>Commissioner of Agriculture</i>												
Nakita Hemingway	B	D	96.3	87.9, 98.6	99.1	104.8	-	9.3	6.8, 18.3	6.7	3.6	-
Tyler Harper	W	R	3.1	.8, 11.5	0.8	-6.6	-	90.2	83.2, 92.7	91.8	94.5	-
David Raudabaugh	W	L	0.6	.3, 1.1	1.9	1.7	-	0.5	.2, .8	1.9	1.9	-
<i>Commissioner of Insurance</i>												
Janice Laws Robinson	B	D	97.9	96.0, 99.1	99.0	106.0	-	7.1	5.8, 9.0	7.3	4.4	-
John King	W	R	2.1	.9, 4.0	0.9	-5.9	-	92.9	91.0, 94.2	92.8	95.6	-
<i>Commissioner of Labor</i>												
William Boddie	B	D	96.5	84.0, 98.5	99.1	104.0	-	10.2	7.9, 22.8	7.1	4.6	-
Bruce Thompson	W	R	2.7	.8, 15.2	1.0	-6.4	-	89.3	76.5, 91.6	90.9	93.4	-
Emily Anderson	W	L	0.8	.4, 1.4	3.7	2.2	-	0.5	.2, .9	2.1	1.9	-
<i>School Superintendent</i>												
Alisha Thomas Searcy	B	D	98.0	96.3, 99.1	99.1	105.9	-	6.6	5.4, 8.2	7.0	3.9	-
Richard Woods	W	R	2.0	.9, 3.7	1.0	-5.9	-	93.4	91.8, 94.6	92.9	95.9	-

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

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APPENDIX VOLUME V OF VII

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No. 23-13916
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In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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			Black Voters					White Voters				
			EI rxc	95% confidence interval	EI	ER	HP	EI rxc	95% confidence interval	EI	ER	HP
Race	Party											
2021 Runoffs												
US Special Senate												
Raphael Warnock	B	D	98.0	96.4, 99.1	99.1	107.7	-	12.9	11.7, 14.7	11.3	8.2	-
Kelly Loeffler	W	R	2.0	.9, 3.6	0.9	-7.7	-	87.1	85.3, 88.3	88.7	91.8	-
US Senate												
Jon Ossoff	W	D	98.1	96.5, 99.1	99.1	107.4	-	12.4	11.2, 14.0	11.0	8.0	-
David Perdue	W	R	1.9	.9, 3.5	0.9	-7.5	-	87.6	86.0, 88.8	89.1	92.1	-
Public Service Commission 4												
Daniel Blackman	B	D	98.1	96.6, 99.1	99.1	107.1	-	10.8	9.6, 12.3	9.5	6.6	-
Lauren McDonald Jr	W	R	1.9	.9, 3.4	0.9	-7.1	-	89.2	87.7, 90.4	90.6	93.3	-
2020 General												
US Senate												
Jon Ossoff	W	D	97.5	96.0, 98.5	99.2	102.6	-	12.7	10.7, 15.2	8.7	7.5	-
David Perdue	W	R	1.6	.8, 2.9	1.4	-5.0	-	86.8	84.2, 88.7	89.3	90.6	-
Shane Hazel	W	L	0.9	.5, 1.4	3.0	2.5	-	0.6	.3, .9	2.4	2.0	-
US Special Senate												
Raphael Warnock	B	D	70.2	66.9, 73.4	74.4	74.5	-	13.0	9.4, 16.1	5.5	5.8	-
Doug Collins	W	R	1.1	.6, 2.0	1.0	-3.2	-	33.6	32.3, 34.6	34.7	36.4	-
Kelly Loeffler	W	R	1.1	.5, 2.0	1.2	-3.8	-	47.4	45.9, 48.5	48.2	50.0	-
Others			27.5	24.4, 30.8	33.8	32.5	-	5.9	3.0, 9.6	7.2	7.8	-
Public Service Commission 1												
Robert Bryant	B	D	96.3	78.3, 98.5	99.1	103.4	-	12.2	9.3, 29.4	6.3	4.9	-
Jason Shaw	W	R	2.8	.8, 20.6	1.0	-6.2	-	87.1	70.0, 90.0	90.3	91.9	-
Elizabeth Melton	W	L	0.9	.5, 1.4	2.8	2.9	-	0.7	.4, 1.1	3.4	3.2	-

APA Doc. 270-5

ATTACHMENT E

Joint Stipulated Facts for Trial

I. Parties

A. *Pendergrass* Plaintiffs

1. Coakley Pendergrass

1. Plaintiff Coakley Pendergrass is Black.
2. Plaintiff Coakley Pendergrass resides in Cobb County, Georgia.
3. Under the enacted congressional plan, Plaintiff Coakley Pendergrass resides and is a registered voter in Congressional District 11.

2. Triana Arnold James

4. Plaintiff Triana Arnold James is Black.
5. Plaintiff Triana Arnold James resides in Douglas County, Georgia.
6. Under the enacted congressional plan, Plaintiff Triana Arnold James resides and is a registered voter in Congressional District 3.

3. Elliott Hennington

7. Plaintiff Elliott Hennington is Black.
8. Plaintiff Elliott Hennington resides in Cobb County, Georgia.

9. Under the enacted congressional plan, Plaintiff Elliott Hennington resides and is a registered voter in Congressional District 14.

4. Robert Richards

10. Plaintiff Robert Richards is Black.

11. Plaintiff Robert Richards resides in Cobb County, Georgia.

12. Under the enacted congressional plan, Plaintiff Robert Richards resides and is a registered voter in Congressional District 14.

5. Jens Rueckert

13. Plaintiff Jens Rueckert is Black.

14. Plaintiff Jens Rueckert resides in Cobb County, Georgia.

15. Under the enacted congressional plan, Plaintiff Jens Rueckert resides and is a registered voter in Congressional District 14.

6. Ojuan Glaze

16. Plaintiff Ojuan Glaze is Black.

17. Plaintiff Ojuan Glaze resides in Douglas County, Georgia.

18. Under the enacted congressional plan, Plaintiff Ojuan Glaze resides and is a registered voter in Congressional District 13.

B. *Grant Plaintiffs*

1. Annie Lois Grant

19. Plaintiff Annie Lois Grant is Black.

20. Plaintiff Annie Lois Grant resides in Union Point, Georgia.

Under the enacted legislative plans, Plaintiff Annie Lois Grant resides in and is a registered voter in Senate District 24 and House District 124.

2. Quentin T. Howell

21. Plaintiff Quentin T. Howell is Black.

22. Plaintiff Quentin T. Howell resides in Milledgeville, Georgia.

23. Under the enacted legislative plans, Plaintiff Quentin T. Howell resides in and is a registered voter in Senate District 25 and House District 133.

3. Elroy Tolbert

24. Plaintiff Elroy Tolbert is Black.

25. Plaintiff Elroy Tolbert resides in Macon, Georgia.

26. Under the enacted legislative plans, Plaintiff Elroy Tolbert resides in and is a registered voter in Senate District 18 and House District 144.

4. Triana Arnold James

27. Plaintiff Triana Arnold James is Black.

28. Plaintiff Triana Arnold James resides in Villa Rica, Georgia.

29. Under the enacted legislative plans, Plaintiff Triana Arnold James resides in and is a registered voter in Senate District 30 and House District 64.

5. Eunice Sykes

30. Plaintiff Eunice Sykes is Black.

31. Plaintiff Eunice Sykes resides in Locust Grove, Georgia.

32. Under the enacted legislative plans, Plaintiff Eunice Sykes resides in and is a registered voter in Senate District 25 and House District 117.

6. Elbert Solomon

33. Plaintiff Elbert Solomon is Black.

34. Plaintiff Elbert Solomon resides in Griffin, Georgia.

35. Under the enacted legislative plans, Plaintiff Elbert Solomon resides in Senate District 16 and House District 117.

7. Dexter Wimbish

36. Plaintiff Dexter Wimbish is Black.

37. Plaintiff Dexter Wimbish resides in Griffin, Georgia.

38. Under the enacted legislative plans, Plaintiff Dexter Wimbish resides in Senate District 16 and House District 74.

8. Garrett Reynolds

- 39. Plaintiff Garrett Reynolds is Black.
- 40. Plaintiff Garrett Reynolds resides in Tyrone, Georgia.
- 41. Under the enacted legislative plans, Plaintiff Garrett Reynolds resides in Senate District 16 and House District 68.

9. Jacqueline Faye Arbuthnot

- 42. Plaintiff Jacqueline Faye Arbuthnot is Black.
- 43. Plaintiff Jacqueline Faye Arbuthnot resides in Powder Springs, Georgia.
- 44. Under the enacted legislative plans, Plaintiff Jacqueline Faye Arbuthnot resides in Senate District 31 and House District 64.

10. Jacquelyn Bush

- 45. Plaintiff Jacquelyn Bush is Black.
- 46. Plaintiff Jacquelyn Bush resides in Fayetteville, Georgia.
- 47. Under the enacted legislative plans, Plaintiff Jacquelyn Bush resides in Senate District 16 and House District 74.

11. Mary Nell Conner

- 48. Plaintiff Mary Nell Conner is Black.

49. Plaintiff Mary Nell Conner resides in Henry County, Georgia.

50. Under the enacted legislative plans, Plaintiff Mary Nell Conner resides in Senate District 25 and House District 117.

C. *Alpha Phi Alpha* Plaintiffs

1. Alpha Phi Alpha Fraternity Inc.

51. Plaintiff Alpha Phi Alpha Fraternity Inc. is the first intercollegiate Greek-letter fraternity established for Black Men.

52. Alpha Phi Alpha Fraternity Inc. has thousands of members in Georgia, including Black Georgians who are registered voters who live in Senate Districts 16, 17, and 23 under the 2021 Senate Plan, as well as in House Districts 74, 114, 117, 128, 133, 134, 145, 171, and 173 under the 2021 House Plan.

53. Alpha Phi Alpha Fraternity Inc. has long made political participation for its members and Black Americans an organizational priority, including through programs to raise political awareness, register voters, and empower Black communities.

54. Harry Mays is a member of Alpha Phi Alpha Fraternity Inc.

55. Harry Mays resides in House District 117 under the State's 2021 House Plan.

56. Under the *Alpha Phi Alpha* Plaintiffs' illustrative maps, Harry Mays would reside in a new majority Black House District.

2. Sixth District of the African Methodist Episcopal Church

57. Plaintiff Sixth District of the African Methodist Episcopal Church is a nonprofit religious organization.

58. The Sixth District is one of twenty districts of the African Methodist Episcopal Church and covers the entirety of the State of Georgia.

59. Plaintiff Sixth District of the African Methodist Episcopal Church has more than 500 member-churches in Georgia.

60. Member-churches of Plaintiff Sixth District of the African Methodist Episcopal Church have tens of thousands of members across Georgia.

61. Plaintiff Sixth District of the African Methodist Episcopal Church has churches located in Senate Districts 16, 17, and 23 under the 2021 Senate Plan as well as in House Districts 74, 114, 117, 128, 133, 134, 145, 171, and 173 under the 2021 House Plan.

62. Plaintiff Sixth District of the African Methodist Episcopal Church has long made encouraging and supporting civic participation among its members a core aspect of its work, including through programs to register voters, transporting

churchgoers to polling locations, hosting “Get Out the Vote” efforts, and providing food, water, encouragement, and assistance to voters waiting in lines at polling locations.

63. Plaintiff Phil S. Brown is a member of the Lofton Circuit African Methodist Episcopal Church in Wrens, Georgia.

64. Plaintiff Janice Stewart is a member of the Saint Peter African Methodist Episcopal Church in Camilla, Georgia.

3. Eric T. Woods

65. Plaintiff Eric T. Woods is a Black citizen of the United States and the State of Georgia.

66. Plaintiff Eric T. Woods is a resident of Tyrone, Georgia in Fayette County.

67. Plaintiff Eric T. Woods has been a registered voter at his current address since 2011.

68. Plaintiff Eric T. Woods resides in State Senate District 16, which is not majority Black, under the 2021 Senate Plan.

69. Under the *Alpha Phi Alpha* Plaintiffs' illustrative state Senate map drawn by Mr. Cooper, Plaintiff Eric T. Woods would reside in a new majority Black Senate District, Illustrative Senate District 28.

4. Katie Bailey Glenn

70. Plaintiff Katie Bailey Glenn is a Black citizen of the United States and the State of Georgia.

71. Plaintiff Katie Bailey Glenn is a resident of McDonough, Georgia in Henry County.

72. Plaintiff Katie Bailey Glenn has been a registered voter at her current address for approximately 50 years.

73. Plaintiff Katie Bailey Glenn resides in State Senate District 17, which is not majority Black, under the State's 2021 Senate Plan.

74. Under the *Alpha Phi Alpha* Plaintiffs' illustrative state Senate map, drawn by Mr. Cooper, Plaintiff Katie Bailey Glenn would reside in a new majority-Black Senate District, Illustrative Senate District 17.

5. Phil S. Brown

75. Plaintiff Phil S. Brown is a Black citizen of the United States and the State of Georgia.

76. Plaintiff Phil S. Brown is a resident of Wrens, Georgia in Jefferson County.

77. Plaintiff Phil S. Brown has been a registered voter at his current address for years.

78. Plaintiff Phil S. Brown resides in State Senate District 23, which is not majority Black, under the State's 2021 Senate Plan.

79. Under the *Alpha Phi Alpha* Plaintiffs' illustrative state Senate map, drawn by Mr. Cooper, Plaintiff Phil S. Brown would reside in a new majority Black Senate District, Illustrative Senate District 23.

6. Janice Stewart

80. Plaintiff Janice Stewart is a Black citizen of the United States and the State of Georgia.

81. Plaintiff Janice Stewart is a resident of Thomasville, Georgia in Thomas County.

82. Plaintiff Janice Stewart has been a registered voter at her current address for years.

83. Plaintiff Janice Stewart resides in State House District 173, which is not majority Black, under the State's 2021 House Plan.

84. Under the *Alpha Phi Alpha* Plaintiffs' illustrative state House map, drawn by Mr. Cooper, Plaintiff Janice Stewart would reside in a new majority Black House District, Illustrative House District 171.

D. Defendants

1. Brad Raffensperger

85. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity.

2. Sara Tindall Ghazal

86. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity in the *Grant* and *Pendergrass* cases.

3. Janice Johnston

87. Defendant Janice Johnston is a member of the State Election Board and is named in her official capacity in the *Grant* and *Pendergrass* cases.

4. Edward Lindsey

88. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity in the *Grant* and *Pendergrass* cases.

5. Matthew Mashburn

89. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity in the *Grant* and *Pendergrass* cases.

6. William S. Duffey, Jr.

90. Defendant William S. Duffey, Jr. is chair of the State Election Board and is named in his official capacity in the *Grant* and *Pendergrass* cases.

II. 2020 Census

91. The U.S. Census Bureau releases data to the states after each census for use in redistricting. This data includes population and demographic information for each census block.

92. The Census Bureau provided redistricting data to Georgia on August 21, 2021.

A. Statewide Population Growth

93. From 2010 to 2020, Georgia's population grew by over 1 million people to 10.71 million, up 10.57% percent from 2010.

94. As a result of this population growth, the state retained 14 seats in the U.S. House of Representatives.

95. Between 2010 and 2020, Georgia's Any-Part Black (defined throughout these Stipulations as Any Part or AP Black, meaning the combined total of persons who are single-race Black and persons of two or more races and some part Black, including Hispanic Black) population increased by 484,048 people since 2010.

96. Between 2010 and 2020, 47.26% of the state's overall population gain was attributable to AP Black population growth.

97. Georgia's AP Black population, as a share of the overall statewide population, increased between 2010 and 2020, from 31.53% in 2010 to 33.03% in 2020.

98. As a matter of total population, AP Black Georgians comprise the largest minority population in the state, at 33.03%.

99. From 2010 to 2020, Georgia's white population decreased by 51,764.

100. Between 2000 to 2020, the AP Black population in Georgia increased by 1,144,721, from 2,393,425 to 3,538,146.

101. Between 2000 to 2020, the white population in Georgia increased by 233,495.

102. Georgia's AP Black population has increased in absolute and percentage terms since 1990, from about 27% in 1990 to 33.03% in 2020. Over the same time period, the percentage of the population identifying as non-Hispanic white has dropped from 70% to 50.06%.

103. Since 1990, the AP Black population has more than doubled: from 1.75 million to 3.54 million.

104. Georgia has a total voting-age population of 8,220,274, of whom 2,607,986 (31.73%) are AP Black and 2,488,419 (30.27%) are single-race Black.

105. The total estimated citizen voting-age population in Georgia in 2019 was 33.87% AP Black and 32.9% single-race Black. The total estimated citizen voting-age population in 2021 was 33.3% AP Black and 31.4% single-race Black.

B. Metro Atlanta

106. The Atlanta Metropolitan Statistical Area ("MSA") consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton.

107. The population gain in counties in the Atlanta MSA between 2010 and 2020 amounted to 803,087 persons and the AP Black population gain in counties in the Atlanta MSA between 2010 and 2020 amounted to 409,927.

108. According to the 2000 Census, the population of counties in the current Atlanta MSA area was 29.29% AP Black, increasing to 33.61% in 2010, and 35.91% in 2020.

109. The AP Black population of counties in the current Atlanta MSA has grown from 1,248,809 in 2000 to 2,186,815 in 2020—an increase of 938,006 people.

110. According to the 2020 census, the counties in the Atlanta MSA have a total voting-age population of 4,654,322 persons, of whom 1,622,469 (34.86%) are AP Black.

111. The Atlanta Regional Commission (“ARC”) includes 11 core counties: Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, and Rockdale.

112. Between 2010 and 2020, the non-Hispanic white population in the counties in the Atlanta MSA decreased by 22,736 persons.

C. South Metro Atlanta Area

113. The southern portion of the Metro Atlanta area contains the following five counties: Fayette, Spalding, Henry, Rockdale, and Newton.

114. In 2000, 18.51% of the population in the five-county Fayette-Spalding-Henry-Rockdale-Newton area was AP Black. By 2010, the AP Black population in that area more than doubled to reach 36.70% of the overall population. It then grew to 46.57% by 2020.

115. Between 2000 and 2020, the AP Black population in the five-county Fayette-Spalding-Henry-Rockdale-Newton area quadrupled, from 74,249 to 294,914.

116. Senate Districts 34 and 44 are adjacent to Senate District 16 under the 2021 Senate Plan.

117. Senate Districts 10, 16, 25, 43, and 46 are adjacent to Senate District 17 under the 2021 Senate Plan.

D. The Black Belt

118. The Black Belt refers to an area that runs across the southeastern United States. Counties in the Black Belt region often have significant Black populations as

a share of total population, and share a history of, among other things, antebellum slavery and plantation agriculture.

119. In Georgia, the Black Belt runs across the middle of the State, roughly from Augusta to Southwest Georgia.

120. The following counties in the region around Augusta are at least 40% AP Black: Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Warren, Washington, and Hancock Counties.

121. Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Warren, Washington, and Hancock Counties have experienced a slight overall population increase since 2000, from 321,998 to 325,164 in 2020.

122. During that same period of time, the AP Black population in Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Warren, Washington, and Hancock Counties increased by 14,480, from 163,310 (50.66%) to 177,610 (54.62%).

123. During that same period of time, the white population in Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Warren, Washington, and Hancock Counties decreased by 22,755 from 146,870 (45.61%) to 124,115 (38.17%).

124. The Macon–Warner Robins–Fort Valley Combined Statistical Area consists of the following counties: Twiggs, Macon-Bibb, Jones, Monroe, Crawford, Houston, and Peach.

125. The total population of Twiggs, Macon-Bibb, Jones, Monroe, Crawford, Houston, and Peach has increased from 356,801 in 2000 to 425,416 in 2020.

126. During that same period of time, the AP Black population in Twiggs, Macon-Bibb, Jones, Monroe, Crawford, Houston, and Peach Counties increased from 131,627 (36.89%) to 177,269 (41.67%).

127. During that same period of time, the white population in Metropolitan Macon decreased from 211,927 (59.40%) to 208,498 (49.01%).

128. The following counties in Southwest Georgia are at least 40% AP Black: Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Baker, and Mitchell Counties.

129. Senate District 12 (“SD12”) under 2021 State Senate Plan includes all or part of the following counties: Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Miller, Baker, and Mitchell Counties.

130. From 2000 to 2020, the overall population in Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Miller, Baker, and Mitchell Counties decreased from 214,686 to 190,819.

131. During that same period of time, the AP Black population in Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Miller, Baker, and Mitchell Counties decreased by 3,165 from 118,786 (55.33%) to 115,621 (60.6%).

132. During that same period of time, the white population in Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Miller, Baker, and Mitchell Counties decreased by 26,393, from 90,946 (42.36%) to 64,553 (33.83%).

133. The county-level demographic information based on 2000, 2010, and 2020 Census data set forth in exhibits G-1, G-2, and G-3 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. No. 231-1] are not disputed.

III. The 2021 Redistricting Process

134. The House Legislative and Congressional Reapportionment Committee adopted the guidelines filed as *Alpha Phi Alpha* Dkt. No. 39-17 prior to the public release of the redistricting plans.

135. The Senate Reapportionment and Redistricting Committee adopted the guidelines filed as *Alpha Phi Alpha* Dkt. No. 39-18 prior to the public release of the redistricting plans.

136. The Georgia General Assembly held nine in-person and two virtual joint public hearing committee meetings on redistricting beginning on June 15, 2021, to gather input from voters.

137. The joint redistricting committees released an educational video about the redistricting process at their June 15, 2021 meeting.

138. The General Assembly created an online portal for voters to offer comments on redistricting plans and received more than 1,000 comments from voters in at least 86 counties.

139. All of the public town hall meetings convened by the State's Redistricting Committees were held during June and July 2021.

140. On August 21, 2021, the Census Bureau released the detailed population counts that Georgia used to redraw districts.

141. The joint committees held a meeting to hear from interested groups on August 30, 2021.

142. The National Conference of State Legislatures, American Civil Liberties Union of Georgia, Common Cause, Fair Districts GA, the Democratic Party of Georgia, and Asian-Americans Advancing Justice – Atlanta presented at the August 30, 2021 joint meeting.

143. The 2021 Senate and House Plans were first released on November 2, 2021.

144. The General Assembly's special session to consider the draft Senate and House Plans (and other specified topics) began on November 3, 2021.

145. After the special session convened, the House and Senate redistricting committees held multiple meetings prior to voting on proposed redistricting plans.

146. The House and Senate redistricting committees received public comment on the proposed maps during committee meetings held in the special session.

147. On November 12, 2021, the General Assembly passed the 2021 Senate and House Plans.

148. On November 22, 2021, the General Assembly passed the 2021 congressional redistricting plan.

149. Governor Kemp signed the 2021 Senate, House, and Congressional Plans into law on December 30, 2021.

150. No Democratic members of the General Assembly voted in favor of the 2021 Congressional, Senate, or House plans.

151. No Black legislator in the General Assembly voted in favor of the 2021 Congressional, Senate, or House plans.

152. The 2021 Congressional, Senate, and House Plans were used in the 2022 elections.

IV. Timing of Redistricting

153. A newly redrawn State Senate map signed into law on April 11, 2002 was used in the primary election on August 20, 2002 and general election on November 5, 2002.

154. Newly redrawn State Senate and State House maps approved by a court on March 25, 2004 were used in the primary election on July 20, 2004 and general election on November 2, 2004.

155. During the 2022 redistricting cycle, the Secretary of State's office informed county election officials that the last day to make redistricting changes in then-operative ElectionNet system was February 18, 2022.

156. Not all counties completed the redistricting process prior to the February 18, 2022 deadline set by the Secretary of State's office.

157. The Georgia Registered Voter Information System (GaRVIS) reduces the minimum time for a county to enter and exit the redistricting module of the system from four days to as little as 24 hours.

158. GaRVIS improves on the technical processing performance of Georgia's prior voter information system in terms of the system's responsiveness to user updates.

V. Adopted Plan Statistics

159. There are 14 Congressional districts in the State's 2021 Congressional Plan.

160. The previous 2012 Congressional Plan contained 4 AP Black voting age population majority Congressional districts at the time it was enacted.

161. The previous 2012 Congressional Plan contained 4 AP Black voting age population majority Congressional districts using 2020 Census data.

162. The State's 2021 Congressional Plan contains three Black-majority Congressional districts fully within the 29-County Atlanta MSA.

163. The previous 2012 Congressional Plan contained three Black-majority Congressional districts fully within the 29-County Atlanta MSA.

164. The 2021 Congressional Plan splits 15 counties.

165. The prior 2012 Congressional Plan split 16 counties.

166. The 2021 Enacted Congressional Plan Statistics set forth in exhibits G and K-1 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. Nos. 174-1, 174-2] are not disputed.

167. The 2012 Benchmark Congressional Plan Statistics set forth in exhibits E and F of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-1] are not disputed.

168. The Compactness Reports for the 2021 Enacted Congressional Plan and Benchmark 2012 Congressional Plan, as set forth in exhibits L-3 and L-2 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-2] are not disputed.

169. The County Population Components Report for the 2021 Enacted Congressional Plan, as set forth in exhibit K-3 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-2] is not disputed.

170. The Political Subdivision Split Reports for the 2021 Enacted Congressional Plan, as set forth in exhibits M-3 and M-6 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-2] are not disputed.

171. The Political Subdivision Split Reports for the 2012 Benchmark Plan, as set forth in exhibits M-2 and M-5 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-2] are not disputed.

172. There are 56 Senate districts in the State's 2021 Senate Plan.

173. The previous (2014) Senate plan contained 15 majority-Black Senate districts at the time it was enacted.

174. The 2014 Senate plan contained 13 majority-Black districts using 2020 Census data, plus a 14th district with a Black voting age population of 49.76%.

175. The 2021 State Senate Plan did not pair any incumbents who were running for reelection in 2022.

176. The State's 2021 Senate Plan contains 10 Black-majority Senate districts fully within the 29-County Atlanta MSA.

177. The previous 2014 Senate Plan contained 10 Black-majority Senate districts fully within the 29-County Atlanta MSA.

178. The 2006 Senate Plan that was in place prior to the 2014 Senate Plan contained 10 Black-majority Senate districts fully within the 29-County Atlanta MSA, using 2010 Census data.

179. There are 180 House districts in the State's 2021 House Plan.

180. The previous (2015) House plan contained 47 majority-Black House districts at the time it was enacted.

181. The 2015 State House plan contained 47 majority-Black districts using 2020 Census Data.

182. The 2021 State House Plan paired four sets of incumbents who were running for reelection in 2022.

183. The State's 2021 House Plan contains 33 Black-majority House districts fully within the 29-County Atlanta MSA.

184. The previous 2015 House plan contained 31 Black-majority Senate districts fully within the 29-County Atlanta MSA.

185. The 2006 House plan that was in place prior to the 2015 House Plan contained 30 Black-majority Senate districts fully within the 29-County Atlanta MSA, using 2010 Census data.

186. The 2021 Enacted Senate Plan Statistics, 2021 Enacted House Plan Statistics, 2014 Benchmark Senate Plan Statistics, and 2015 Benchmark House Plan Statistics set forth respectively in exhibits L and M-1, Y and Z-1, I-1 and J-1, and V-1 and W-1 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-1, 231-3] are not disputed.

187. The County Population Components Reports for the 2021 Enacted Senate and Enacted House Plans set forth respectively in exhibits M-2 and Z-2 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-1, 231-3] are not disputed.

188. The Political Subdivision Split Reports for the 2021 Enacted Senate Plan, 2021 Enacted House Plan, Benchmark 2014 Senate Plan, and Benchmark 2015 House Plan, as set forth respectively in exhibits T-3 and T-6, AH-1, AH-3 AH-5, T-2 and T-4, and AH-2, AH-4, and AH-6 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-1, 231-3, 231-4, 231-5], are not disputed.

189. The Compactness Reports for the 2021 Enacted Senate Plan, 2021 Enacted House Plan, Benchmark 2014 Senate Plan, and Benchmark 2015 House Plan, as set forth respectively in exhibits S-1, S-3, AG-1, AG-3, S-2, and AG-2 of

the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-3, 231-4] are not disputed.

VI. *Gingles* Preconditions

E. Mr. Cooper's Illustrative Congressional Plan

190. Plaintiffs' mapping expert, William S. Cooper, prepared an illustrative congressional plan with an additional majority-Black congressional district (illustrative Congressional District 6) anchored in the western Atlanta metropolitan area.

191. Mr. Cooper's illustrative Congressional District 6 has an AP Black population of 396,891 people, or 51.87% of the district's population.

192. Mr. Cooper's illustrative Congressional District 6 has an AP BVAP of 50.23%.

193. Plaintiffs' racially polarized voting expert, voting expert, Dr. Maxwell Palmer, analyzed the performance of Black-preferred candidates in general elections in Mr. Cooper's illustrative Congressional District 6.

194. In all cases where Dr. Palmer analyzed the performance of Black-preferred candidates related to illustrative Congressional District 6, the Black-preferred candidate was a Democrat.

195. In each of the 31 statewide races from 2012 through 2021, the Black-preferred candidate won a larger share of the vote in Mr. Cooper's illustrative Congressional District 6, with an average of 66.1%.

196. In the 31 statewide races from 2012 through 2021, the Black-preferred candidate also won a larger share of the vote in Mr. Cooper's illustrative Congressional District 13 (the only district from which Mr. Cooper's illustrative Congressional District 6 was drawn that previously performed for Black-preferred candidates), with an average of 62.3%.

197. Population deviations in Mr. Cooper's illustrative plan are limited to plus-or-minus one person from the ideal district population of 765,136.

198. The districts in Mr. Cooper's illustrative congressional plan are contiguous.

199. The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact.

200. The Polsby-Popper test computes the ratio of each district area to the area of a circle with the same perimeter. The measure is always between 0 and 1, with 1 being the most compact.

201. The Reock score for Mr. Cooper's illustrative Congressional District 6 is 0.45.

202. The average Reock score of the enacted congressional plan is 0.44.

203. The Reock score of the enacted Congressional District 6 is 0.42.

204. The Polsby-Popper score for Mr. Cooper's illustrative Congressional District 6 is 0.27.

205. The average Polsby-Popper score of the enacted congressional plan is 0.27.

206. The Polsby-Popper score of the enacted Congressional District 6 is 0.20.

207. The Compactness Report for Mr. Cooper's Congressional Plan, as set forth in exhibit L-1 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. Nos. 174-2] is not disputed.

208. The Illustrative Congressional Plan statistics set forth in exhibit I-1 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. No. 174-1] are not disputed.

209. The County Population Components Report for Mr. Cooper's Illustrative Congressional Plan, as set forth in exhibits I-3 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. Nos. 174-1,174-2] is not disputed.

210. The Political Subdivision Split Reports for Mr. Cooper's Illustrative Congressional Plan, as set forth in exhibits M-1 and M-4 of the December 5, 2022 Report of William Cooper [*Pendergrass* Dkt. Nos. 174-2] are not disputed.

211. Both Mr. Cooper's illustrative congressional plan and the enacted plan split 15 counties.

212. Mr. Cooper's illustrative plan leaves six of the 14 districts in the enacted plan unchanged: Congressional Districts 1, 2, 5, 7, 8, and 12.

213. Districts 2, 5, and 7 elected Black Democratic members of Congress in the 2022 elections.

214. Dr. Palmer conducted a racially polarized voting analysis of enacted Congressional Districts 3, 6, 11, 13, and 14, both as a region (the "focus area") and individually.

215. In all cases where Dr. Palmer analyzed the performance of Black-preferred candidates related enacted Congressional Districts 3, 6, 11, 13, and 14, both as a region (the “focus area”) and individually, the Black-preferred candidate was a Democrat.

216. In all cases where Dr. Palmer analyzed the performance of Black-preferred candidates related enacted Congressional Districts 3, 6, 11, 13, and 14, both as a region (the “focus area”) and individually, the white-preferred candidate was a Republican.

217. Dr. Palmer employed a statistical method called ecological inference (“EI”) to derive estimates of the percentages of Black and white voters in the focus area that voted for each candidate in 40 statewide general elections between 2012 and 2022.

218. Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 general elections Dr. Palmer examined.

219. On average, across the focus area, Black voters supported their candidates of choice with 98.4% of the vote in the 40 general elections Dr. Palmer examined.

220. Black voters are also extremely cohesive in the general election of each congressional district that comprises the focus area, with a clear candidate of choice in all 40 general elections Dr. Palmer examined.

221. On average, in the 40 general elections Dr. Palmer examined, Black voters supported their candidates of choice in general elections with 97.2% of the vote in Congressional District 3, 93.3% in Congressional District 6, 96.1% in Congressional District 11, 99.0% in Congressional District 13, and 95.8% in Congressional District 14.

222. White voters in Georgia are highly cohesive in voting in opposition to the Black-preferred candidate in every general election Dr. Palmer examined.

223. On average, across the focus area, white voters supported Black-preferred candidates in general elections with only 12.4% of the vote, and in no general election that Dr. Palmer examined did this estimate exceed 17%.

224. On average, in the 40 general elections Dr. Palmer examined, white voters supported Black-preferred candidates with 6.7% of the vote in Congressional District 3, 20.2% in Congressional District 6, 16.1% in Congressional District 11, 15.5% in Congressional District 13, and 10.3% in Congressional District 14.

225. Across the focus area, white-preferred candidates won the majority of the vote in all 40 general elections Dr. Palmer examined in Congressional Districts 3, 6, 11, and 14.

226. Only in the majority-Black Congressional District 13 did the Black-preferred candidate win a larger share of the vote in the 40 general elections Dr. Palmer examined.

227. The endogenous election results from the 2022 general election showed that Black-preferred candidates were defeated in Congressional Districts 3, 6, 11, and 14.

**F. Mr. Esselstyn's Illustrative State Senate and House Plans
(*Grant*)**

228. Georgia's Black population is sufficiently numerous to allow for the creation of three additional majority-Black State Senate districts.

229. Georgia's Black population is sufficiently numerous to allow for the creation of five additional majority-Black State House districts.

230. Plaintiffs' mapping expert, Blakeman B. Esselstyn, drew illustrative State Senate and House maps that include three additional majority-Black State Senate districts and five additional majority-Black House districts.

231. Mr. Esselstyn's illustrative State Senate plan includes three additional majority-Black State Senate districts compared to the enacted plan, for a total of 17 out of 56 districts.

232. Specifically, Senate Districts 23, 25, and 28 are not majority-Black in the enacted plan but are majority-Black in the illustrative plan.

233. The additional majority-Black State Senate district 23 includes all of Burke, Glascock, Hancock, Jefferson, Screven, Taliaferro, Warren, and Washington Counties and parts of Baldwin, Greene, McDuffie, Augusta-Richmond, and Wilkes Counties.

234. Mr. Esselstyn's illustrative Senate District 23 has a Black voting-age population ("BVAP") of 51.06 percent.

235. The additional majority-Black State Senate district 25 is composed of portions of Clayton and Henry Counties.

236. Mr. Esselstyn's illustrative Senate District 25 has an AP BVAP of 58.93%.

237. The additional majority-Black State Senate district 28 is composed of portions of Clayton, Coweta, Fayette, and Fulton Counties.

238. Mr. Esselstyn's illustrative Senate District 28 has an AP BVAP of 57.28%.

239. Mr. Esselstyn's illustrative House plan includes five additional majority-Black House districts compared to the enacted plan, for a total of 54 out of 180 districts.

240. House Districts 64, 74, 117, 145, and 149 are not majority-Black in the enacted plan but are majority-Black in the illustrative plan.

241. The additional majority-Black House district 64 is composed of portions of Douglas, Fulton, and Paulding Counties.

242. Mr. Esselstyn's illustrative House District 64 has an AP BVAP of 50.24%.

243. The additional majority-Black House districts 74 and 117 are composed of portions of Clayton, Fayette, and Henry Counties.

244. Mr. Esselstyn's illustrative House District 74 has an AP BVAP of 53.94%.

245. Mr. Esselstyn's illustrative House District 117 has an AP BVAP of 51.56%.

246. Two additional majority-Black House districts 145 and 149 are composed of portions of Baldwin, Macon-Bibb, and Houston Counties, as well as all of Twiggs and Wilkinson Counties.

247. Mr. Esselstyn's illustrative House District 145 has an AP BVAP of 50.38%.

248. Mr. Esselstyn's illustrative House District 149 has an AP BVAP of 51.53%.

249. The Illustrative State Senate and Senate House Plan statistics set forth respectively in Attachments E and J of the December 5, 2022 Report of Blakeman B. Esselstyn [*Grant* Dkt. No. 191-1] are not disputed.

250. The Compactness Reports for Mr. Esselstyn's Illustrative State Senate and Senate House Plans, as set forth respectively in Attachments H and L of the December 5, 2022 Report of Blakeman B. Esselstyn [*Grant* Dkt. No. 191-1] are not disputed.

251. The Political Subdivision Split Reports for Mr. Esselstyn's Illustrative State Senate and Senate House Plans, as set forth respectively in Attachments H and L of the December 5, 2022 Report of Blakeman B. Esselstyn [*Grant* Dkt. No. 191-1] are not disputed.

252. The County Population Components Report for Mr. Esselstyn's Illustrative State Senate and Senate House Plans, as set forth respectively in Attachment C of the December 5, 2022 Report of Blakeman B. Esselstyn [*Grant* Dkt. No. 191-1] is not disputed.

253. Plaintiffs' racially polarized voting expert, Dr. Maxwell Palmer, analyzed the performance of Black-preferred candidates in Mr. Esselstyn's illustrative State Senate and House plans.

254. In all cases where Dr. Palmer analyzed the performance of Black-preferred candidates related to Mr. Esselstyn's illustrative State Senate and State House plans, the Black-preferred candidate was a Democrat.

255. Black-preferred candidates would have won all 31 statewide general elections between 2012 and 2020 in Mr. Esselstyn's illustrative House Districts 64, 74, and 149 and illustrative Senate Districts 23, 25, and 28.

256. In illustrative House District 117, the Black-preferred candidate would have won all 19 general elections since 2018.

257. In illustrative House District 145, the Black-preferred candidate would have won all 19 general elections since 2018, and 27 of the 31 general elections overall.

258. The districts in Mr. Esselstyn's illustrative Senate and House plans are contiguous.

259. The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact.

260. The Polsby-Popper test computes the ratio of each district area to the area of a circle with the same perimeter. The measure is always between 0 and 1, with 1 being the most compact.

261. Mr. Esselstyn's illustrative plans leave 34 of 56 Senate districts and 155 of 180 House districts in the enacted plan unchanged.

262. Dr. Palmer conducted racially polarized voting analyses across five different focus areas, comprising the districts from which Mr. Esselstyn's additional majority-Black legislative districts were drawn.

263. In all cases where Dr. Palmer conducted racial polarized voting analyses across five different focus areas, the Black-preferred candidate was a Democrat.

264. Dr. Palmer examined the following areas of the enacted House plan: House Districts 133, 142, 143, 145, 147, and 149, which include Bleckley, Crawford, Dodge, Twiggs, and Wilkinson counties and parts of Baldwin, Bibb, Houston, Jones, Monroe, Peach, and Telfair counties; House Districts 69, 74, 75, 78, 115, and 117, which include parts of Clayton, Fayette, Fulton, Henry, and Spalding counties; and House Districts 61 and 64, which include parts of Douglas, Fulton, and Paulding counties.

265. Dr. Palmer examined the following areas of the enacted State Senate plan: Senate Districts 22, 23, 24, 25, and 26, which include Baldwin, Burke, Butts, Columbia, Elbert, Emanuel, Glascock, Greene, Hancock, Hart, Jasper, Jefferson, Jenkins, Johnson, Jones, Lincoln, Mcduffie, Oglethorpe, Putnam, Richmond, Screven, Taliaferro, Twiggs, Warren, Washington, Wilkes, and Wilkinson counties and parts of Bibb, Henry, and Houston counties; and Senate Districts 10, 16, 17, 25, 28, 34, 35, 39, and 44, which include Baldwin, Butts, Clayton, Coweta, Fayette, Heard, Jasper, Jones, Lamar, Morgan, Pike, Putnam, and Spalding counties and parts of Bibb, DeKalb, Douglas, Fulton, Henry, Newton, and Walton counties.

266. Dr. Palmer employed a statistical method called Ecological Inference (“EI”) to derive estimates of the percentages of Black and white voters in the focus

areas that voted for each candidate in 40 statewide general elections between 2012 and 2022.

267. In all cases where Dr. Palmer used EI across the focus areas, the Black-preferred candidate was a Democrat.

268. Across the five focus areas, Black voters are extremely cohesive, with a clear candidate of choice in all 40 general elections Dr. Palmer examined.

269. On average, across the five focus areas, Black voters supported their candidates of choice with 98.5% of the vote in the 40 general elections Dr. Palmer examined.

270. Black voters are also cohesive in each of the districts that comprise the focus areas and contain 15 or more precincts, with an average estimated level of support for Black-preferred candidates of at least 92.5%.

271. White voters in the focus areas are highly cohesive in voting in opposition to Black-preferred candidates.

272. On average, white voters supported Black-preferred candidates in general elections with only 8.3% of the vote, and white voters in the focus areas supported Black-preferred candidates with a maximum of 17.7 percent of the vote.

273. Black-preferred candidates win almost every general election in the Black-majority districts that comprise the focus areas but lose almost every election in the non-Black-majority districts.

274. The endogenous election results from the 2022 general election show that Black-preferred State Senate and House candidates were defeated in every majority-white district and elected in every majority-Black district in the focus areas.

G. Mr. Cooper's Illustrative State Senate and House Plans (*Alpha Phi Alpha*)

275. Georgia's Black population is sufficiently numerous to allow for the creation of three additional majority-Black State Senate districts.

276. Georgia's Black population is sufficiently numerous to allow for the creation of five additional majority-Black State House districts.

277. The ideal population size for a State Senate district is 191,284.

278. The ideal population size for a State House district is 59,511.

279. *Alpha Phi Alpha* Plaintiffs' mapping expert, William Cooper, drew illustrative State Senate and House maps that include at least three additional majority-Black State Senate districts and at least five additional majority-Black House districts.

280. Mr. Cooper's Illustrative State Senate Plan includes three additional majority-Black State Senate districts compared to the enacted plan, for a total of at least 17 out of 56 districts.

281. Specifically, Senate Districts 17, 23, and 28 are not majority-Black in the enacted plan but are majority-Black in the illustrative state Senate plan.

282. Senate Districts 17, 23, and 28 each elected white Republicans in the 2022 general election.

283. Illustrative majority-Black State Senate district 28 is composed of adjacent portions of Fayette, Clayton, and Spalding Counties.

284. Illustrative majority-Black State Senate district 17 is composed of adjacent portions of Henry, Rockdale, and Dekalb Counties.

285. Illustrative majority-Black State Senate district 23 includes all of Baldwin, Burke, Glascock, Hancock, Jefferson, Jenkins, McDuffie, Taliaferro, Twiggs, Warren, Washington, and Wilkinson Counties and parts of Augusta-Richmond, and Wilkes Counties.

286. Mr. Cooper's illustrative House plan includes five additional majority-Black House districts compared to the enacted plan, for a total of at least 54 out of 180 districts.

287. House Districts 74, 117, 133, 145, and 171 are not majority-Black in the enacted plan but are majority-Black in the illustrative plan.

288. House Districts 74, 117, 133, 145, and 171 each elected white Republicans in the 2022 general election.

289. Illustrative majority-Black House district 74 is composed of portions of Clayton, Henry, and Spalding Counties.

290. Illustrative majority-Black House district 117 is composed of portions of Henry and Spalding Counties.

291. Illustrative majority-Black House district 133 is composed of Wilkinson, Hancock, Warren, Taliaferro, and portions of Baldwin and Wilkes Counties.

292. Illustrative majority-Black House district 145 is composed of portions of Macon-Bibb and Houston Counties.

293. Illustrative majority-Black House district 171 is composed of Mitchell County and portions of Dougherty and Thomas Counties.

294. Mr. Cooper prepared his illustrative Senate and House maps using Maptitude for Redistricting, a GIS software package commonly used by many local and state governing bodies for redistricting and other types of demographic analysis.

295. Mr. Cooper had access to geographic boundary files created from the U.S. Census 1990-2020 Topologically Integrated Geographic Encoding and Referencing (TIGER) files.

296. Mr. Cooper had access to population data from the 1990-2020 PL 94-171 data files published by the U.S. Census Bureau, which contains basic race and ethnicity data on the total population and voting-age population found in units of Census geography, including states, counties, municipalities, townships, reservations, school districts, census tracts, census block groups, precincts (called voting districts or “VTDs” by the Census Bureau) and census blocks.

297. Mr. Cooper also had access to incumbent addresses that he obtained from attorneys for the plaintiffs.

298. Mr. Cooper had access to shapefiles for the current and historical Georgia legislative plans available on the Legislative and Congressional Reapportionment Office’s website, and he obtained for the House, Senate, and Congressional plans in effect during the early 2000’s from the American Redistricting Project.

299. Mr. Cooper had access to the same guidelines that the Georgia House Legislative and Congressional Reapportionment Committee used in drawing his illustrative plans.

300. All of the districts in Mr. Cooper's illustrative plans are contiguous.

301. The Cooper Illustrative Senate Plan districts have a deviation relative range of -1.00% to 1.00%, compared to a range of -1.03% to 0.98% for the 2021 Senate Plan.

302. The Cooper Illustrative State House Districts have a deviation relative range of -1.49% to 1.49%, compared to a range of -1.40% to 1.34% for the 2021 House Plan.

303. The Illustrative Senate Plan Statistics and Illustrative House Plan Statistics set forth respectively in exhibits O-1 and AA-1 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-2, 231-4] are not disputed.

304. The County Population Components Reports for Mr. Cooper's Illustrative Senate and Illustrative House Plans, set forth respectively in exhibits O-2 and AA-2 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-2, 231-4], are not disputed.

305. The Political Subdivision Split Reports for Mr. Cooper’s Illustrative Senate and Illustrative House Plans, as set forth respectively in exhibits AH-1 and AH-4 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-1, 231-4], are not disputed.

306. The Compactness Reports for Mr. Cooper’s Illustrative Senate and Illustrative House Plans, as set forth respectively in exhibits S-1 and AG-1 of the December 5, 2022 Report of William Cooper [*Alpha Phi Alpha* Dkt. Nos. 231-3, 231-4], are not disputed.

307. Dr. Lisa Handley analyzed voting patterns by race in seven areas of Georgia where Mr. Cooper’s illustrative State Senate and House plans create more majority Black voting age population (BVAP) districts than the adopted State Senate and House plans.

308. Dr. Handley employed three different statistical techniques to estimate vote choices by race: homogeneous precinct analysis, ecological regression, and ecological inference (including a more recently developed version of ecological inference that she labeled “EI RxC”).

309. The first area Dr. Handley analyzed encompasses Mr. Cooper's Illustrative State Senate Districts 10, 17, and 43; adopted State Senate Districts 10, 17, and 43; and Dekalb, Henry, Morgan, Newton, Rockdale, and Walton counties.

310. The second area encompasses Mr. Cooper's Illustrative State Senate Districts 16, 28, 34, and 39; adopted State Senate Districts 16, 28, 34, and 44; and Clayton, Coweta, Douglas, Fayette, Heard, Henry, Lamar, Pike, and Spalding counties.

311. The third area encompasses Mr. Cooper's Illustrative State Senate Districts 22, 23, 26, and 44; adopted State Senate Districts 22, 23, 25, and 26; and Baldwin, Bibb, Burke, Butts, Columbia, Emanuel, Glascock, Hancock, Henry, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, McDuffie, Monroe, Morgan, Putnam, Richmond, Screven, Taliaferro, Twiggs, Walton, Warren, Washington, Wilkes, and Wilkinson counties.

312. The fourth area encompasses Mr. Cooper's Illustrative State House Districts 74, 75, 78, 115, 116, 117, 118, 134, and 135; adopted State House Districts 74, 75, 78, 115, 116, 117, 118, 134, and 135; and Butts, Clayton, Fayette, Henry, Jasper, Lamar, Monroe, Pike, Putnam, Spalding, and Upson counties.

313. The fifth area encompasses Mr. Cooper's Illustrative State House Districts 128, 133, 144, and 155; adopted State House Districts 128, 133, 149, and 155; and Baldwin, Bibb, Bleckley, Dodge, Glascock, Hancock, Jefferson, Johnson, Jones, Laurens, McDuffie, Taliaferro, Telfair, Twiggs, Warren, Washington, Wilkes, and Wilkinson counties.

314. The sixth area encompasses Mr. Cooper's Illustrative State House Districts 152, 153, 171, 172, and 173; adopted State House Districts 152, 153, 171, 172, and 173; and Colquitt, Cook, Decatur, Dougherty, Grady, Lee, Mitchell, Seminole, Stewart, Terrell, Thomas, Tift, Webster, and Worth counties.

315. The seventh area encompasses Mr. Cooper's Illustrative State House Districts 142, 143, and 145; adopted State House Districts 142, 143, and 145; and Bibb, Crawford, Houston, Peach, and Twiggs counties.

316. Dr. Handley analyzed voting patterns by race in 16 recent statewide general and run-off elections from 2016 to 2022 in these seven areas.

317. The 16 statewide general elections include the 2022 general election contests for U.S. Senate, Governor, Commissioners of Agriculture, Insurance, and Labor, and the School Superintendent; the 2021 runoff for U.S. Senate (Special) and Public Service Commission District 4; the 2020 general elections for U.S. Senate

(Special); the Public Service Commission Districts 1 and 4; and the 2018 general election contests for Governor, Commissioner of Insurance and School Superintendent; the 2021 runoff for U.S. Senate and November 2020 general election for U.S. Senate.

318. Fourteen of the recent statewide general and general runoff elections Dr. Handley analyzed involved Black candidates.

319. In all cases where Dr. Handley analyzed voting patterns in these seven areas in 16 recent statewide general and run-off elections from 2016 to 2022, the Black-preferred candidate was a Democrat.

320. In these 16 recent statewide general and general runoff elections from 2016-2022, Black voters were highly cohesive in their support for their preferred candidate.

321. In these 16 recent statewide general and general runoff elections from 2016-2022, the average percentage of Black vote for the 16 Black-preferred candidates in the analyzed areas of interest was 96.1%.

322. In the same 16 recent statewide general and general runoff elections from 2016-2022, the average percentage of white vote for the 16 Black preferred candidates in the analyzed areas of interest was 11.2%.

323. The highest average white vote for any of the 16 Black preferred candidates in the statewide elections Dr. Handley analyzed in the areas of interest was 14.4% for US Senator Raphael Warnock in his 2022 general election bid for re-election against Herschel Walker.

324. Dr. Handley also analyzed 54 recent biracial state legislative general elections in the seven areas of interest.

325. In all cases where Dr. Handley analyzed voting patterns in 54 recent biracial state legislative general elections in the seven areas of interest, the Black-preferred candidate was a Democrat.

326. In these 54 state legislative general elections, Black voters were highly cohesive in their support for their preferred candidates.

327. In these 54 state legislative general elections, an average of 97.4% of Black voters supported their preferred Black state senate candidates and 91.5% supported their preferred Black state house candidate.

328. In the same 54 state legislative elections, an average of 10.1% of white voters supported the Black-preferred Black state senate candidates and 9.8% supported the Black-preferred Black state house candidates.

329. In the same 54 state legislative elections, all but one of the successful Black state legislative candidates were elected from majority Black districts; the one exception was elected from a district that was majority minority in composition.

330. In the seven areas of interest, Black voters were very cohesive in supporting their preferred candidates in general elections for statewide offices.

331. In the seven areas of interest, Black preferred candidates in general elections for statewide offices were Democrats.

332. In the seven areas of interest, white voters were very cohesive in supporting their preferred candidates in general elections for statewide offices.

333. In the seven areas of interest that Dr. Handley analyzed, white preferred candidates in general elections for statewide offices were Republicans.

334. In the seven areas of interest, large majorities of white and Black voters supported different candidates in general elections for statewide offices.

335. In the seven areas of interest, Black voters exhibit cohesive support for a single candidate in state legislative general elections.

336. In the seven areas of interest, white voters exhibit cohesive support for a single candidate in state legislative general elections.

337. In the seven areas of interest, Black and white voters supported different candidates in state legislative general elections.

338. In the seven areas of interest, Black voters cohesively support Black candidates in biracial general elections.

339. In the seven areas of interest, white voters cohesively support white candidates in biracial general elections.

340. Biracial general elections do not include candidates of the same race, such as the Warnock-Walker race.

341. In the seven areas of interest, white voters cohesively supported Black candidates who are Republicans in the two general elections in which such candidates received the Republican party nomination.

VII. Totality of Circumstances

342. According to Census estimates, the unemployment rate among Black Georgians is 8.7 percent and the unemployment rate among white Georgians is 4.4 percent.

343. According to Census estimates, 32.2% of white Georgian households report an annual income above \$100,000.

344. According to Census estimates, the rate of Black Georgians living below the poverty line is 21.5% and the rate of white Georgians living below the poverty line is 10.1%.

345. According to Census estimates, the rate of Black Georgians receiving SNAP benefits is 22.7% and the rate of white Georgians receiving SNAP benefits is 7.7%.

346. According to Census estimates, 13.3% of Black adults in Georgia lack a high school diploma and 9.4% of white adults in Georgia lack a high school diploma.

347. According to Census estimates, 35% of white Georgians over the age of 25 have obtained a bachelor's degree or higher, and 24% of Black Georgians over the age of 25 have obtained a bachelor's degree.

348. The Georgia Legislative Black Caucus has 14 members in the Georgia State Senate and 41 members in the Georgia House of Representatives.

349. Georgia has had 77 governors, none of whom has been Black.

350. Senator Raphael Warnock is the first Black Georgian to serve Georgia in the U.S. Senate after more than 230 years of white senators.

351. More than 1.8 million voters participated in the Georgia 2022 General Primary Election for both parties.

352. Sen. Raphael Warnock received the highest number of votes in the statewide elections for U.S. Senate in the 2020 special election, the 2021 special election runoff, the 2022 general election, and the 2022 general election runoff.

353. President Joe Biden received the highest number of votes in the 2020 presidential election in Georgia.

354. Sen. Jon Ossoff finished second in the 2020 general election, but won the 2021 general election runoff for a six-year term in the U.S. Senate.

355. Sen. Raphael Warnock received 1,946,117 votes in the 2022 general election, while Herschel Walker received 1,908,442 votes.

356. Governor Brian Kemp received 2,111,572 votes in the 2022 general election, while Stacey Abrams received 1,813,673 votes.

357. Sen. Raphael Warnock received 1,820,633 votes in the 2022 general election runoff, while Herschel Walker received 1,721,244 votes.

358. President Biden, Sen. Ossoff, and Sen. Warnock are all candidates of choice of Black voters in Georgia.

359. The following five Black individuals serve in Congress from Georgia congressional districts: Congressman Sanford Bishop, Congressman Hank Johnson, Congresswoman Nikema Williams, Congresswoman Lucy McBath, Congressman David Scott.

360. 51.9% of Georgia's voting-eligible population voted in the November 2022 election.

361. Four Black individuals have been elected to statewide partisan office in Georgia since Reconstruction: Michael Thurmond, Thurbert Baker, David Burgess, and Raphael Warnock.

362. The following Black individuals have been elected to statewide nonpartisan offices in Georgia since Reconstruction: Robert Benham, Leah Ward-Sears, Harold Melton, Verda Colvin, John Ruffin, Clarence Cooper, Herbert Phipps, Yvette Miller, Clyde Reese.

APA Doc. 276

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

ALPHA PHI ALPHA FRATERNITY
INC., *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State of
Georgia,

Defendant.

CIVIL ACTION FILE
NO. 1:21-CV-5337-SCJ

COAKLEY PENDERGRASS, *et al.*,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-5339-SCJ

ANNIE LOIS GRANT, *et al.*,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION FILE
NO. 1:22-CV-122-SCJ

DEFENDANTS' MOTION FOR JUDICIAL NOTICE

Pursuant to Rule 201(b) and 201(c)(2) of the Federal Rules of Evidence,
Defendants respectfully ask the Court to take judicial notice of the facts and

information identified in and attached to this motion. “Judicial notice is a means by which adjudicative facts not seriously open to dispute are established as true without the normal requirement of proof by evidence.” *Castang v. Jeong-Eun Kim*, No. 1:22-CV-05136-SCJ, 2023 U.S. Dist. LEXIS 38869, at *1 (N.D. Ga. Feb. 2, 2023) (quoting *Dippin’ Dots, Inc. v. Frosty Bites Distrib., LLC*, 369 F.3d 1197, 1204 (11th Cir. 2004)). Taking judicial notice of Census data, election returns, and candidates in Georgia is appropriate, relevant for these cases, and will streamline the presentation of evidence at the upcoming trials. While Plaintiffs and Defendants did not reach an agreement to stipulate to these facts, they are appropriate topics for judicial notice under F.R.E. 201.

FACTS TO BE NOTICED

Defendants seek judicial notice of the following facts, as discussed below:

1. Census data from Table 4b of the U.S. Census Current Population Survey in 2018, 2020, and 2022,¹ which includes:
 - a. According to the 2018 Census Current Population Survey, 52.2% of white alone individuals in Georgia reported voting in the 2018 general election, and 56.3% of Black alone individuals in Georgia reported voting in the 2018 general election.

¹ Attached as **Exhibits A, B, and C** are the Tables 4b from the Census Current Population Survey in 2018, 2020, and 2022, respectively.

- b. According to the 2018 Census Current Population Survey, 51.1% of white alone individuals nationally reported voting in the 2018 general election, and 48.0% of Black alone individuals nationally reported voting in the 2018 general election.
- c. According to the 2020 Census Current Population Survey, 64.3% of white alone individuals in Georgia reported voting in the 2020 presidential election, and 62.6% of Black alone individuals in Georgia reported voting in the 2020 presidential election.
- d. According to the 2020 Census Current Population Survey, 63.7% of white alone individuals nationally reported voting in the 2020 presidential election, and 58.7% of Black alone individuals nationally reported voting in the 2020 presidential election.
- e. According to the 2022 Census Current Population Survey, 55.3% of white alone individuals in Georgia reported voting in the 2022 general election, and 52.7% of Black alone individuals in Georgia reported voting in the 2022 general election.
- f. According to the 2022 Census Current Population Survey, 50.6% of white alone individuals nationally reported voting in the 2022 general election and 42.3% of Black alone individuals nationally reported voting in the 2022 general election.

2. That the United States Department of Justice (“DOJ”) precleared the state Senate, state House, and congressional districts in 2011 under Section 5 of the Voting Rights Act on the first attempt. *See* Attorney General Press Release, <https://law.georgia.gov/press-releases/2011-12-23/justice-approves-georgias-redistricting-plans>; Charles Bullock, *The History of Redistricting in Georgia*, 52 Ga. L. Rev. 1057, 1097–98 (Summer 2018).
3. The current partisan makeup of the Georgia Legislature²:
 - a. As of August 4, 2023, there are 33 Republicans and 23 Democrats in the Georgia State Senate.
 - b. As of August 4, 2023, there are 102 Republicans and 78 Democrats in the Georgia State House of Representatives.
4. Facts relating to candidate and election results, which are matters of political history in Georgia³:

² Attached as **Exhibits D and E** are government websites with lists of members of the legislature supporting the facts set forth from which the Court should take judicial notice regarding the partisan makeup of the Georgia legislature.

³ Attached as **Exhibits F–K** are the election results from the Secretary of State’s office and other documents from government websites which support many of the facts set forth in this section from which the Court should take judicial notice regarding candidate and election information.

- a. Herschel Walker was opposed in the 2022 Republican Primary election for U.S. Senate by the sitting Agriculture Commissioner, Gary Black, who is white and who had been successfully elected statewide in past statewide elections.
- b. Herschel Walker received the highest number of votes in every county in Georgia in the 2022 Republican Primary election for U.S. Senate and won the Republican nomination for U.S. Senate.
- c. Fitz Johnson is a Black Republican man who won the 2022 Republican nomination for Public Service Commission District 3 with 1,007,354 votes.
- d. United States Senator Raphael Warnock and Herschel Walker are both Black men.
- e. Congressman Lucy McBath won the Sixth Congressional District in the 2018 general election over the incumbent, Karen Handel.
- f. The Insurance Commissioner for the State of Georgia, John King, is a Latino man and a Republican.
- g. Commissioner John King received 2,107,388 votes in the 2022 general election, while his opponent received 1,788,136 votes.
- h. Justice Carla McMillian is an Asian-American who has been elected to nonpartisan statewide office in Georgia multiple times.

ARGUMENT AND CITATION OF AUTHORITY

“Courts can take notice of certain facts without formal proof but only where the fact in question is ‘one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.’” *Shahar v. Bowers*, 120 F.3d 211, 214 (11th Cir. 1997) (quoting Fed.R.Evid. 201(b)). These facts should be adjudicative, meaning they are “relevant to a determination of the claims presented in a case.” *Dippin’ Dots, Inc.*, 369 F.3d at 1204; *see also United States v. Mayer*, 760 F. App’x 793, 798 (11th Cir. 2019) (“An adjudicative fact is one that is relevant to a determination of the claims presented in a case.”).

Because this Court’s inquiry in these cases requires a review of “the totality of circumstances” to determine whether “the political processes leading to nomination or election in the State or political subdivision are not equally open to participation” by all voters, 52 U.S.C. § 10301(b), facts regarding the “political history” of and voting in Georgia are relevant to the issues in this case. *Shahar*, 120 F.3d at 214; *see also Allen v. Milligan*, 143 S. Ct. 1487, 1502-03 (2023); *Thornburg v. Gingles*, 478 U. S. 30 (1986).

Each category of facts discussed above is properly the subject of judicial notice. First, the actions of the DOJ related to past redistricting plans are

generally known, cannot be reasonably questioned, and are the result of actions of a public agency. *Shahar*, 120 F.3d at 214; *United States v. Howard*, 28 F.4th 180, 186 n.2 (11th Cir. 2022) (“[W]e can take judicial notice of it as a publicly available state agency record.”).

Second, Census records are both public agency records, are frequently used in Section 2 cases, and are generally the subject of judicial notice under F.R.E. 201. *Negron v. City of Miami Beach*, 113 F.3d 1563, 1570 (11th Cir. 1997) (upholding use of judicially noticed statistical Census data); *United States v. Phillips*, 287 F.3d 1053, 1055 n.1 (11th Cir. 2002) (taking judicial notice of census data); *Hollis v. Davis*, 941 F.2d 1471, 1474 (11th Cir. 1991) (same); *Moore v. Comfed Sav. Bank*, 908 F.2d 834, 841 n.4 (11th Cir. 1990) (same); *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571–72 (5th Cir. 2011) (per curiam) (“United States census data is an appropriate and frequent subject of judicial notice.”); *Rose v. Raffensperger*, 584 F. Supp. 3d 1278, 1297 (N.D. Ga. 2022) (taking judicial notice of Census data when Secretary did not object).

Third, items about the political history of Georgia are facts which are not subject to reasonable dispute. F.R.E. 201; *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2022 U.S. Dist. LEXIS 179889, at *273 (N.D. Ga. Sep. 30, 2022) (quoting *Shahar*, 120 F.3d at 214) (taking judicial

notice of past Black candidates). This includes the names and districts of the members of the legislature. *Alpha Phi Alpha Fraternity v. Raffensperger*, 587 F. Supp. 3d 1222, 1291 n.31 (N.D. Ga. 2022).

Further, while Plaintiffs and Defendants were unable to reach agreement on stipulating to the facts requested for judicial notice in this motion for purposes of the pre-trial order, if Plaintiffs continue to dispute that these facts “are established as true without the normal requirement of proof by evidence,” *Castang*, 2023 U.S. Dist. LEXIS 38869, at *1, Plaintiffs “[are] entitled . . . to an opportunity to be heard as to the propriety of taking judicial notice.” *Dippin’ Dots, Inc.*, 369 F.3d at 1205.

With these principles in mind, and supported by the documents attached to this motion, Defendants respectfully ask the Court take judicial notice of the above-listed facts as either “facts... ‘generally known within the territorial jurisdiction of the trial court,’” *Dippin’ Dots, Inc.*, 369 F.3d at 1204 (quoting Fed. R. Evid. 201(b)), and as facts which “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” *Castang*, 2023 U.S. Dist. LEXIS 38869, at *1.

Respectfully submitted this 4th day of August, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Motion has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/Bryan P. Tyson
Bryan P. Tyson

EXHIBIT A

Table 4b. Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2018
(In thousands)

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
US	Total	249,748	228,832	153,066	61.3	0.3	66.9	0.3	122,281	49.0	0.3	53.4	0.3
	Male	120,573	110,006	71,726	59.5	0.4	65.2	0.4	56,964	47.2	0.4	51.8	0.5
	Female	129,176	118,826	81,340	63.0	0.4	68.5	0.4	65,317	50.6	0.4	55.0	0.4
	White alone	194,127	180,522	123,727	63.7	0.3	68.5	0.3	99,255	51.1	0.3	55.0	0.4
	White non-Hispanic alone	157,610	154,982	110,054	69.8	0.4	71.0	0.4	89,075	56.5	0.4	57.5	0.4
	Black alone	31,623	29,758	19,023	60.2	1.0	63.9	1.0	15,194	48.0	1.0	51.1	1.1
	Asian alone	15,659	11,128	5,898	37.7	1.5	53.0	1.8	4,519	28.9	1.4	40.6	1.8
	Hispanic (of any race)	41,049	28,955	15,558	37.9	1.2	53.7	1.4	11,695	28.5	1.1	40.4	1.4
	White alone or in combination	198,477	184,394	126,194	63.6	0.3	68.4	0.3	101,115	50.9	0.3	54.8	0.4
	Black alone or in combination	33,595	31,422	20,015	59.6	1.0	63.7	1.0	15,887	47.3	1.0	50.6	1.1
ALABAMA	Total	3,753	3,609	2,490	66.4	2.5	69.0	2.5	1,830	48.8	2.7	50.7	2.7
	Male	1,772	1,681	1,122	63.3	3.7	66.7	3.8	821	46.3	3.9	48.8	4.0
	Female	1,982	1,927	1,368	69.0	3.4	71.0	3.4	1,010	50.9	3.7	52.4	3.7
	White alone	2,610	2,534	1,774	68.0	3.0	70.0	3.0	1,309	50.1	3.2	51.6	3.2
	White non-Hispanic alone	2,494	2,470	1,760	70.6	3.0	71.3	3.0	1,298	52.1	3.3	52.6	3.3
	Black alone	976	975	657	67.2	5.9	67.4	5.9	483	49.4	6.3	49.5	6.3
	Asian alone	61	37	13	B	B	B	B	7	B	B	B	B
	Hispanic (of any race)	169	77	26	15.6	14.3	34.3	27.8	22	13.2	13.4	29.1	26.6
	White alone or in combination	2,636	2,561	1,796	68.1	3.0	70.1	3.0	1,322	50.2	3.2	51.6	3.2
	Black alone or in combination	979	977	659	67.3	5.9	67.4	5.9	485	49.6	6.3	49.6	6.3
ALASKA	Asian alone or in combination	61	37	13	B	B	B	B	7	B	B	B	B
	Total	523	497	337	64.4	2.7	67.7	2.7	263	50.2	2.9	52.8	2.9
	Male	265	255	175	65.9	3.8	68.4	3.8	133	50.2	4.0	52.1	4.1
	Female	258	242	162	62.9	3.9	67.1	3.9	130	50.2	4.1	53.6	4.2
	White alone	330	324	236	71.6	3.2	73.0	3.2	193	58.6	3.5	59.7	3.6
	White non-Hispanic alone	314	310	229	73.0	3.3	73.9	3.3	187	59.5	3.6	60.3	3.6
	Black alone	16	15	9	B	B	B	B	8	B	B	B	B
	Asian alone	55	37	23	B	B	B	B	15	B	B	B	B
	Hispanic (of any race)	20	18	10	B	B	B	B	8	B	B	B	B
	White alone or in combination	356	350	255	71.6	3.1	72.9	3.1	210	59.0	3.4	60.1	3.4

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

The symbol B means that the base is less than 75,000 and therefore too small to show the derived measure.

Estimates may not sum to totals due to ro

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Black alone or in combination	18	17	11	B	B	B	B	9	B	B	B	B
	Asian alone or in combination	60	42	25	B	B	B	B	18	B	B	B	B
ARIZONA	Total	5,361	4,757	3,262	60.8	2.2	68.6	2.2	2,800	52.2	2.3	58.9	2.4
	Male	2,606	2,259	1,539	59.0	3.2	68.1	3.2	1,288	49.4	3.2	57.0	3.5
	Female	2,755	2,497	1,723	62.5	3.1	69.0	3.1	1,512	54.9	3.1	60.6	3.2
	White alone	4,635	4,168	2,968	64.0	2.3	71.2	2.3	2,535	54.7	2.4	60.8	2.5
	White non-Hispanic alone	3,128	3,065	2,272	72.6	2.6	74.1	2.6	2,000	63.9	2.8	65.3	2.8
	Black alone	257	222	114	44.4	12.4	51.5	13.5	104	40.6	12.3	47.0	13.4
	Asian alone	198	106	63	32.0	13.9	59.8	20.0	59	30.0	13.6	56.1	20.2
	Hispanic (of any race)	1,624	1,205	757	46.6	6.4	62.8	7.2	588	36.2	6.2	48.8	7.5
	White alone or in combination	4,688	4,216	2,996	63.9	2.3	71.1	2.3	2,563	54.7	2.4	60.8	2.5
	Black alone or in combination	280	239	132	47.0	12.0	55.0	12.9	122	43.5	11.9	50.9	13.0
	Asian alone or in combination	209	117	71	34.0	13.7	60.8	18.9	67	32.1	13.5	57.4	19.1
ARKANSAS	Total	2,261	2,158	1,262	55.8	2.7	58.5	2.8	919	40.6	2.7	42.6	2.8
	Male	1,093	1,034	602	55.1	4.0	58.3	4.0	431	39.4	3.9	41.7	4.0
	Female	1,169	1,125	660	56.5	3.8	58.7	3.9	488	41.8	3.8	43.4	3.9
	White alone	1,833	1,765	1,031	56.2	3.0	58.4	3.1	756	41.3	3.0	42.8	3.1
	White non-Hispanic alone	1,678	1,676	995	59.3	3.2	59.3	3.2	737	43.9	3.2	44.0	3.2
	Black alone	327	317	178	54.5	8.8	56.1	8.9	132	40.3	8.6	41.6	8.8
	Asian alone	37	19	9	B	B	B	B	6	B	B	B	B
	Hispanic (of any race)	172	102	43	25.2	13.7	42.3	20.2	21	12.3	10.4	20.8	16.6
	White alone or in combination	1,878	1,805	1,061	56.5	3.0	58.7	3.0	771	41.1	3.0	42.7	3.1
	Black alone or in combination	336	325	184	54.7	8.6	56.6	8.8	135	40.2	8.5	41.6	8.7
	Asian alone or in combination	53	31	18	B	B	B	B	7	B	B	B	B
CALIFORNIA	Total	30,243	25,525	15,690	51.9	1.0	61.5	1.0	13,240	43.8	0.9	51.9	1.0
	Male	14,767	12,449	7,372	49.9	1.4	59.2	1.5	6,205	42.0	1.3	49.8	1.5
	Female	15,476	13,076	8,318	53.8	1.3	63.6	1.4	7,035	45.5	1.3	53.8	1.4
	White alone	21,467	18,311	11,711	54.6	1.1	64.0	1.2	10,005	46.6	1.1	54.6	1.2
	White non-Hispanic alone	11,986	11,587	8,005	66.8	1.4	69.1	1.4	7,116	59.4	1.5	61.4	1.5
	Black alone	1,912	1,845	1,061	55.5	4.6	57.5	4.6	933	48.8	4.6	50.6	4.7
	Asian alone	5,222	3,983	2,061	39.5	2.8	51.7	3.3	1,620	31.0	2.7	40.7	3.3
	Hispanic (of any race)	10,595	7,613	4,211	39.7	2.5	55.3	3.0	3,300	31.1	2.3	43.3	3.0
	White alone or in combination	22,303	19,010	12,125	54.4	1.1	63.8	1.2	10,332	46.3	1.1	54.3	1.2

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	Black alone or in combination	2,094	1,999	1,154	55.1	4.4	57.7	4.4	998	47.6	4.4	49.9	4.5
	Asian alone or in combination	5,571	4,320	2,278	40.9	2.8	52.7	3.2	1,795	32.2	2.6	41.5	3.1
COLORADO	Total	4,353	4,029	2,645	60.8	2.5	65.6	2.5	2,342	53.8	2.5	58.1	2.6
	Male	2,171	2,004	1,315	60.6	3.5	65.6	3.5	1,144	52.7	3.6	57.1	3.7
	Female	2,182	2,025	1,330	61.0	3.5	65.7	3.5	1,198	54.9	3.5	59.2	3.6
	White alone	3,911	3,666	2,439	62.4	2.6	66.5	2.6	2,185	55.9	2.6	59.6	2.7
	White non-Hispanic alone	3,136	3,107	2,141	68.3	2.8	68.9	2.8	1,945	62.0	2.9	62.6	2.9
	Black alone	185	170	73	39.6	14.5	43.1	15.3	51	27.8	13.3	30.3	14.2
	Asian alone	156	93	75	47.7	16.8	80.6	17.3	66	42.3	16.6	71.5	19.7
	Hispanic (of any race)	806	590	323	40.1	9.0	54.8	10.7	259	32.1	8.6	43.9	10.7
	White alone or in combination	3,998	3,753	2,486	62.2	2.6	66.2	2.6	2,213	55.4	2.6	59.0	2.7
	Black alone or in combination	219	204	88	40.3	13.3	43.3	14.0	63	28.8	12.3	31.0	13.0
	Asian alone or in combination	185	121	89	48.3	15.5	73.8	16.8	73	39.2	15.1	60.0	18.7
CONNECTICUT	Total	2,834	2,539	1,726	60.9	2.6	68.0	2.7	1,370	48.3	2.7	54.0	2.9
	Male	1,365	1,222	804	58.9	3.8	65.8	3.9	662	48.5	3.9	54.2	4.1
	Female	1,469	1,316	921	62.7	3.6	70.0	3.6	708	48.2	3.8	53.8	4.0
	White alone	2,326	2,141	1,483	63.8	2.9	69.3	2.9	1,193	51.3	3.0	55.7	3.1
	White non-Hispanic alone	1,934	1,888	1,347	69.7	3.0	71.3	3.0	1,090	56.4	3.3	57.7	3.3
	Black alone	319	258	158	49.6	9.8	61.3	10.6	124	39.0	9.5	48.2	10.9
	Asian alone	142	100	51	36.1	14.7	51.4	18.2	38	26.5	13.5	37.7	17.7
	Hispanic (of any race)	464	293	164	35.3	10.1	55.9	13.2	120	25.9	9.2	41.1	13.0
	White alone or in combination	2,356	2,171	1,506	63.9	2.9	69.4	2.9	1,201	51.0	3.0	55.3	3.1
	Black alone or in combination	335	274	174	51.9	9.5	63.5	10.2	132	39.5	9.3	48.3	10.5
	Asian alone or in combination	154	112	59	38.4	14.3	52.9	17.2	38	24.5	12.7	33.7	16.3
DELAWARE	Total	756	713	472	62.4	2.6	66.3	2.6	369	48.8	2.7	51.8	2.8
	Male	359	334	215	59.8	3.8	64.3	3.9	167	46.4	3.9	49.9	4.0
	Female	397	379	258	64.8	3.5	68.0	3.5	202	50.9	3.7	53.4	3.8
	White alone	540	513	340	62.9	3.1	66.2	3.1	264	48.8	3.2	51.4	3.3
	White non-Hispanic alone	477	468	316	66.3	3.2	67.6	3.2	247	51.7	3.4	52.7	3.4
	Black alone	163	159	109	66.5	6.6	68.2	6.6	90	54.8	7.0	56.2	7.0
	Asian alone	41	28	15	B	B	B	B	11	B	B	B	B
	Hispanic (of any race)	73	52	27	B	B	B	B	20	B	B	B	B
	White alone or in combination	548	521	346	63.2	3.0	66.5	3.1	266	48.6	3.2	51.1	3.2

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	Black alone or in combination	173	168	116	67.3	6.4	68.9	6.4	93	53.8	6.8	55.2	6.8
	Asian alone or in combination	43	31	15	B	B	B	B	11	B	B	B	B
DISTRICT OF COLUMBIA	Total	567	512	397	70.0	2.5	77.6	2.4	313	55.2	2.7	61.1	2.8
	Male	264	235	179	68.1	3.7	76.3	3.6	141	53.3	4.0	59.8	4.2
	Female	304	277	218	71.7	3.4	78.6	3.2	172	56.7	3.7	62.3	3.8
	White alone	270	247	207	76.5	3.4	83.5	3.1	168	62.1	3.9	67.8	3.9
	White non-Hispanic alone	235	223	191	81.3	3.3	85.8	3.1	155	65.9	4.0	69.5	4.0
	Black alone	251	228	163	65.2	4.8	71.7	4.7	123	48.9	5.0	53.7	5.2
	Asian alone	30	22	16	B	B	B	B	13	B	B	B	B
	Hispanic (of any race)	53	35	24	B	B	B	B	20	B	B	B	B
	White alone or in combination	281	257	214	76.3	3.3	83.4	3.0	174	62.0	3.8	67.8	3.8
	Black alone or in combination	258	234	169	65.5	4.7	72.1	4.6	128	49.5	4.9	54.5	5.1
	Asian alone or in combination	33	25	17	B	B	B	B	14	B	B	B	B
FLORIDA	Total	16,845	15,047	9,435	56.0	1.2	62.7	1.3	7,918	47.0	1.3	52.6	1.3
	Male	8,035	7,145	4,383	54.6	1.8	61.4	1.9	3,648	45.4	1.8	51.1	1.9
	Female	8,810	7,902	5,052	57.3	1.7	63.9	1.8	4,270	48.5	1.7	54.0	1.8
	White alone	13,425	12,154	7,798	58.1	1.4	64.2	1.4	6,579	49.0	1.4	54.1	1.5
	White non-Hispanic alone	9,592	9,332	6,211	64.8	1.6	66.6	1.6	5,315	55.4	1.7	57.0	1.7
	Black alone	2,644	2,317	1,340	50.7	3.8	57.9	4.0	1,094	41.4	3.8	47.2	4.1
	Asian alone	454	330	159	35.0	9.2	48.2	11.3	134	29.4	8.8	40.5	11.1
	Hispanic (of any race)	4,288	3,146	1,723	40.2	3.8	54.8	4.5	1,393	32.5	3.7	44.3	4.5
	White alone or in combination	13,676	12,353	7,899	57.8	1.4	63.9	1.4	6,666	48.7	1.4	54.0	1.5
	Black alone or in combination	2,842	2,463	1,418	49.9	3.7	57.6	3.9	1,167	41.1	3.6	47.4	4.0
	Asian alone or in combination	458	334	159	34.8	9.2	47.7	11.3	134	29.2	8.7	40.1	11.0
GEORGIA	Total	7,850	7,311	4,840	61.7	1.8	66.2	1.8	4,084	52.0	1.9	55.9	1.9
	Male	3,700	3,417	2,189	59.2	2.7	64.0	2.7	1,814	49.0	2.7	53.1	2.8
	Female	4,150	3,893	2,651	63.9	2.5	68.1	2.5	2,270	54.7	2.6	58.3	2.6
	White alone	4,949	4,686	3,093	62.5	2.3	66.0	2.3	2,581	52.2	2.4	55.1	2.4
	White non-Hispanic alone	4,491	4,454	2,973	66.2	2.3	66.8	2.3	2,496	55.6	2.5	56.1	2.5
	Black alone	2,439	2,305	1,577	64.7	3.9	68.4	3.9	1,374	56.3	4.0	59.6	4.1
	Asian alone	318	191	108	33.9	11.1	56.4	15.0	84	26.3	10.3	43.8	15.0
	Hispanic (of any race)	525	264	135	25.7	9.9	51.2	16.0	101	19.2	9.0	38.2	15.6
	White alone or in combination	5,043	4,780	3,135	62.2	2.3	65.6	2.3	2,609	51.7	2.3	54.6	2.4

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	Black alone or in combination	2,495	2,361	1,600	64.1	3.9	67.8	3.9	1,382	55.4	4.0	58.5	4.1
	Asian alone or in combination	327	200	108	33.0	10.9	53.9	14.8	84	25.6	10.1	41.9	14.6
HAWAII	Total	1,057	971	523	49.5	2.7	53.9	2.8	427	40.4	2.7	44.0	2.8
	Male	504	462	237	46.9	3.9	51.2	4.1	193	38.3	3.8	41.7	4.1
	Female	553	509	287	51.9	3.8	56.4	3.9	234	42.4	3.7	46.1	3.9
	White alone	237	231	137	57.9	5.7	59.3	5.7	111	46.8	5.7	47.9	5.8
	White non-Hispanic alone	211	206	125	59.3	6.0	60.7	6.0	104	49.3	6.1	50.4	6.1
	Black alone	22	21	10	B	B	B	B	4	B	B	B	B
	Asian alone	480	417	218	45.4	5.1	52.2	5.5	186	38.7	5.0	44.6	5.4
	Hispanic (of any race)	82	79	34	41.3	15.1	42.9	15.4	25	29.7	14.0	30.9	14.4
	White alone or in combination	351	346	211	60.0	4.6	61.0	4.6	171	48.6	4.7	49.3	4.8
	Black alone or in combination	28	27	15	B	B	B	B	8	B	B	B	B
	Asian alone or in combination	590	527	285	48.2	4.6	54.0	4.8	241	40.9	4.5	45.7	4.8
IDAHO	Total	1,299	1,226	743	57.2	2.7	60.6	2.7	587	45.2	2.7	47.9	2.8
	Male	645	608	362	56.1	3.8	59.5	3.9	286	44.3	3.8	47.0	3.9
	Female	654	618	381	58.2	3.8	61.6	3.8	301	46.0	3.8	48.7	3.9
	White alone	1,214	1,163	708	58.3	2.8	60.9	2.8	555	45.7	2.8	47.7	2.8
	White non-Hispanic alone	1,048	1,044	664	63.3	2.9	63.6	2.9	531	50.6	3.0	50.9	3.0
	Black alone	8	8	8	B	B	B	B	6	B	B	B	B
	Asian alone	33	22	9	B	B	B	B	8	B	B	B	B
	Hispanic (of any race)	182	126	51	27.7	10.1	40.0	13.3	30	16.5	8.4	23.8	11.6
	White alone or in combination	1,232	1,178	715	58.0	2.7	60.7	2.8	562	45.6	2.8	47.7	2.8
	Black alone or in combination	12	12	11	B	B	B	B	9	B	B	B	B
	Asian alone or in combination	33	22	9	B	B	B	B	8	B	B	B	B
ILLINOIS	Total	9,732	8,947	6,068	62.4	1.6	67.8	1.6	4,740	48.7	1.7	53.0	1.7
	Male	4,711	4,316	2,794	59.3	2.4	64.7	2.4	2,183	46.3	2.4	50.6	2.5
	Female	5,021	4,630	3,274	65.2	2.2	70.7	2.2	2,557	50.9	2.3	55.2	2.4
	White alone	7,564	7,078	4,892	64.7	1.8	69.1	1.8	3,802	50.3	1.9	53.7	2.0
	White non-Hispanic alone	6,248	6,120	4,436	71.0	1.9	72.5	1.9	3,494	55.9	2.1	57.1	2.1
	Black alone	1,334	1,274	861	64.5	5.3	67.6	5.3	723	54.2	5.5	56.8	5.6
	Asian alone	673	455	205	30.5	7.4	45.1	9.8	150	22.4	6.7	33.1	9.2
	Hispanic (of any race)	1,458	1,061	537	36.8	6.6	50.6	8.0	354	24.3	5.8	33.3	7.5
	White alone or in combination	7,666	7,180	4,973	64.9	1.8	69.3	1.8	3,857	50.3	1.9	53.7	1.9

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	Black alone or in combination	1,382	1,322	895	64.7	5.2	67.7	5.2	740	53.5	5.4	56.0	5.5
	Asian alone or in combination	688	470	214	31.2	7.4	45.6	9.6	160	23.2	6.7	34.0	9.2
INDIANA	Total	5,006	4,792	3,131	62.5	2.2	65.3	2.3	2,364	47.2	2.3	49.3	2.4
	Male	2,404	2,331	1,522	63.3	3.2	65.3	3.2	1,115	46.4	3.3	47.8	3.4
	Female	2,602	2,461	1,609	61.8	3.1	65.4	3.1	1,249	48.0	3.2	50.7	3.3
	White alone	4,260	4,125	2,723	63.9	2.4	66.0	2.4	2,066	48.5	2.5	50.1	2.6
	White non-Hispanic alone	3,937	3,921	2,634	66.9	2.5	67.2	2.5	1,996	50.7	2.6	50.9	2.6
	Black alone	484	468	299	61.8	8.8	63.9	8.8	221	45.7	9.0	47.2	9.2
	Asian alone	138	98	40	28.9	16.0	40.5	20.5	27	19.7	14.1	27.6	18.7
	Hispanic (of any race)	337	212	96	28.4	12.7	45.2	17.7	77	22.9	11.8	36.5	17.1
	White alone or in combination	4,342	4,197	2,775	63.9	2.4	66.1	2.4	2,099	48.3	2.5	50.0	2.5
	Black alone or in combination	544	518	329	60.4	8.3	63.5	8.4	245	45.0	8.5	47.2	8.7
	Asian alone or in combination	147	108	49	33.5	16.1	45.7	19.9	34	22.8	14.3	31.1	18.5
IOWA	Total	2,376	2,239	1,658	69.8	2.6	74.0	2.5	1,335	56.2	2.8	59.6	2.8
	Male	1,176	1,105	833	70.8	3.6	75.4	3.5	660	56.1	3.9	59.7	4.0
	Female	1,201	1,134	825	68.7	3.6	72.7	3.6	675	56.2	3.9	59.5	4.0
	White alone	2,192	2,119	1,580	72.1	2.6	74.5	2.6	1,270	57.9	2.9	59.9	2.9
	White non-Hispanic alone	2,007	1,983	1,499	74.7	2.6	75.6	2.6	1,206	60.1	3.0	60.8	3.0
	Black alone	89	76	47	52.6	17.4	61.3	18.3	41	46.4	17.4	54.1	18.8
	Asian alone	62	22	14	B	B	B	B	12	B	B	B	B
	Hispanic (of any race)	206	148	85	41.5	14.7	57.8	17.4	69	33.5	14.1	46.7	17.5
	White alone or in combination	2,218	2,133	1,591	71.8	2.6	74.6	2.6	1,279	57.7	2.8	60.0	2.9
	Black alone or in combination	100	80	49	48.9	16.5	60.6	17.9	41	41.4	16.2	51.3	18.3
	Asian alone or in combination	72	26	19	B	B	B	B	16	B	B	B	B
KANSAS	Total	2,149	2,026	1,449	67.4	2.8	71.5	2.8	1,152	53.6	3.0	56.9	3.0
	Male	1,049	980	692	66.0	4.1	70.6	4.0	554	52.8	4.3	56.5	4.4
	Female	1,100	1,046	757	68.8	3.9	72.4	3.8	598	54.4	4.2	57.2	4.2
	White alone	1,880	1,777	1,311	69.7	2.9	73.8	2.9	1,028	54.7	3.2	57.8	3.2
	White non-Hispanic alone	1,667	1,662	1,249	74.9	2.9	75.2	2.9	982	58.9	3.3	59.1	3.3
	Black alone	129	125	65	50.1	14.7	51.9	15.0	58	44.9	14.7	46.5	15.0
	Asian alone	59	46	33	B	B	B	B	33	B	B	B	B
	Hispanic (of any race)	231	134	71	30.8	13.2	53.3	18.8	55	23.9	12.2	41.4	18.5
	White alone or in combination	1,934	1,831	1,338	69.2	2.9	73.1	2.9	1,050	54.3	3.1	57.3	3.2

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	Black alone or in combination	136	131	66	48.9	14.4	50.6	14.6	60	43.9	14.3	45.4	14.6
	Asian alone or in combination	64	51	36	B	B	B	B	36	B	B	B	B
KENTUCKY	Total	3,370	3,249	2,389	70.9	2.6	73.5	2.6	1,746	51.8	2.9	53.8	2.9
	Male	1,627	1,553	1,092	67.1	3.9	70.3	3.8	789	48.5	4.1	50.8	4.2
	Female	1,743	1,696	1,297	74.5	3.5	76.5	3.4	958	55.0	3.9	56.5	4.0
	White alone	3,014	2,954	2,194	72.8	2.7	74.3	2.7	1,587	52.7	3.0	53.7	3.0
	White non-Hispanic alone	2,928	2,921	2,183	74.5	2.7	74.7	2.7	1,579	53.9	3.1	54.1	3.1
	Black alone	248	233	164	66.2	12.0	70.7	12.0	131	52.8	12.7	56.4	13.0
	Asian alone	82	37	14	17.4	17.5	B	B	12	14.1	16.0	B	B
	Hispanic (of any race)	96	37	15	15.8	19.4	B	B	12	12.9	17.8	B	B
	White alone or in combination	3,036	2,976	2,207	72.7	2.7	74.2	2.7	1,600	52.7	3.0	53.8	3.0
	Black alone or in combination	264	248	171	64.8	11.8	68.9	11.8	138	52.2	12.3	55.5	12.7
	Asian alone or in combination	82	37	14	17.4	17.5	B	B	12	14.1	16.0	B	B
LOUISIANA	Total	3,458	3,326	2,263	65.4	2.6	68.0	2.6	1,656	47.9	2.7	49.8	2.7
	Male	1,635	1,557	1,032	63.1	3.8	66.3	3.8	774	47.3	3.9	49.7	4.0
	Female	1,823	1,770	1,231	67.5	3.5	69.5	3.5	882	48.4	3.7	49.8	3.8
	White alone	2,212	2,120	1,501	67.9	3.1	70.8	3.1	1,075	48.6	3.4	50.7	3.4
	White non-Hispanic alone	2,047	2,023	1,455	71.1	3.2	71.9	3.2	1,046	51.1	3.5	51.7	3.5
	Black alone	1,076	1,072	688	63.9	5.6	64.1	5.6	531	49.4	5.8	49.5	5.9
	Asian alone	60	34	17	B	B	B	B	9	B	B	B	B
	Hispanic (of any race)	189	112	56	29.7	16.5	50.2	23.5	35	18.4	14.0	31.1	21.8
	White alone or in combination	2,289	2,188	1,543	67.4	3.1	70.5	3.1	1,106	48.3	3.3	50.6	3.4
	Black alone or in combination	1,133	1,125	712	62.9	5.5	63.4	5.5	552	48.7	5.7	49.1	5.7
	Asian alone or in combination	70	42	23	B	B	B	B	12	B	B	B	B
MAINE	Total	1,074	1,056	828	77.1	2.6	78.4	2.5	693	64.5	2.9	65.6	2.9
	Male	527	519	397	75.4	3.7	76.6	3.7	329	62.4	4.2	63.4	4.2
	Female	546	537	431	78.8	3.5	80.1	3.4	364	66.6	4.0	67.7	4.0
	White alone	1,011	1,002	796	78.7	2.6	79.4	2.5	669	66.2	3.0	66.8	3.0
	White non-Hispanic alone	1,001	994	788	78.7	2.6	79.2	2.6	666	66.5	3.0	67.0	3.0
	Black alone	17	11	5	B	B	B	B	3	B	B	B	B
	Asian alone	20	17	6	B	B	B	B	6	B	B	B	B
	Hispanic (of any race)	11	10	8	B	B	B	B	3	B	B	B	B
	White alone or in combination	1,032	1,023	815	79.0	2.5	79.6	2.5	682	66.1	2.9	66.6	2.9

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	Black alone or in combination	20	14	7	B	B	B	B	5	B	B	B	B
	Asian alone or in combination	20	17	6	B	B	B	B	6	B	B	B	B
MARYLAND	Total	4,666	4,281	3,095	66.3	2.3	72.3	2.3	2,320	49.7	2.5	54.2	2.6
	Male	2,217	2,047	1,457	65.7	3.4	71.2	3.4	1,107	49.9	3.6	54.1	3.7
	Female	2,449	2,235	1,639	66.9	3.2	73.3	3.1	1,213	49.5	3.4	54.3	3.5
	White alone	2,800	2,635	2,021	72.2	2.8	76.7	2.8	1,536	54.9	3.2	58.3	3.2
	White non-Hispanic alone	2,466	2,421	1,869	75.8	2.9	77.2	2.9	1,414	57.3	3.3	58.4	3.4
	Black alone	1,414	1,293	856	60.5	5.3	66.2	5.3	630	44.5	5.4	48.7	5.6
	Asian alone	315	217	142	44.9	11.9	65.1	13.7	94	29.9	10.9	43.4	14.3
	Hispanic (of any race)	500	328	195	39.0	11.5	59.5	14.3	158	31.7	11.0	48.3	14.6
	White alone or in combination	2,874	2,708	2,064	71.8	2.8	76.2	2.7	1,572	54.7	3.1	58.1	3.2
	Black alone or in combination	1,467	1,346	887	60.5	5.2	65.9	5.2	651	44.4	5.3	48.4	5.5
	Asian alone or in combination	331	234	154	46.6	11.6	66.1	13.1	103	31.2	10.8	44.3	13.8
MASSACHUSETTS	Total	5,460	4,919	3,345	61.3	2.2	68.0	2.2	2,731	50.0	2.2	55.5	2.3
	Male	2,594	2,335	1,556	60.0	3.1	66.6	3.2	1,280	49.4	3.2	54.8	3.4
	Female	2,866	2,583	1,789	62.4	3.0	69.3	3.0	1,451	50.6	3.1	56.2	3.2
	White alone	4,417	4,156	2,934	66.4	2.3	70.6	2.3	2,397	54.3	2.5	57.7	2.5
	White non-Hispanic alone	4,006	3,858	2,737	68.3	2.4	70.9	2.4	2,266	56.6	2.6	58.7	2.6
	Black alone	454	413	240	52.8	9.3	58.0	9.6	194	42.7	9.2	47.0	9.7
	Asian alone	416	234	113	27.0	9.0	48.2	13.5	101	24.2	8.7	43.1	13.4
	Hispanic (of any race)	565	414	249	44.1	10.7	60.2	12.4	177	31.3	10.0	42.7	12.5
	White alone or in combination	4,584	4,266	2,993	65.3	2.3	70.2	2.3	2,437	53.2	2.4	57.1	2.5
	Black alone or in combination	561	464	258	46.0	8.3	55.6	9.1	203	36.2	8.0	43.7	9.1
	Asian alone or in combination	467	284	144	30.9	8.8	50.8	12.3	125	26.9	8.5	44.1	12.2
MICHIGAN	Total	7,657	7,430	5,453	71.2	1.7	73.4	1.7	4,418	57.7	1.9	59.5	1.9
	Male	3,688	3,564	2,563	69.5	2.5	71.9	2.5	2,072	56.2	2.7	58.1	2.7
	Female	3,970	3,866	2,890	72.8	2.3	74.8	2.3	2,346	59.1	2.6	60.7	2.6
	White alone	6,257	6,171	4,620	73.8	1.8	74.9	1.8	3,724	59.5	2.0	60.4	2.1
	White non-Hispanic alone	6,033	5,973	4,526	75.0	1.8	75.8	1.8	3,648	60.5	2.1	61.1	2.1
	Black alone	1,027	1,003	670	65.2	5.9	66.8	5.9	557	54.2	6.2	55.5	6.3
	Asian alone	242	134	91	37.5	13.0	67.9	16.8	72	29.9	12.3	54.1	18.0
	Hispanic (of any race)	241	203	99	41.1	16.4	48.9	18.2	81	33.8	15.8	40.1	17.8
	White alone or in combination	6,335	6,243	4,671	73.7	1.8	74.8	1.8	3,770	59.5	2.0	60.4	2.0

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	Black alone or in combination	1,078	1,048	690	63.9	5.8	65.8	5.9	571	53.0	6.1	54.5	6.1
	Asian alone or in combination	265	157	114	43.0	12.7	72.7	14.8	96	36.1	12.3	61.0	16.2
MINNESOTA	Total	4,238	4,006	3,000	70.8	2.3	74.9	2.3	2,523	59.5	2.5	63.0	2.5
	Male	2,099	1,969	1,429	68.1	3.4	72.6	3.3	1,194	56.9	3.6	60.7	3.6
	Female	2,139	2,037	1,570	73.4	3.2	77.1	3.1	1,329	62.1	3.5	65.2	3.5
	White alone	3,632	3,537	2,727	75.1	2.4	77.1	2.3	2,286	62.9	2.7	64.7	2.7
	White non-Hispanic alone	3,485	3,471	2,683	77.0	2.4	77.3	2.4	2,249	64.5	2.7	64.8	2.7
	Black alone	252	194	128	50.8	12.6	66.1	13.6	106	42.1	12.5	54.7	14.3
	Asian alone	225	157	78	34.6	13.3	49.7	16.7	68	30.2	12.8	43.3	16.6
	Hispanic (of any race)	156	65	44	28.2	18.7	B	B	37	23.8	17.7	B	B
	White alone or in combination	3,698	3,593	2,772	75.0	2.4	77.2	2.3	2,327	62.9	2.6	64.8	2.6
	Black alone or in combination	287	219	153	53.5	11.8	70.0	12.4	127	44.5	11.8	58.2	13.4
	Asian alone or in combination	241	172	93	38.7	13.2	54.1	15.9	83	34.5	12.8	48.2	15.9
MISSISSIPPI	Total	2,194	2,178	1,599	72.9	2.5	73.4	2.5	1,180	53.8	2.8	54.2	2.8
	Male	1,027	1,016	718	69.9	3.7	70.7	3.7	531	51.7	4.0	52.2	4.1
	Female	1,167	1,162	881	75.5	3.3	75.8	3.3	650	55.7	3.8	55.9	3.8
	White alone	1,353	1,341	956	70.6	3.2	71.2	3.2	688	50.9	3.5	51.3	3.5
	White non-Hispanic alone	1,317	1,314	943	71.6	3.2	71.8	3.2	679	51.6	3.6	51.7	3.6
	Black alone	798	796	621	77.8	4.6	78.1	4.6	476	59.6	5.4	59.8	5.5
	Asian alone	16	14	3	B	B	B	B	-	B	B	B	B
	Hispanic (of any race)	44	33	16	B	B	B	B	11	B	B	B	B
	White alone or in combination	1,370	1,359	969	70.7	3.2	71.3	3.2	700	51.1	3.5	51.5	3.5
	Black alone or in combination	812	809	630	77.7	4.6	77.9	4.6	484	59.6	5.4	59.8	5.4
	Asian alone or in combination	19	17	5	B	B	B	B	-	B	B	B	B
MISSOURI	Total	4,676	4,564	3,299	70.6	2.2	72.3	2.2	2,509	53.7	2.4	55.0	2.5
	Male	2,243	2,202	1,541	68.7	3.3	70.0	3.3	1,162	51.8	3.5	52.8	3.6
	Female	2,433	2,361	1,758	72.3	3.0	74.5	3.0	1,346	55.3	3.4	57.0	3.4
	White alone	4,006	3,944	2,887	72.1	2.4	73.2	2.4	2,227	55.6	2.6	56.5	2.6
	White non-Hispanic alone	3,874	3,856	2,839	73.3	2.4	73.6	2.4	2,185	56.4	2.7	56.7	2.7
	Black alone	504	497	326	64.8	8.6	65.7	8.6	238	47.3	9.0	47.9	9.1
	Asian alone	55	35	17	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	176	108	53	30.0	18.1	49.1	25.3	47	26.5	17.5	43.3	25.1
	White alone or in combination	4,060	3,991	2,927	72.1	2.4	73.3	2.3	2,253	55.5	2.6	56.5	2.6

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	Black alone or in combination	531	519	340	64.0	8.4	65.5	8.4	245	46.1	8.7	47.2	8.9
	Asian alone or in combination	55	35	17	B	B	B	B	3	B	B	B	B
MONTANA	Total	822	812	579	70.4	2.3	71.3	2.3	518	63.0	2.4	63.8	2.4
	Male	405	402	279	68.8	3.3	69.5	3.3	247	61.1	3.5	61.6	3.5
	Female	417	411	300	71.9	3.2	73.0	3.2	271	64.9	3.4	66.0	3.4
	White alone	769	760	546	71.0	2.4	71.8	2.4	494	64.3	2.5	65.0	2.5
	White non-Hispanic alone	747	740	534	71.5	2.4	72.1	2.4	483	64.7	2.5	65.3	2.5
	Black alone	4	4	1	B	B	B	B	-	B	B	B	B
	Asian alone	5	4	3	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	22	20	11	B	B	B	B	11	B	B	B	B
	White alone or in combination	784	775	557	71.0	2.3	71.8	2.3	504	64.3	2.5	65.0	2.5
	Black alone or in combination	7	7	3	B	B	B	B	1	B	B	B	B
	Asian alone or in combination	8	7	5	B	B	B	B	4	B	B	B	B
NEBRASKA	Total	1,428	1,332	883	61.9	2.8	66.3	2.8	676	47.3	2.9	50.8	3.0
	Male	710	652	418	58.9	4.1	64.1	4.1	314	44.2	4.1	48.1	4.3
	Female	718	680	466	64.8	3.9	68.5	3.9	362	50.5	4.1	53.3	4.2
	White alone	1,277	1,203	822	64.4	2.9	68.4	2.9	633	49.6	3.1	52.6	3.2
	White non-Hispanic alone	1,113	1,108	782	70.2	3.0	70.5	3.0	606	54.5	3.3	54.7	3.3
	Black alone	60	59	26	B	B	B	B	15	B	B	B	B
	Asian alone	58	37	11	B	B	B	B	8	B	B	B	B
	Hispanic (of any race)	175	105	50	28.7	11.8	47.7	16.8	34	19.7	10.4	32.8	15.8
	White alone or in combination	1,301	1,226	839	64.5	2.9	68.4	2.9	649	49.9	3.0	52.9	3.1
	Black alone or in combination	66	65	29	B	B	B	B	18	B	B	B	B
	Asian alone or in combination	60	40	11	B	B	B	B	8	B	B	B	B
NEVADA	Total	2,324	2,067	1,277	55.0	2.7	61.8	2.8	1,006	43.3	2.7	48.7	2.9
	Male	1,145	1,043	616	53.8	3.8	59.0	4.0	497	43.4	3.8	47.7	4.0
	Female	1,179	1,024	662	56.1	3.8	64.6	3.9	509	43.2	3.8	49.7	4.1
	White alone	1,731	1,573	1,009	58.3	3.1	64.2	3.2	818	47.2	3.1	52.0	3.3
	White non-Hispanic alone	1,261	1,239	850	67.4	3.4	68.6	3.4	701	55.6	3.7	56.6	3.7
	Black alone	197	178	108	55.0	11.2	60.9	11.6	65	33.3	10.6	36.8	11.4
	Asian alone	230	177	69	30.2	10.0	39.2	12.1	49	21.4	8.9	27.8	11.1
	Hispanic (of any race)	584	415	212	36.2	8.2	51.0	10.1	156	26.7	7.5	37.7	9.8
	White alone or in combination	1,798	1,635	1,058	58.8	3.0	64.7	3.1	854	47.5	3.1	52.2	3.2

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	Black alone or in combination	205	185	114	55.7	11.0	61.5	11.3	69	33.7	10.4	37.1	11.2
	Asian alone or in combination	248	195	78	31.5	9.7	40.1	11.6	58	23.4	8.9	29.7	10.8
NEW HAMPSHIRE	Total	1,080	1,025	726	67.2	2.6	70.8	2.6	576	53.3	2.8	56.2	2.8
	Male	530	507	359	67.8	3.7	70.9	3.7	280	52.9	3.9	55.3	4.0
	Female	550	519	367	66.7	3.7	70.8	3.6	296	53.8	3.9	57.1	4.0
	White alone	1,002	978	698	69.7	2.6	71.4	2.6	556	55.5	2.9	56.8	2.9
	White non-Hispanic alone	970	956	683	70.3	2.7	71.4	2.7	545	56.1	2.9	57.0	2.9
	Black alone	16	4	2	B	B	B	B	2	B	B	B	B
	Asian alone	38	23	15	B	B	B	B	10	B	B	B	B
	Hispanic (of any race)	42	25	18	B	B	B	B	14	B	B	B	B
	White alone or in combination	1,019	991	706	69.3	2.6	71.2	2.6	562	55.2	2.8	56.7	2.9
	Black alone or in combination	27	12	7	B	B	B	B	6	B	B	B	B
	Asian alone or in combination	41	26	17	B	B	B	B	13	B	B	B	B
NEW JERSEY	Total	7,009	6,267	4,297	61.3	1.9	68.6	1.9	3,384	48.3	2.0	54.0	2.1
	Male	3,348	2,998	2,046	61.1	2.8	68.2	2.8	1,577	47.1	2.8	52.6	3.0
	Female	3,660	3,269	2,251	61.5	2.7	68.9	2.7	1,808	49.4	2.7	55.3	2.9
	White alone	5,227	4,788	3,349	64.1	2.2	69.9	2.2	2,678	51.2	2.3	55.9	2.4
	White non-Hispanic alone	4,081	3,944	2,847	69.7	2.4	72.2	2.4	2,283	55.9	2.6	57.9	2.6
	Black alone	1,013	917	611	60.3	6.1	66.6	6.2	472	46.6	6.3	51.5	6.6
	Asian alone	690	483	281	40.7	7.8	58.2	9.4	188	27.2	7.1	38.9	9.3
	Hispanic (of any race)	1,259	920	578	45.9	7.3	62.9	8.3	471	37.4	7.1	51.2	8.5
	White alone or in combination	5,302	4,863	3,401	64.1	2.2	69.9	2.2	2,725	51.4	2.3	56.0	2.3
	Black alone or in combination	1,081	985	663	61.4	5.9	67.3	6.0	515	47.7	6.1	52.3	6.4
	Asian alone or in combination	697	490	284	40.8	7.8	58.1	9.3	191	27.4	7.0	39.0	9.2
NEW MEXICO	Total	1,576	1,485	916	58.1	2.5	61.7	2.6	715	45.3	2.6	48.1	2.6
	Male	761	715	422	55.5	3.7	59.1	3.8	327	43.0	3.7	45.8	3.8
	Female	815	770	493	60.5	3.5	64.0	3.5	387	47.5	3.6	50.3	3.7
	White alone	1,251	1,178	764	61.1	2.8	64.9	2.8	616	49.2	2.9	52.3	3.0
	White non-Hispanic alone	644	634	465	72.2	3.6	73.4	3.6	388	60.3	3.9	61.3	3.9
	Black alone	30	27	15	B	B	B	B	9	B	B	B	B
	Asian alone	32	21	9	B	B	B	B	7	B	B	B	B
	Hispanic (of any race)	666	597	322	48.3	6.2	53.9	6.5	242	36.3	6.0	40.5	6.4
	White alone or in combination	1,284	1,206	777	60.5	2.8	64.5	2.8	626	48.7	2.8	51.9	2.9

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	Black alone or in combination	39	36	19	B	B	B	B	11	B	B	B	B
	Asian alone or in combination	35	25	10	B	B	B	B	8	B	B	B	B
NEW YORK	Total	15,478	13,684	8,553	55.3	1.3	62.5	1.4	6,775	43.8	1.3	49.5	1.4
	Male	7,364	6,512	3,934	53.4	2.0	60.4	2.0	3,081	41.8	1.9	47.3	2.1
	Female	8,113	7,171	4,619	56.9	1.8	64.4	1.9	3,694	45.5	1.9	51.5	2.0
	White alone	11,157	10,070	6,474	58.0	1.6	64.3	1.6	5,129	46.0	1.6	50.9	1.7
	White non-Hispanic alone	9,108	8,708	5,770	63.4	1.7	66.3	1.7	4,604	50.6	1.8	52.9	1.8
	Black alone	2,570	2,305	1,410	54.9	4.0	61.2	4.1	1,182	46.0	4.0	51.3	4.2
	Asian alone	1,443	1,061	504	34.9	5.3	47.5	6.5	344	23.8	4.8	32.4	6.1
	Hispanic (of any race)	2,604	1,785	963	37.0	5.0	53.9	6.2	731	28.1	4.6	40.9	6.1
	White alone or in combination	11,374	10,239	6,590	57.9	1.6	64.4	1.6	5,215	45.8	1.6	50.9	1.7
	Black alone or in combination	2,721	2,414	1,481	54.4	3.9	61.3	4.0	1,236	45.4	3.9	51.2	4.1
	Asian alone or in combination	1,467	1,085	523	35.6	5.3	48.1	6.4	358	24.4	4.8	33.0	6.1
NORTH CAROLINA	Total	7,911	7,444	5,160	65.2	1.8	69.3	1.8	3,899	49.3	1.9	52.4	1.9
	Male	3,748	3,495	2,384	63.6	2.6	68.2	2.6	1,822	48.6	2.7	52.1	2.8
	Female	4,163	3,949	2,776	66.7	2.4	70.3	2.4	2,077	49.9	2.6	52.6	2.7
	White alone	5,775	5,400	3,830	66.3	2.1	70.9	2.1	2,903	50.3	2.2	53.8	2.3
	White non-Hispanic alone	5,239	5,170	3,721	71.0	2.1	72.0	2.1	2,814	53.7	2.3	54.4	2.3
	Black alone	1,685	1,646	1,110	65.9	4.7	67.4	4.7	852	50.6	4.9	51.8	5.0
	Asian alone	186	149	90	48.5	15.5	60.6	16.9	68	36.4	14.9	45.5	17.2
	Hispanic (of any race)	588	268	131	22.3	9.0	48.9	16.0	104	17.6	8.2	38.6	15.6
	White alone or in combination	5,865	5,474	3,889	66.3	2.1	71.0	2.0	2,939	50.1	2.2	53.7	2.3
	Black alone or in combination	1,748	1,696	1,156	66.1	4.6	68.2	4.6	872	49.9	4.8	51.4	4.9
	Asian alone or in combination	198	159	95	48.0	15.0	60.0	16.4	73	36.6	14.4	45.8	16.7
NORTH DAKOTA	Total	560	541	397	70.9	2.5	73.4	2.5	335	59.8	2.7	61.9	2.7
	Male	286	275	194	67.8	3.6	70.5	3.6	160	56.0	3.8	58.2	3.9
	Female	274	266	204	74.3	3.4	76.5	3.4	175	63.8	3.8	65.7	3.8
	White alone	499	494	368	73.7	2.6	74.6	2.6	315	63.1	2.8	63.8	2.8
	White non-Hispanic alone	488	483	362	74.2	2.6	74.9	2.6	311	63.7	2.8	64.3	2.8
	Black alone	14	6	2	B	B	B	B	1	B	B	B	B
	Asian alone	8	3	-	B	B	B	B	-	B	B	B	B
	Hispanic (of any race)	16	15	10	B	B	B	B	7	B	B	B	B
	White alone or in combination	507	501	374	73.7	2.5	74.6	2.5	320	63.1	2.8	63.8	2.8

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	Black alone or in combination	15	7	3	B	B	B	B	2	B	B	B	B
	Asian alone or in combination	9	4	2	B	B	B	B	1	B	B	B	B
OHIO	Total	8,873	8,640	6,062	68.3	1.6	70.2	1.6	4,538	51.1	1.8	52.5	1.8
	Male	4,294	4,158	2,840	66.1	2.4	68.3	2.4	2,035	47.4	2.5	48.9	2.6
	Female	4,579	4,482	3,222	70.4	2.2	71.9	2.2	2,503	54.7	2.4	55.9	2.4
	White alone	7,372	7,280	5,152	69.9	1.8	70.8	1.8	3,889	52.8	1.9	53.4	1.9
	White non-Hispanic alone	7,203	7,142	5,058	70.2	1.8	70.8	1.8	3,849	53.4	1.9	53.9	1.9
	Black alone	1,054	1,010	707	67.1	5.8	70.0	5.8	519	49.2	6.1	51.4	6.3
	Asian alone	207	129	93	45.1	14.4	72.4	16.4	65	31.3	13.4	50.1	18.4
	Hispanic (of any race)	235	185	121	51.5	16.9	65.4	18.1	60	25.7	14.8	32.6	17.8
	White alone or in combination	7,519	7,420	5,215	69.4	1.8	70.3	1.7	3,920	52.1	1.9	52.8	1.9
	Black alone or in combination	1,171	1,120	761	65.0	5.6	68.0	5.6	544	46.5	5.8	48.6	6.0
	Asian alone or in combination	223	145	98	43.9	13.9	67.4	16.2	69	31.0	12.9	47.7	17.3
OKLAHOMA	Total	2,868	2,732	1,777	62.0	2.9	65.1	2.9	1,350	47.1	3.0	49.4	3.0
	Male	1,388	1,330	824	59.4	4.2	62.0	4.2	626	45.1	4.3	47.1	4.4
	Female	1,480	1,402	953	64.4	4.0	68.0	4.0	724	48.9	4.1	51.6	4.2
	White alone	2,254	2,148	1,422	63.1	3.2	66.2	3.2	1,098	48.7	3.3	51.1	3.4
	White non-Hispanic alone	1,957	1,951	1,341	68.5	3.3	68.7	3.3	1,035	52.9	3.6	53.0	3.6
	Black alone	195	184	90	46.1	13.8	48.8	14.2	61	31.2	12.8	33.0	13.3
	Asian alone	70	50	23	B	B	B	B	15	B	B	B	B
	Hispanic (of any race)	310	210	88	28.5	12.8	42.1	17.0	71	22.8	11.9	33.7	16.3
	White alone or in combination	2,370	2,264	1,510	63.7	3.1	66.7	3.2	1,162	49.0	3.3	51.3	3.3
	Black alone or in combination	212	201	103	48.7	13.2	51.2	13.6	72	34.1	12.5	35.9	13.0
	Asian alone or in combination	73	53	26	B	B	B	B	18	B	B	B	B
OREGON	Total	3,293	3,138	2,274	69.1	2.6	72.5	2.5	1,918	58.2	2.7	61.1	2.8
	Male	1,612	1,542	1,078	66.9	3.7	69.9	3.7	912	56.6	3.9	59.2	4.0
	Female	1,681	1,596	1,197	71.2	3.5	75.0	3.4	1,006	59.8	3.8	63.0	3.8
	White alone	2,874	2,781	2,059	71.6	2.7	74.0	2.6	1,769	61.5	2.9	63.6	2.9
	White non-Hispanic alone	2,584	2,569	1,956	75.7	2.7	76.1	2.7	1,694	65.6	3.0	65.9	3.0
	Black alone	78	71	43	55.5	21.6	B	B	41	52.1	21.7	B	B
	Asian alone	172	138	71	41.1	15.0	51.3	17.0	36	21.0	12.4	26.2	15.0
	Hispanic (of any race)	365	267	140	38.3	12.7	52.3	15.2	93	25.4	11.3	34.8	14.5
	White alone or in combination	3,005	2,892	2,138	71.1	2.6	73.9	2.6	1,826	60.8	2.8	63.2	2.8

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	Black alone or in combination	97	90	59	60.5	19.0	65.4	19.2	52	53.4	19.4	57.7	19.9
	Asian alone or in combination	189	155	83	44.0	14.4	53.7	16.0	41	21.6	12.0	26.4	14.2
PENNSYLVANIA	Total	9,928	9,475	6,469	65.2	1.6	68.3	1.6	5,173	52.1	1.7	54.6	1.7
	Male	4,736	4,532	3,056	64.5	2.3	67.4	2.3	2,445	51.6	2.4	53.9	2.5
	Female	5,192	4,943	3,414	65.7	2.2	69.1	2.2	2,728	52.5	2.3	55.2	2.3
	White alone	8,277	8,073	5,628	68.0	1.7	69.7	1.7	4,461	53.9	1.8	55.3	1.8
	White non-Hispanic alone	7,712	7,635	5,434	70.5	1.7	71.2	1.7	4,323	56.1	1.9	56.6	1.9
	Black alone	1,059	1,028	653	61.7	6.0	63.5	6.0	562	53.1	6.1	54.7	6.2
	Asian alone	423	230	106	25.1	8.8	46.0	13.8	87	20.6	8.2	37.9	13.4
	Hispanic (of any race)	657	529	218	33.2	9.6	41.2	11.1	154	23.4	8.6	29.1	10.3
	White alone or in combination	8,418	8,189	5,693	67.6	1.7	69.5	1.7	4,510	53.6	1.8	55.1	1.8
	Black alone or in combination	1,169	1,113	700	59.8	5.7	62.9	5.8	589	50.4	5.9	52.9	6.0
	Asian alone or in combination	440	247	123	28.0	9.0	49.8	13.3	104	23.8	8.5	42.2	13.1
RHODE ISLAND	Total	828	782	532	64.2	2.7	68.0	2.7	403	48.7	2.8	51.6	2.9
	Male	394	373	238	60.5	4.0	63.8	4.0	186	47.4	4.1	49.9	4.2
	Female	435	408	293	67.5	3.7	71.9	3.6	217	49.9	3.9	53.1	4.0
	White alone	724	699	488	67.4	2.8	69.8	2.8	374	51.6	3.0	53.4	3.1
	White non-Hispanic alone	642	633	447	69.8	3.0	70.7	2.9	345	53.8	3.2	54.5	3.2
	Black alone	53	45	26	B	B	B	B	16	B	B	B	B
	Asian alone	26	16	7	B	B	B	B	5	B	B	B	B
	Hispanic (of any race)	98	79	44	45.0	12.9	55.8	14.3	30	30.5	11.9	37.8	14.0
	White alone or in combination	746	718	498	66.7	2.8	69.3	2.8	382	51.2	3.0	53.2	3.0
	Black alone or in combination	71	60	34	B	B	B	B	23	B	B	B	B
	Asian alone or in combination	30	19	7	B	B	B	B	5	B	B	B	B
SOUTH CAROLINA	Total	3,914	3,769	2,430	62.1	2.5	64.5	2.5	1,836	46.9	2.6	48.7	2.7
	Male	1,849	1,767	1,121	60.6	3.7	63.5	3.7	828	44.8	3.8	46.9	3.9
	Female	2,066	2,002	1,309	63.4	3.5	65.4	3.5	1,007	48.8	3.6	50.3	3.6
	White alone	2,790	2,677	1,727	61.9	3.0	64.5	3.0	1,276	45.7	3.1	47.7	3.1
	White non-Hispanic alone	2,610	2,588	1,690	64.8	3.0	65.3	3.0	1,257	48.1	3.2	48.6	3.2
	Black alone	1,000	996	646	64.6	6.0	64.9	6.0	519	51.9	6.2	52.1	6.2
	Asian alone	54	29	19	B	B	B	B	9	B	B	B	B
	Hispanic (of any race)	207	110	36	17.7	13.6	33.3	23.0	19	9.3	10.3	17.6	18.6
	White alone or in combination	2,836	2,722	1,756	61.9	3.0	64.5	3.0	1,298	45.8	3.0	47.7	3.1

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	Black alone or in combination	1,041	1,036	672	64.6	5.8	64.9	5.8	539	51.8	6.1	52.0	6.1
	Asian alone or in combination	56	32	19	B	B	B	B	9	B	B	B	B
SOUTH DAKOTA	Total	648	637	429	66.2	2.7	67.3	2.7	331	51.0	2.9	51.9	2.9
	Male	325	319	207	63.8	3.9	65.0	3.9	160	49.4	4.1	50.3	4.1
	Female	323	318	222	68.6	3.8	69.7	3.8	170	52.7	4.1	53.5	4.1
	White alone	573	568	392	68.5	2.9	69.1	2.9	305	53.3	3.1	53.8	3.1
	White non-Hispanic alone	561	559	389	69.4	2.9	69.6	2.9	303	54.1	3.1	54.3	3.1
	Black alone	12	7	2	B	B	B	B	1	B	B	B	B
	Asian alone	5	3	1	B	B	B	B	1	B	B	B	B
	Hispanic (of any race)	15	13	5	B	B	B	B	4	B	B	B	B
	White alone or in combination	579	575	395	68.1	2.9	68.7	2.9	308	53.1	3.1	53.5	3.1
	Black alone or in combination	14	9	2	B	B	B	B	1	B	B	B	B
	Asian alone or in combination	6	4	2	B	B	B	B	2	B	B	B	B
TENNESSEE	Total	5,202	5,016	3,183	61.2	2.2	63.5	2.2	2,487	47.8	2.3	49.6	2.3
	Male	2,501	2,386	1,476	59.0	3.2	61.9	3.3	1,174	46.9	3.3	49.2	3.4
	Female	2,701	2,630	1,707	63.2	3.0	64.9	3.1	1,313	48.6	3.2	49.9	3.2
	White alone	4,156	4,015	2,606	62.7	2.5	64.9	2.5	2,039	49.1	2.5	50.8	2.6
	White non-Hispanic alone	3,879	3,852	2,536	65.4	2.5	65.9	2.5	1,991	51.3	2.6	51.7	2.6
	Black alone	830	801	484	58.3	6.8	60.4	6.9	368	44.3	6.9	45.9	7.0
	Asian alone	109	97	32	29.4	18.1	33.0	19.9	29	26.8	17.6	30.2	19.4
	Hispanic (of any race)	282	167	69	24.5	13.2	41.3	19.6	48	17.0	11.6	28.7	18.0
	White alone or in combination	4,244	4,099	2,660	62.7	2.4	64.9	2.4	2,087	49.2	2.5	50.9	2.6
	Black alone or in combination	866	837	496	57.3	6.7	59.3	6.8	376	43.5	6.7	45.0	6.8
	Asian alone or in combination	124	109	36	29.2	16.9	33.4	18.8	34	27.0	16.5	30.9	18.4
TEXAS	Total	21,064	18,374	11,634	55.2	1.1	63.3	1.2	8,886	42.2	1.1	48.4	1.2
	Male	10,274	8,812	5,361	52.2	1.6	60.8	1.7	4,064	39.6	1.6	46.1	1.8
	Female	10,790	9,562	6,273	58.1	1.6	65.6	1.6	4,822	44.7	1.6	50.4	1.7
	White alone	16,689	14,555	9,331	55.9	1.3	64.1	1.3	7,158	42.9	1.3	49.2	1.4
	White non-Hispanic alone	9,492	9,345	6,686	70.4	1.6	71.5	1.6	5,394	56.8	1.7	57.7	1.7
	Black alone	2,625	2,490	1,580	60.2	3.8	63.4	3.9	1,203	45.8	3.9	48.3	4.0
	Asian alone	1,097	736	397	36.2	6.1	54.0	7.7	288	26.3	5.6	39.1	7.6
	Hispanic (of any race)	7,658	5,594	2,843	37.1	2.9	50.8	3.5	1,918	25.0	2.6	34.3	3.3
	White alone or in combination	16,991	14,838	9,496	55.9	1.3	64.0	1.3	7,276	42.8	1.3	49.0	1.4

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	Black alone or in combination	2,722	2,583	1,629	59.8	3.8	63.1	3.8	1,231	45.2	3.8	47.6	4.0
	Asian alone or in combination	1,192	831	471	39.5	6.0	56.7	7.2	354	29.7	5.6	42.6	7.2
UTAH	Total	2,247	2,109	1,443	64.2	2.2	68.4	2.2	1,214	54.0	2.3	57.6	2.4
	Male	1,109	1,040	691	62.3	3.2	66.4	3.2	568	51.2	3.3	54.6	3.4
	Female	1,138	1,068	752	66.1	3.1	70.4	3.1	646	56.8	3.2	60.5	3.3
	White alone	2,080	1,969	1,385	66.6	2.3	70.4	2.3	1,171	56.3	2.4	59.5	2.4
	White non-Hispanic alone	1,799	1,785	1,293	71.9	2.3	72.4	2.3	1,092	60.7	2.5	61.2	2.5
	Black alone	31	29	8	B	B	B	B	5	B	B	B	B
	Asian alone	63	44	26	B	B	B	B	22	B	B	B	B
	Hispanic (of any race)	291	189	96	32.8	9.5	50.5	12.6	82	28.3	9.1	43.6	12.4
	White alone or in combination	2,091	1,979	1,392	66.6	2.3	70.3	2.3	1,175	56.2	2.4	59.4	2.4
	Black alone or in combination	35	33	12	B	B	B	B	10	B	B	B	B
	Asian alone or in combination	67	48	26	B	B	B	B	22	B	B	B	B
VERMONT	Total	503	497	343	68.1	2.9	69.0	2.9	273	54.2	3.1	54.9	3.1
	Male	247	243	168	68.2	4.1	69.1	4.1	132	53.6	4.4	54.3	4.4
	Female	257	253	175	68.0	4.0	69.0	4.0	141	54.7	4.3	55.5	4.3
	White alone	478	473	330	68.9	2.9	69.7	2.9	263	55.0	3.1	55.6	3.1
	White non-Hispanic alone	472	466	323	68.6	2.9	69.4	2.9	258	54.6	3.2	55.3	3.2
	Black alone	4	4	2	B	B	B	B	1	B	B	B	B
	Asian alone	5	4	3	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	8	8	7	B	B	B	B	6	B	B	B	B
	White alone or in combination	493	486	338	68.7	2.9	69.6	2.9	268	54.5	3.1	55.2	3.1
	Black alone or in combination	7	7	3	B	B	B	B	2	B	B	B	B
	Asian alone or in combination	8	7	5	B	B	B	B	3	B	B	B	B
VIRGINIA	Total	6,386	5,773	4,159	65.1	2.0	72.0	2.0	3,319	52.0	2.1	57.5	2.2
	Male	3,051	2,724	1,958	64.2	2.9	71.9	2.9	1,578	51.7	3.0	57.9	3.2
	Female	3,335	3,049	2,201	66.0	2.8	72.2	2.7	1,742	52.2	2.9	57.1	3.0
	White alone	4,496	4,094	3,065	68.2	2.3	74.9	2.3	2,412	53.7	2.5	58.9	2.6
	White non-Hispanic alone	3,874	3,808	2,924	75.5	2.3	76.8	2.3	2,314	59.7	2.6	60.8	2.7
	Black alone	1,198	1,130	754	63.0	5.7	66.8	5.7	637	53.2	5.9	56.4	6.0
	Asian alone	510	368	226	44.3	9.3	61.4	10.8	169	33.2	8.8	46.0	11.0
	Hispanic (of any race)	669	324	159	23.8	8.7	49.0	14.6	112	16.8	7.6	34.6	13.9
	White alone or in combination	4,617	4,215	3,156	68.4	2.3	74.9	2.2	2,490	53.9	2.5	59.1	2.5

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STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Black alone or in combination	1,258	1,190	786	62.5	5.5	66.1	5.6	664	52.8	5.7	55.8	5.8
	Asian alone or in combination	587	445	286	48.7	8.7	64.3	9.6	224	38.2	8.5	50.4	10.0
WASHINGTON	Total	5,775	5,228	3,852	66.7	2.1	73.7	2.0	3,234	56.0	2.2	61.9	2.2
	Male	2,869	2,590	1,861	64.9	3.0	71.9	2.9	1,541	53.7	3.1	59.5	3.2
	Female	2,906	2,638	1,991	68.5	2.9	75.5	2.8	1,693	58.2	3.0	64.2	3.1
	White alone	4,663	4,314	3,219	69.0	2.3	74.6	2.2	2,736	58.7	2.4	63.4	2.4
	White non-Hispanic alone	3,995	3,905	2,983	74.7	2.3	76.4	2.3	2,558	64.0	2.5	65.5	2.5
	Black alone	232	232	155	66.8	12.4	66.8	12.4	103	44.2	13.1	44.2	13.1
	Asian alone	530	356	262	49.4	9.1	73.4	9.8	224	42.2	9.0	62.8	10.8
	Hispanic (of any race)	736	468	267	36.3	9.3	57.2	12.0	204	27.8	8.6	43.7	12.0
	White alone or in combination	4,792	4,434	3,321	69.3	2.2	74.9	2.2	2,816	58.8	2.4	63.5	2.4
	Black alone or in combination	255	255	175	68.4	11.7	68.4	11.7	117	45.7	12.6	45.7	12.6
	Asian alone or in combination	559	386	287	51.4	8.9	74.5	9.3	237	42.4	8.8	61.6	10.4
WEST VIRGINIA	Total	1,406	1,384	892	63.4	2.8	64.5	2.8	610	43.4	2.9	44.1	2.9
	Male	685	674	423	61.7	4.0	62.7	4.1	294	43.0	4.1	43.7	4.2
	Female	721	710	470	65.1	3.9	66.1	3.9	316	43.8	4.0	44.5	4.1
	White alone	1,312	1,303	856	65.2	2.9	65.7	2.9	585	44.6	3.0	44.9	3.0
	White non-Hispanic alone	1,291	1,286	847	65.6	2.9	65.9	2.9	582	45.1	3.0	45.2	3.0
	Black alone	49	47	19	B	B	B	B	12	B	B	B	B
	Asian alone	17	6	4	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	24	20	10	B	B	B	B	4	B	B	B	B
	White alone or in combination	1,334	1,324	867	65.0	2.8	65.5	2.8	594	44.5	3.0	44.8	3.0
	Black alone or in combination	64	63	29	B	B	B	B	19	B	B	B	B
	Asian alone or in combination	19	7	5	B	B	B	B	4	B	B	B	B
WISCONSIN	Total	4,436	4,296	3,129	70.5	2.3	72.8	2.2	2,776	62.6	2.4	64.6	2.4
	Male	2,186	2,105	1,519	69.5	3.3	72.2	3.2	1,328	60.7	3.5	63.1	3.5
	Female	2,250	2,191	1,610	71.6	3.2	73.5	3.1	1,448	64.4	3.3	66.1	3.4
	White alone	3,948	3,865	2,883	73.0	2.3	74.6	2.3	2,574	65.2	2.5	66.6	2.5
	White non-Hispanic alone	3,782	3,759	2,815	74.5	2.3	74.9	2.3	2,514	66.5	2.5	66.9	2.5
	Black alone	264	239	137	51.7	12.3	57.1	12.8	110	41.7	12.2	46.0	12.9
	Asian alone	89	79	52	58.6	21.8	66.0	22.3	52	58.6	21.8	66.0	22.3
	Hispanic (of any race)	232	142	91	39.3	16.7	64.2	21.0	84	36.3	16.4	59.4	21.5
	White alone or in combination	4,015	3,932	2,923	72.8	2.3	74.4	2.3	2,599	64.7	2.5	66.1	2.5

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

The symbol B means that the base is less than 75,000 and therefore too small to show the derived measure.

Estimates may not sum to totals due to ro

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Black alone or in combination	313	266	159	50.7	11.3	59.6	12.1	123	39.1	11.1	46.1	12.3
	Asian alone or in combination	94	84	57	60.5	21.1	67.8	21.4	57	60.5	21.1	67.8	21.4
WYOMING	Total	430	422	268	62.4	2.9	63.5	2.9	220	51.2	3.0	52.1	3.0
	Male	216	212	134	61.8	4.1	62.9	4.1	107	49.7	4.2	50.6	4.2
	Female	214	210	135	62.9	4.1	64.1	4.1	113	52.7	4.2	53.6	4.2
	White alone	408	402	259	63.6	2.9	64.5	2.9	214	52.5	3.0	53.2	3.1
	White non-Hispanic alone	369	368	244	66.0	3.0	66.3	3.0	202	54.7	3.2	54.9	3.2
	Black alone	5	4	3	B	B	B	B	2	B	B	B	B
	Asian alone	3	1	-	B	B	B	B	-	B	B	B	B
	Hispanic (of any race)	41	37	16	B	B	B	B	13	B	B	B	B
	White alone or in combination	410	405	261	63.6	2.9	64.4	2.9	216	52.5	3.0	53.2	3.0
	Black alone or in combination	6	5	3	B	B	B	B	2	B	B	B	B
	Asian alone or in combination	3	1	-	B	B	B	B	-	B	B	B	B

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

A dash '-' represents zero or rounds to zero.

The symbol B means that the base is less than 75,000 and therefore too small to show the derived measure.

Estimates may not sum to totals due to rounding.

For information on confidentiality protection, sampling error, nonsampling error, and definitions, see <https://www2.census.gov/programs-surveys/cps/techdocs/cpsnov18.pdf>

Source: U.S. Census Bureau, Current Population Survey, November 2018

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

The symbol B means that the base is less than 75,000 and therefore too small to show the derived measure.

Estimates may not sum to totals due to ro

EXHIBIT B

Table 4b. Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2020
(In thousands)

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
US	Total	252,274	231,593	168,308	66.7	0.4	72.7	0.4	154,628	61.3	0.4	66.8	0.4
	Male	121,870	111,485	79,340	65.1	0.5	71.2	0.5	72,474	59.5	0.5	65.0	0.5
	Female	130,404	120,108	88,968	68.2	0.5	74.1	0.5	82,154	63.0	0.5	68.4	0.5
	White alone	195,227	181,891	134,889	69.1	0.4	74.2	0.4	124,301	63.7	0.4	68.3	0.4
	White non-Hispanic alone	157,442	154,827	118,389	75.2	0.4	76.5	0.4	109,830	69.8	0.4	70.9	0.4
	Black alone	32,219	30,204	20,844	64.7	1.0	69.0	1.0	18,922	58.7	1.0	62.6	1.0
	Asian alone	16,094	11,530	7,354	45.7	1.5	63.8	1.7	6,881	42.8	1.5	59.7	1.7
	Hispanic (of any race)	42,468	30,627	18,719	44.1	1.0	61.1	1.1	16,459	38.8	0.9	53.7	1.1
	White alone or in combination	199,610	185,983	137,710	69.0	0.4	74.0	0.4	126,753	63.5	0.4	68.2	0.4
	Black alone or in combination	34,471	32,275	22,241	64.5	0.9	68.9	0.9	20,152	58.5	1.0	62.4	1.0
	Asian alone or in combination	17,273	12,641	8,157	47.2	1.4	64.5	1.6	7,593	44.0	1.4	60.1	1.6
	Total	3,769	3,716	2,527	67.0	3.1	68.0	3.1	2,247	59.6	3.3	60.5	3.3
	Male	1,780	1,755	1,187	66.7	4.5	67.6	4.5	1,038	58.4	4.8	59.2	4.8
ALABAMA	Female	1,990	1,960	1,340	67.3	4.3	68.4	4.3	1,209	60.7	4.5	61.6	4.5
	White alone	2,657	2,619	1,860	70.0	3.6	71.0	3.6	1,647	62.0	3.8	62.9	3.8
	White non-Hispanic alone	2,587	2,569	1,825	70.6	3.6	71.0	3.6	1,617	62.5	3.9	63.0	3.9
	Black alone	973	973	590	60.6	6.1	60.6	6.1	533	54.8	6.2	54.8	6.2
	Asian alone	55	45	23	B	B	B	B	21	B	B	B	B
	Hispanic (of any race)	79	53	35	B	B	B	B	30	B	B	B	B
	White alone or in combination	2,692	2,654	1,883	69.9	3.6	70.9	3.6	1,665	61.9	3.8	62.7	3.8
	Black alone or in combination	988	988	603	61.0	6.0	61.0	6.0	543	54.9	6.2	54.9	6.2
	Asian alone or in combination	58	48	26	B	B	B	B	21	B	B	B	B
	Total	528	516	383	72.6	3.2	74.2	3.1	330	62.4	3.4	63.8	3.4
	Male	269	264	195	72.6	4.4	74.1	4.4	165	61.4	4.8	62.6	4.8
	Female	259	253	188	72.5	4.5	74.3	4.5	165	63.5	4.9	65.1	4.9
	White alone	345	343	265	76.7	3.7	77.3	3.7	243	70.3	4.0	70.9	4.0
ALASKA	White non-Hispanic alone	325	323	251	77.2	3.8	77.5	3.8	230	70.6	4.1	71.0	4.1
	Black alone	17	16	11	B	B	B	B	8	B	B	B	B
	Asian alone	35	27	18	B	B	B	B	17	B	B	B	B
	Hispanic (of any race)	28	27	21	B	B	B	B	17	B	B	B	B
	White alone or in combination	375	372	287	76.6	3.5	77.1	3.5	259	69.2	3.9	69.7	3.9
	Black alone or in combination	18	17	12	B	B	B	B	8	B	B	B	B
	Asian alone or in combination	43	35	24	B	B	B	B	22	B	B	B	B
	Total	5,638	5,075	3,878	68.8	2.5	76.4	2.5	3,649	64.7	2.6	71.9	2.6
	Male	2,739	2,465	1,784	65.1	3.8	72.4	3.7	1,653	60.4	3.9	67.1	3.9
	Female	2,899	2,610	2,095	72.3	3.4	80.3	3.2	1,996	68.9	3.5	76.5	3.4
	White alone	4,840	4,365	3,328	68.8	2.7	76.3	2.7	3,152	65.1	2.8	72.2	2.8
	White non-Hispanic alone	3,140	3,096	2,480	79.0	3.0	80.1	3.0	2,385	76.0	3.1	77.0	3.1
	Black alone	279	259	205	73.3	10.4	79.2	9.9	179	63.9	11.3	69.1	11.3
ARIZONA	Asian alone	206	158	111	53.8	14.1	70.2	14.8	107	52.0	14.1	67.9	15.1
	Hispanic (of any race)	1,800	1,340	895	49.7	5.1	66.8	5.5	814	45.2	5.1	60.8	5.8
	White alone or in combination	4,966	4,472	3,422	68.9	2.7	76.5	2.6	3,242	65.3	2.8	72.5	2.8
	Black alone or in combination	344	323	266	77.3	8.9	82.2	8.4	235	68.3	9.9	72.7	9.8
	Asian alone or in combination	226	177	130	57.8	13.3	73.5	13.4	127	56.2	13.4	71.5	13.8
	Total	2,283	2,195	1,361	59.6	3.4	62.0	3.4	1,186	51.9	3.4	54.0	3.5

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Male	1,101	1,057	641	58.2	4.9	60.6	4.9	546	49.6	4.9	51.6	5.0
	Female	1,182	1,138	720	60.9	4.6	63.3	4.7	640	54.1	4.7	56.2	4.8
	White alone	1,867	1,808	1,139	61.0	3.7	63.0	3.7	1,014	54.3	3.8	56.1	3.8
	White non-Hispanic alone	1,744	1,733	1,111	63.7	3.8	64.1	3.8	988	56.7	3.9	57.0	3.9
	Black alone	336	325	186	55.3	8.5	57.1	8.6	146	43.3	8.4	44.7	8.6
	Asian alone	24	18	14	B	B	B	B	11	B	B	B	B
	Hispanic (of any race)	134	83	30	22.6	12.4	36.4	18.1	29	21.4	12.1	34.6	17.9
	White alone or in combination	1,900	1,841	1,153	60.7	3.7	62.6	3.7	1,023	53.8	3.7	55.5	3.8
	Black alone or in combination	348	337	193	55.4	8.3	57.2	8.4	148	42.7	8.3	44.1	8.5
	Asian alone or in combination	25	19	16	B	B	B	B	12	B	B	B	B
CALIFORNIA	Total	30,342	25,946	18,001	59.3	1.2	69.4	1.2	16,893	55.7	1.2	65.1	1.2
	Male	14,786	12,580	8,549	57.8	1.7	68.0	1.7	8,012	54.2	1.7	63.7	1.8
	Female	15,556	13,366	9,452	60.8	1.6	70.7	1.6	8,882	57.1	1.6	66.5	1.7
	White alone	21,941	18,971	13,508	61.6	1.4	71.2	1.4	12,628	57.6	1.4	66.6	1.4
	White non-Hispanic alone	12,090	11,685	9,133	75.5	1.6	78.2	1.6	8,711	72.1	1.7	74.6	1.7
	Black alone	1,947	1,834	1,249	64.1	4.3	68.1	4.3	1,173	60.3	4.4	64.0	4.4
	Asian alone	5,072	3,958	2,491	49.1	2.8	62.9	3.1	2,370	46.7	2.8	59.9	3.2
	Hispanic (of any race)	11,165	8,305	5,014	44.9	2.0	60.4	2.3	4,539	40.7	2.0	54.6	2.4
	White alone or in combination	22,586	19,549	13,924	61.6	1.3	71.2	1.3	13,024	57.7	1.4	66.6	1.4
	Black alone or in combination	2,139	2,021	1,371	64.1	4.1	67.8	4.1	1,295	60.5	4.2	64.1	4.2
	Asian alone or in combination	5,405	4,250	2,665	49.3	2.8	62.7	3.0	2,529	46.8	2.8	59.5	3.1
COLORADO	Total	4,525	4,200	2,993	66.2	2.9	71.3	2.9	2,837	62.7	3.0	67.6	3.0
	Male	2,254	2,076	1,452	64.4	4.2	70.0	4.2	1,355	60.1	4.3	65.3	4.3
	Female	2,271	2,124	1,541	67.9	4.1	72.6	4.0	1,482	65.3	4.1	69.8	4.1
	White alone	4,001	3,751	2,733	68.3	3.0	72.9	3.0	2,606	65.1	3.1	69.5	3.1
	White non-Hispanic alone	3,267	3,220	2,396	73.3	3.2	74.4	3.2	2,316	70.9	3.3	71.9	3.3
	Black alone	186	181	102	54.5	14.4	56.0	14.6	96	51.6	14.5	53.1	14.7
	Asian alone	152	115	57	37.7	16.0	49.9	19.0	50	32.7	15.5	43.2	18.8
	Hispanic (of any race)	854	618	374	43.8	7.4	60.5	8.5	315	37.0	7.2	51.1	8.7
	White alone or in combination	4,123	3,858	2,801	67.9	3.0	72.6	3.0	2,658	64.5	3.1	68.9	3.1
	Black alone or in combination	203	198	118	58.3	13.7	59.7	13.8	113	55.6	13.8	57.0	13.9
	Asian alone or in combination	171	135	72	42.2	15.4	53.8	17.5	65	37.7	15.1	48.1	17.6
CONNECTICUT	Total	2,777	2,524	1,850	66.6	3.2	73.3	3.2	1,681	60.5	3.3	66.6	3.4
	Male	1,333	1,204	843	63.2	4.7	70.0	4.7	767	57.5	4.9	63.7	5.0
	Female	1,444	1,320	1,008	69.8	4.3	76.3	4.2	915	63.4	4.6	69.3	4.6
	White alone	2,197	2,043	1,543	70.2	3.5	75.5	3.4	1,392	63.4	3.7	68.1	3.7
	White non-Hispanic alone	1,841	1,788	1,381	75.0	3.6	77.3	3.6	1,270	69.0	3.9	71.0	3.9
	Black alone	323	282	192	59.5	9.4	68.3	9.5	184	56.8	9.4	65.2	9.7
	Asian alone	216	158	96	44.4	12.0	60.5	13.7	90	41.6	11.9	56.6	13.9
	Hispanic (of any race)	461	347	235	51.0	8.7	67.8	9.4	196	42.4	8.6	56.4	10.0
	White alone or in combination	2,211	2,058	1,548	70.0	3.5	75.2	3.4	1,395	63.1	3.7	67.8	3.7
	Black alone or in combination	326	285	195	59.9	9.3	68.6	9.4	184	56.3	9.4	64.5	9.7
	Asian alone or in combination	216	158	96	44.4	12.0	60.5	13.7	90	41.6	11.9	56.6	13.9
DELAWARE	Total	766	722	542	70.8	3.0	75.1	3.0	489	63.8	3.2	67.7	3.2
	Male	361	339	247	68.3	4.5	72.8	4.4	223	61.6	4.7	65.7	4.7
	Female	404	383	296	73.1	4.0	77.2	3.9	266	65.8	4.3	69.5	4.3
	White alone	540	519	392	72.6	3.5	75.5	3.5	348	64.4	3.8	67.0	3.8
	White non-Hispanic alone	495	490	378	76.3	3.5	77.1	3.5	335	67.8	3.9	68.4	3.9
	Black alone	172	164	114	66.6	6.3	69.8	6.3	106	61.7	6.5	64.7	6.6

1 This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Asian alone	31	21	18	B	B	B	B	18	B	B	B	B
	Hispanic (of any race)	57	37	22	B	B	B	B	20	B	B	B	B
	White alone or in combination	554	531	404	73.0	3.5	76.1	3.4	359	64.8	3.7	67.6	3.7
	Black alone or in combination	181	171	121	67.2	6.1	70.9	6.1	112	62.0	6.3	65.3	6.4
	Asian alone or in combination	36	26	23	B	B	B	B	23	B	B	B	B
DISTRICT OF COLUMBIA	Total	576	534	464	80.5	2.7	86.9	2.4	448	77.8	2.8	84.0	2.6
	Male	264	245	209	79.0	4.1	85.1	3.7	200	75.7	4.3	81.5	4.0
	Female	312	288	255	81.7	3.6	88.4	3.1	248	79.5	3.7	86.0	3.3
	White alone	278	253	229	82.5	3.7	90.5	3.0	223	80.3	3.9	88.1	3.3
	White non-Hispanic alone	243	232	213	87.5	3.4	91.5	3.0	206	84.9	3.7	88.8	3.4
	Black alone	251	243	202	80.4	3.9	83.2	3.7	193	76.7	4.1	79.3	4.0
	Asian alone	36	27	25	B	B	B	B	25	B	B	B	B
	Hispanic (of any race)	50	32	26	B	B	B	B	26	B	B	B	B
	White alone or in combination	285	259	234	82.3	3.7	90.4	3.0	228	80.2	3.8	88.0	3.3
	Black alone or in combination	256	248	207	80.6	3.8	83.3	3.7	197	76.9	4.1	79.5	4.0
	Asian alone or in combination	40	30	27	B	B	B	B	27	B	B	B	B
FLORIDA	Total	17,244	15,645	10,495	60.9	1.5	67.1	1.5	9,720	56.4	1.5	62.1	1.6
	Male	8,263	7,523	4,965	60.1	2.2	66.0	2.2	4,563	55.2	2.2	60.7	2.3
	Female	8,982	8,121	5,530	61.6	2.1	68.1	2.1	5,157	57.4	2.1	63.5	2.2
	White alone	13,675	12,515	8,468	61.9	1.7	67.7	1.7	7,887	57.7	1.7	63.0	1.7
	White non-Hispanic alone	9,553	9,374	6,676	69.9	1.9	71.2	1.9	6,260	65.5	2.0	66.8	2.0
	Black alone	2,652	2,344	1,533	57.8	3.7	65.4	3.8	1,375	51.8	3.8	58.7	3.9
	Asian alone	585	462	260	44.5	8.2	56.4	9.2	257	43.9	8.2	55.6	9.2
	Hispanic (of any race)	4,439	3,394	1,992	44.9	3.2	58.7	3.6	1,789	40.3	3.1	52.7	3.6
	White alone or in combination	13,843	12,675	8,569	61.9	1.7	67.6	1.7	7,982	57.7	1.7	63.0	1.7
	Black alone or in combination	2,819	2,504	1,624	57.6	3.6	64.9	3.7	1,460	51.8	3.6	58.3	3.8
	Asian alone or in combination	591	467	266	45.0	8.2	56.9	9.1	263	44.4	8.2	56.2	9.2
GEORGIA	Total	8,032	7,400	5,233	65.2	2.2	70.7	2.2	4,888	60.9	2.2	66.1	2.3
	Male	3,765	3,461	2,354	62.5	3.3	68.0	3.3	2,180	57.9	3.3	63.0	3.4
	Female	4,267	3,938	2,880	67.5	3.0	73.1	2.9	2,707	63.5	3.0	68.7	3.0
	White alone	4,785	4,521	3,297	68.9	2.8	72.9	2.7	3,079	64.3	2.9	68.1	2.9
	White non-Hispanic alone	4,239	4,194	3,152	74.3	2.8	75.1	2.8	2,947	69.5	2.9	70.3	2.9
	Black alone	2,569	2,513	1,721	67.0	3.7	68.5	3.6	1,608	62.6	3.8	64.0	3.8
	Asian alone	389	217	124	31.8	9.6	56.9	13.6	116	29.8	9.4	53.3	13.7
	Hispanic (of any race)	739	403	192	25.9	6.9	47.6	10.7	178	24.1	6.8	44.2	10.7
	White alone or in combination	4,857	4,593	3,351	69.0	2.7	73.0	2.7	3,127	64.4	2.8	68.1	2.8
	Black alone or in combination	2,702	2,597	1,776	65.7	3.6	68.4	3.6	1,657	61.3	3.7	63.8	3.7
	Asian alone or in combination	398	226	133	33.3	9.6	58.7	13.3	125	31.4	9.4	55.2	13.4
HAWAII	Total	1,056	980	673	63.8	3.3	68.7	3.3	630	59.7	3.3	64.3	3.4
	Male	509	481	333	65.4	4.6	69.3	4.6	313	61.5	4.7	65.2	4.8
	Female	546	499	340	62.3	4.6	68.2	4.6	317	57.9	4.6	63.5	4.7
	White alone	261	246	184	70.5	6.2	74.8	6.1	175	67.0	6.4	71.1	6.4
	White non-Hispanic alone	228	218	165	72.4	6.5	75.6	6.4	159	69.5	6.7	72.7	6.6
	Black alone	18	18	15	B	B	B	B	11	B	B	B	B
	Asian alone	489	436	291	59.5	4.8	66.7	4.9	268	54.8	4.9	61.4	5.0
	Hispanic (of any race)	71	66	35	B	B	B	B	30	B	B	B	B
	White alone or in combination	374	359	260	69.6	5.2	72.5	5.2	248	66.4	5.4	69.2	5.4
	Black alone or in combination	25	25	15	B	B	B	B	11	B	B	B	B
	Asian alone or in combination	613	561	377	61.4	4.3	67.2	4.3	351	57.3	4.3	62.7	4.4

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
IDAHO	Total	1,370	1,299	900	65.7	3.1	69.3	3.1	843	61.6	3.2	64.9	3.2
	Male	679	643	434	63.9	4.5	67.5	4.5	410	60.4	4.5	63.8	4.6
	Female	691	656	466	67.5	4.3	71.1	4.3	433	62.7	4.5	66.0	4.5
	White alone	1,279	1,227	857	67.0	3.2	69.8	3.2	806	63.0	3.3	65.6	3.3
	White non-Hispanic alone	1,130	1,119	800	70.8	3.3	71.5	3.3	755	66.8	3.4	67.5	3.4
	Black alone	10	7	5	B	B	B	B	4	B	B	B	B
	Asian alone	22	12	7	B	B	B	B	5	B	B	B	B
	Hispanic (of any race)	166	119	63	38.1	9.5	53.2	11.6	55	33.1	9.3	46.3	11.6
	White alone or in combination	1,303	1,252	873	67.0	3.2	69.8	3.1	822	63.0	3.2	65.6	3.2
	Black alone or in combination	16	13	8	B	B	B	B	7	B	B	B	B
	Asian alone or in combination	22	12	7	B	B	B	B	5	B	B	B	B
	Hispanic (of any race)	166	119	63	38.1	9.5	53.2	11.6	55	33.1	9.3	46.3	11.6
	White alone or in combination	1,303	1,252	873	67.0	3.2	69.8	3.1	822	63.0	3.2	65.6	3.2
ILLINOIS	Total	9,658	8,860	6,590	68.2	2.0	74.4	1.9	6,058	62.7	2.0	68.4	2.0
	Male	4,671	4,281	3,098	66.3	2.8	72.4	2.8	2,876	61.6	2.9	67.2	3.0
	Female	4,987	4,579	3,492	70.0	2.7	76.3	2.6	3,182	63.8	2.8	69.5	2.8
	White alone	7,551	7,015	5,303	70.2	2.2	75.6	2.1	4,849	64.2	2.3	69.1	2.3
	White non-Hispanic alone	6,218	6,075	4,826	77.6	2.2	79.4	2.1	4,429	71.2	2.4	72.9	2.4
	Black alone	1,335	1,270	861	64.5	5.2	67.8	5.2	811	60.7	5.3	63.8	5.3
	Asian alone	643	452	331	51.5	8.0	73.3	8.4	313	48.7	8.0	69.3	8.8
	Hispanic (of any race)	1,421	1,016	532	37.4	5.5	52.4	6.8	475	33.4	5.4	46.8	6.8
	White alone or in combination	7,600	7,064	5,331	70.1	2.2	75.5	2.1	4,873	64.1	2.3	69.0	2.3
	Black alone or in combination	1,382	1,317	895	64.8	5.1	67.9	5.1	839	60.7	5.2	63.7	5.2
	Asian alone or in combination	652	461	340	52.2	7.9	73.8	8.3	322	49.4	7.9	69.9	8.7
	Hispanic (of any race)	1,421	1,016	532	37.4	5.5	52.4	6.8	475	33.4	5.4	46.8	6.8
	White alone or in combination	7,600	7,064	5,331	70.1	2.2	75.5	2.1	4,873	64.1	2.3	69.0	2.3
INDIANA	Total	5,096	4,921	3,412	67.0	2.7	69.3	2.7	3,002	58.9	2.8	61.0	2.8
	Male	2,463	2,375	1,632	66.2	3.9	68.7	3.9	1,408	57.2	4.1	59.3	4.1
	Female	2,633	2,546	1,781	67.6	3.7	69.9	3.7	1,594	60.5	3.9	62.6	3.9
	White alone	4,318	4,219	2,967	68.7	2.9	70.3	2.9	2,601	60.2	3.0	61.7	3.1
	White non-Hispanic alone	4,122	4,107	2,904	70.5	2.9	70.7	2.9	2,546	61.8	3.1	62.0	3.1
	Black alone	473	467	306	64.7	8.6	65.5	8.6	281	59.5	8.8	60.2	8.8
	Asian alone	178	114	76	42.5	14.9	66.1	17.8	68	38.5	14.7	59.9	18.4
	Hispanic (of any race)	225	135	72	32.1	13.3	53.5	18.3	60	26.4	12.6	44.0	18.2
	White alone or in combination	4,420	4,315	3,010	68.1	2.9	69.8	2.9	2,632	59.5	3.0	61.0	3.0
	Black alone or in combination	532	520	333	62.7	8.2	64.2	8.2	299	56.3	8.4	57.6	8.5
	Asian alone or in combination	189	125	76	40.0	14.4	60.3	17.6	68	36.3	14.1	54.7	17.9
	Hispanic (of any race)	225	135	72	32.1	13.3	53.5	18.3	60	26.4	12.6	44.0	18.2
	White alone or in combination	4,420	4,315	3,010	68.1	2.9	69.8	2.9	2,632	59.5	3.0	61.0	3.0
IOWA	Total	2,361	2,293	1,742	73.8	3.1	76.0	3.0	1,618	68.5	3.2	70.5	3.2
	Male	1,167	1,133	853	73.2	4.4	75.3	4.3	785	67.3	4.6	69.2	4.6
	Female	1,194	1,160	888	74.4	4.3	76.6	4.2	833	69.7	4.5	71.8	4.5
	White alone	2,160	2,125	1,630	75.4	3.1	76.7	3.1	1,521	70.4	3.3	71.5	3.3
	White non-Hispanic alone	2,068	2,050	1,603	77.5	3.1	78.2	3.1	1,496	72.3	3.3	73.0	3.3
	Black alone	95	87	55	58.6	16.4	63.5	16.6	40	42.6	16.4	46.2	17.2
	Asian alone	77	52	36	B	B	B	B	36	B	B	B	B
	Hispanic (of any race)	108	90	42	39.1	16.6	46.8	18.6	40	37.0	16.5	44.2	18.5
	White alone or in combination	2,176	2,141	1,645	75.6	3.1	76.9	3.1	1,536	70.6	3.3	71.8	3.3
	Black alone or in combination	110	103	71	64.4	14.7	69.0	14.7	56	50.7	15.4	54.2	15.9
	Asian alone or in combination	80	55	39	B	B	B	B	39	B	B	B	B
	Hispanic (of any race)	108	90	42	39.1	16.6	46.8	18.6	40	37.0	16.5	44.2	18.5
	White alone or in combination	2,176	2,141	1,645	75.6	3.1	76.9	3.1	1,536	70.6	3.3	71.8	3.3
KANSAS	Total	2,157	1,975	1,398	64.8	3.5	70.8	3.5	1,297	60.1	3.6	65.7	3.7
	Male	1,057	969	667	63.1	5.1	68.9	5.1	621	58.7	5.2	64.0	5.3
	Female	1,101	1,006	731	66.4	4.9	72.7	4.8	676	61.4	5.1	67.2	5.1
	White alone	1,867	1,749	1,263	67.7	3.7	72.2	3.7	1,181	63.3	3.8	67.5	3.9
	White non-Hispanic alone	1,566	1,556	1,171	74.8	3.8	75.3	3.8	1,099	70.2	4.0	70.7	4.0

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Black alone	106	97	69	65.4	15.2	71.4	15.1	59	55.8	15.9	61.0	16.3
	Asian alone	86	54	13	B	B	B	B	11	B	B	B	B
	Hispanic (of any race)	317	210	108	34.1	9.6	51.5	12.4	96	30.1	9.3	45.5	12.4
	White alone or in combination	1,916	1,798	1,298	67.7	3.7	72.2	3.6	1,216	63.5	3.8	67.6	3.8
	Black alone or in combination	121	112	82	67.9	14.0	73.3	13.7	72	59.6	14.7	64.3	14.9
	Asian alone or in combination	87	55	14	B	B	B	B	12	B	B	B	B
KENTUCKY	Total	3,384	3,227	2,450	72.4	3.2	75.9	3.1	2,210	65.3	3.4	68.5	3.4
	Male	1,616	1,524	1,159	71.7	4.6	76.0	4.5	1,057	65.4	4.9	69.4	4.9
	Female	1,768	1,703	1,291	73.0	4.4	75.8	4.3	1,153	65.2	4.7	67.7	4.7
	White alone	2,994	2,888	2,194	73.3	3.3	76.0	3.3	1,997	66.7	3.6	69.1	3.5
	White non-Hispanic alone	2,845	2,831	2,165	76.1	3.3	76.5	3.3	1,971	69.3	3.6	69.6	3.6
	Black alone	259	224	167	64.5	11.7	74.6	11.5	140	54.0	12.2	62.5	12.7
	Asian alone	46	31	24	B	B	B	B	24	B	B	B	B
	Hispanic (of any race)	163	60	30	B	B	B	B	26	B	B	B	B
	White alone or in combination	3,063	2,957	2,243	73.2	3.3	75.8	3.2	2,035	66.4	3.5	68.8	3.5
	Black alone or in combination	306	271	198	64.7	10.8	73.0	10.6	161	52.5	11.2	59.3	11.8
	Asian alone or in combination	49	35	24	B	B	B	B	24	B	B	B	B
LOUISIANA	Total	3,438	3,299	2,286	66.5	3.2	69.3	3.2	2,041	59.4	3.3	61.9	3.3
	Male	1,618	1,557	1,073	66.3	4.6	68.9	4.6	959	59.3	4.8	61.6	4.9
	Female	1,820	1,742	1,214	66.7	4.4	69.7	4.3	1,082	59.5	4.5	62.1	4.6
	White alone	2,212	2,120	1,486	67.2	3.9	70.1	3.9	1,362	61.6	4.1	64.2	4.1
	White non-Hispanic alone	2,048	2,022	1,426	69.6	4.0	70.5	4.0	1,309	63.9	4.2	64.7	4.2
	Black alone	1,068	1,048	720	67.5	5.4	68.7	5.4	607	56.9	5.7	57.9	5.7
	Asian alone	84	57	23	B	B	B	B	23	B	B	B	B
	Hispanic (of any race)	210	131	84	40.0	13.9	64.3	17.3	72	34.3	13.5	55.1	17.9
	White alone or in combination	2,261	2,169	1,524	67.4	3.9	70.3	3.9	1,396	61.8	4.0	64.4	4.1
	Black alone or in combination	1,092	1,072	737	67.5	5.3	68.8	5.3	624	57.2	5.6	58.2	5.7
	Asian alone or in combination	90	63	29	B	B	B	B	26	B	B	B	B
MAINE	Total	1,087	1,075	832	76.5	3.2	77.4	3.2	766	70.5	3.4	71.3	3.4
	Male	523	515	383	73.2	4.8	74.3	4.8	351	67.2	5.1	68.2	5.1
	Female	564	560	449	79.5	4.2	80.2	4.2	415	73.5	4.6	74.1	4.6
	White alone	1,036	1,031	803	77.5	3.2	77.9	3.2	739	71.3	3.5	71.7	3.5
	White non-Hispanic alone	1,027	1,022	798	77.7	3.2	78.1	3.2	734	71.5	3.5	71.8	3.5
	Black alone	13	8	4	B	B	B	B	4	B	B	B	B
	Asian alone	10	7	6	B	B	B	B	6	B	B	B	B
	Hispanic (of any race)	11	11	7	B	B	B	B	7	B	B	B	B
	White alone or in combination	1,058	1,053	818	77.3	3.2	77.7	3.2	752	71.1	3.5	71.4	3.5
	Black alone or in combination	15	10	6	B	B	B	B	6	B	B	B	B
	Asian alone or in combination	18	15	12	B	B	B	B	12	B	B	B	B
MARYLAND	Total	4,606	4,303	3,383	73.4	2.7	78.6	2.6	3,166	68.7	2.9	73.6	2.8
	Male	2,199	2,052	1,517	69.0	4.1	73.9	4.0	1,430	65.0	4.2	69.7	4.2
	Female	2,407	2,251	1,865	77.5	3.6	82.9	3.3	1,737	72.2	3.8	77.2	3.7
	White alone	2,757	2,650	2,069	75.0	3.4	78.1	3.4	1,917	69.5	3.7	72.3	3.6
	White non-Hispanic alone	2,487	2,469	1,934	77.8	3.5	78.3	3.5	1,786	71.8	3.8	72.3	3.8
	Black alone	1,421	1,289	1,022	71.9	4.8	79.3	4.5	971	68.3	4.9	75.3	4.8
	Asian alone	302	239	166	55.0	11.8	69.7	12.2	153	50.6	11.8	64.1	12.8
	Hispanic (of any race)	323	195	150	46.2	12.1	76.7	13.2	145	44.9	12.1	74.4	13.6
	White alone or in combination	2,840	2,732	2,151	75.7	3.4	78.7	3.3	1,999	70.4	3.6	73.2	3.5
	Black alone or in combination	1,482	1,350	1,083	73.1	4.6	80.2	4.3	1,032	69.6	4.8	76.4	4.6

1 This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
MASSACHUSETTS	Asian alone or in combination	337	273	201	59.7	11.0	73.5	11.0	187	55.6	11.1	68.6	11.5
	Total	5,514	4,897	3,546	64.3	2.6	72.4	2.6	3,249	58.9	2.7	66.3	2.7
	Male	2,642	2,311	1,656	62.7	3.8	71.6	3.8	1,505	57.0	3.9	65.1	4.0
	Female	2,872	2,586	1,891	65.8	3.6	73.1	3.5	1,744	60.7	3.7	67.4	3.7
	White alone	4,429	4,140	3,174	71.7	2.8	76.7	2.7	2,936	66.3	2.9	70.9	2.9
	White non-Hispanic alone	3,953	3,799	2,949	74.6	2.8	77.6	2.8	2,749	69.6	3.0	72.4	3.0
	Black alone	489	390	165	33.6	8.3	42.2	9.7	142	29.0	8.0	36.4	9.5
	Asian alone	415	244	139	33.5	9.3	57.1	12.7	109	26.3	8.7	44.9	12.8
	Hispanic (of any race)	636	449	271	42.6	8.3	60.4	9.8	227	35.8	8.1	50.7	10.0
	White alone or in combination	4,597	4,251	3,233	70.3	2.7	76.1	2.7	2,988	65.0	2.9	70.3	2.9
MICHIGAN	Black alone or in combination	640	484	211	32.9	7.2	43.5	8.8	181	28.3	6.9	37.4	8.5
	Asian alone or in combination	433	262	157	36.3	9.3	60.1	12.1	128	29.4	8.8	48.7	12.4
	Total	7,790	7,467	5,513	70.8	2.1	73.8	2.1	4,994	64.1	2.2	66.9	2.2
	Male	3,795	3,616	2,648	69.8	3.1	73.2	3.0	2,378	62.7	3.2	65.8	3.2
	Female	3,995	3,851	2,865	71.7	2.9	74.4	2.9	2,616	65.5	3.1	67.9	3.1
	White alone	6,269	6,118	4,568	72.9	2.3	74.7	2.3	4,144	66.1	2.5	67.7	2.5
	White non-Hispanic alone	5,922	5,865	4,408	74.4	2.3	75.2	2.3	3,997	67.5	2.5	68.2	2.5
	Black alone	1,021	984	713	69.8	5.6	72.4	5.6	628	61.5	6.0	63.8	6.0
	Asian alone	281	145	72	25.7	10.5	49.6	16.8	65	23.3	10.2	45.1	16.7
	Hispanic (of any race)	406	302	178	43.9	10.6	58.9	12.2	165	40.7	10.5	54.7	12.3
MINNESOTA	White alone or in combination	6,374	6,223	4,649	72.9	2.3	74.7	2.3	4,225	66.3	2.4	67.9	2.4
	Black alone or in combination	1,091	1,054	773	70.9	5.4	73.3	5.3	684	62.7	5.7	64.9	5.8
	Asian alone or in combination	309	173	90	29.3	10.5	52.1	15.3	84	27.1	10.2	48.3	15.3
	Total	4,339	4,142	3,436	79.2	2.5	82.9	2.4	3,225	74.3	2.7	77.9	2.7
	Male	2,149	2,051	1,690	78.6	3.6	82.4	3.5	1,575	73.3	3.9	76.8	3.8
	Female	2,190	2,091	1,746	79.7	3.5	83.5	3.3	1,649	75.3	3.8	78.9	3.7
	White alone	3,744	3,678	3,086	82.4	2.6	83.9	2.5	2,918	77.9	2.8	79.3	2.8
	White non-Hispanic alone	3,573	3,555	2,990	83.7	2.5	84.1	2.5	2,840	79.5	2.8	79.9	2.8
	Black alone	260	197	139	53.5	12.2	70.5	12.8	130	50.2	12.2	66.1	13.3
	Asian alone	179	115	91	51.2	15.2	79.4	15.3	74	41.3	15.0	64.0	18.2
MISSISSIPPI	Hispanic (of any race)	209	156	116	55.8	14.8	74.7	15.0	98	46.8	14.9	62.7	16.7
	White alone or in combination	3,816	3,750	3,146	82.5	2.5	83.9	2.5	2,979	78.1	2.8	79.4	2.7
	Black alone or in combination	299	236	170	56.9	11.3	72.0	11.5	161	54.0	11.4	68.3	11.9
	Asian alone or in combination	191	127	104	54.3	14.6	81.4	14.0	86	45.1	14.6	67.5	16.8
	Total	2,212	2,177	1,749	79.1	2.8	80.4	2.7	1,531	69.2	3.2	70.3	3.2
	Male	1,029	1,015	792	76.9	4.2	78.0	4.2	680	66.1	4.8	67.0	4.8
	Female	1,182	1,162	957	81.0	3.7	82.4	3.6	850	71.9	4.2	73.2	4.2
	White alone	1,350	1,337	1,054	78.1	3.6	78.8	3.6	921	68.3	4.1	68.9	4.1
	White non-Hispanic alone	1,300	1,295	1,026	78.9	3.6	79.2	3.6	904	69.5	4.1	69.8	4.1
	Black alone	792	787	654	82.5	4.2	83.1	4.1	573	72.3	4.9	72.8	4.9
MISSOURI	Asian alone	37	20	9	B	B	B	B	8	B	B	B	B
	Hispanic (of any race)	67	53	34	B	B	B	B	23	B	B	B	B
	White alone or in combination	1,375	1,363	1,079	78.5	3.6	79.2	3.5	942	68.5	4.0	69.1	4.0
	Black alone or in combination	805	799	666	82.8	4.1	83.4	4.1	582	72.4	4.9	72.9	4.8
	Asian alone or in combination	41	24	13	B	B	B	B	11	B	B	B	B
	Total	4,637	4,475	3,388	73.1	2.7	75.7	2.7	2,990	64.5	2.9	66.8	2.9
	Male	2,205	2,136	1,556	70.5	4.0	72.9	4.0	1,361	61.7	4.3	63.7	4.3
	Female	2,432	2,340	1,832	75.3	3.6	78.3	3.5	1,629	67.0	4.0	69.6	4.0
	White alone	3,871	3,812	2,935	75.8	2.9	77.0	2.8	2,576	66.5	3.2	67.6	3.2

1 This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	White non-Hispanic alone	3,687	3,664	2,816	76.4	2.9	76.8	2.9	2,488	67.5	3.2	67.9	3.2
	Black alone	518	507	373	72.1	7.8	73.6	7.8	351	67.8	8.2	69.2	8.1
	Asian alone	138	64	38	B	B	B	B	38	B	B	B	B
	Hispanic (of any race)	232	178	127	54.8	14.2	71.3	14.7	95	40.9	14.0	53.3	16.3
	White alone or in combination	3,941	3,873	2,963	75.2	2.9	76.5	2.8	2,588	65.7	3.1	66.8	3.1
	Black alone or in combination	552	533	381	69.0	7.8	71.4	7.8	351	63.6	8.1	65.8	8.2
	Asian alone or in combination	146	72	46	B	B	B	B	46	B	B	B	B
MONTANA	Total	836	827	641	76.6	2.6	77.5	2.6	607	72.6	2.8	73.5	2.8
	Male	415	411	322	77.8	3.7	78.4	3.6	299	72.0	4.0	72.5	3.9
	Female	422	415	318	75.5	3.8	76.7	3.7	309	73.2	3.9	74.4	3.8
	White alone	772	765	597	77.3	2.7	78.0	2.7	572	74.0	2.8	74.7	2.8
	White non-Hispanic alone	757	751	584	77.2	2.7	77.8	2.7	560	74.0	2.9	74.6	2.9
	Black alone	4	4	2	B	B	B	B	2	B	B	B	B
	Asian alone	10	7	4	B	B	B	B	4	B	B	B	B
	Hispanic (of any race)	20	19	15	B	B	B	B	14	B	B	B	B
	White alone or in combination	791	784	609	77.0	2.7	77.7	2.7	582	73.6	2.8	74.3	2.8
	Black alone or in combination	6	6	4	B	B	B	B	3	B	B	B	B
	Asian alone or in combination	13	10	5	B	B	B	B	5	B	B	B	B
NEBRASKA	Total	1,435	1,369	971	67.7	3.4	70.9	3.4	892	62.2	3.5	65.2	3.5
	Male	708	674	464	65.6	4.9	68.9	4.9	421	59.6	5.0	62.5	5.1
	Female	728	695	507	69.7	4.7	73.0	4.6	471	64.7	4.8	67.8	4.8
	White alone	1,301	1,255	903	69.4	3.5	71.9	3.5	826	63.5	3.6	65.8	3.7
	White non-Hispanic alone	1,205	1,202	877	72.7	3.5	72.9	3.5	801	66.5	3.7	66.6	3.7
	Black alone	80	71	45	B	B	B	B	44	B	B	B	B
	Asian alone	26	17	9	B	B	B	B	9	B	B	B	B
	Hispanic (of any race)	98	55	28	B	B	B	B	27	B	B	B	B
	White alone or in combination	1,307	1,261	907	69.4	3.5	71.9	3.5	830	63.5	3.6	65.8	3.7
	Black alone or in combination	82	73	47	B	B	B	B	46	B	B	B	B
	Asian alone or in combination	26	17	9	B	B	B	B	9	B	B	B	B
NEVADA	Total	2,402	2,198	1,455	60.6	3.2	66.2	3.3	1,351	56.3	3.3	61.5	3.4
	Male	1,192	1,088	698	58.6	4.6	64.1	4.7	649	54.5	4.7	59.7	4.8
	Female	1,210	1,110	757	62.6	4.5	68.2	4.5	702	58.0	4.6	63.2	4.7
	White alone	1,691	1,561	1,072	63.4	3.8	68.6	3.8	1,013	59.9	3.9	64.9	3.9
	White non-Hispanic alone	1,211	1,187	868	71.7	4.2	73.1	4.2	827	68.3	4.3	69.7	4.3
	Black alone	233	232	155	66.5	9.6	66.8	9.6	136	58.2	10.0	58.5	10.0
	Asian alone	230	195	136	59.0	10.4	69.7	10.5	134	58.4	10.4	68.9	10.6
	Hispanic (of any race)	654	515	268	41.0	6.5	52.0	7.5	239	36.6	6.4	46.4	7.5
	White alone or in combination	1,815	1,652	1,113	61.4	3.7	67.4	3.7	1,050	57.9	3.8	63.6	3.8
	Black alone or in combination	259	258	167	64.6	9.2	64.9	9.2	146	56.3	9.6	56.6	9.6
	Asian alone or in combination	252	217	146	57.8	10.0	67.2	10.2	144	57.2	10.0	66.5	10.3
NEW HAMPSHIRE	Total	1,101	1,077	843	76.6	2.9	78.3	2.8	797	72.4	3.0	74.0	3.0
	Male	542	531	401	74.1	4.3	75.5	4.2	375	69.2	4.5	70.5	4.5
	Female	559	546	442	78.9	3.9	80.9	3.8	423	75.5	4.1	77.4	4.1
	White alone	1,030	1,015	813	78.9	2.9	80.0	2.8	771	74.8	3.1	75.9	3.0
	White non-Hispanic alone	1,000	993	799	79.8	2.9	80.5	2.8	758	75.8	3.1	76.4	3.1
	Black alone	20	20	4	B	B	B	B	4	B	B	B	B
	Asian alone	27	17	9	B	B	B	B	8	B	B	B	B
	Hispanic (of any race)	38	31	19	B	B	B	B	14	B	B	B	B
	White alone or in combination	1,045	1,030	823	78.8	2.9	79.9	2.8	782	74.8	3.0	75.9	3.0

1 This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
NEW JERSEY	Black alone or in combination	32	32	14	B	B	B	B	14	B	B	B	B
	Asian alone or in combination	27	17	9	B	B	B	B	8	B	B	B	B
	Total	6,801	5,921	5,008	73.6	2.2	84.6	1.9	4,638	68.2	2.3	78.3	2.2
	Male	3,281	2,814	2,366	72.1	3.2	84.1	2.8	2,193	66.8	3.4	77.9	3.2
	Female	3,520	3,107	2,642	75.0	3.0	85.0	2.6	2,445	69.5	3.2	78.7	3.0
	White alone	4,900	4,462	3,826	78.1	2.4	85.7	2.1	3,543	72.3	2.6	79.4	2.5
	White non-Hispanic alone	3,755	3,636	3,134	83.5	2.5	86.2	2.3	2,950	78.6	2.7	81.1	2.7
	Black alone	994	850	658	66.2	5.9	77.5	5.6	606	60.9	6.1	71.3	6.1
	Asian alone	810	524	443	54.7	7.1	84.5	6.4	408	50.4	7.1	77.9	7.3
	Hispanic (of any race)	1,347	996	817	60.7	5.7	82.0	5.2	719	53.4	5.8	72.1	6.1
	White alone or in combination	4,971	4,520	3,884	78.1	2.4	85.9	2.1	3,602	72.5	2.6	79.7	2.5
	Black alone or in combination	1,064	907	716	67.2	5.6	78.9	5.3	663	62.3	5.8	73.1	5.8
	Asian alone or in combination	816	530	449	55.1	7.0	84.7	6.3	414	50.8	7.1	78.1	7.3
	Total	1,610	1,498	1,028	63.9	3.0	68.6	3.0	938	58.3	3.1	62.6	3.2
NEW MEXICO	Male	784	732	495	63.1	4.4	67.6	4.4	450	57.4	4.5	61.4	4.6
	Female	826	766	533	64.5	4.2	69.5	4.2	488	59.2	4.3	63.7	4.4
	White alone	1,340	1,249	881	65.7	3.3	70.5	3.3	812	60.6	3.4	65.0	3.4
	White non-Hispanic alone	745	741	578	77.5	3.9	78.0	3.9	542	72.7	4.1	73.1	4.1
	Black alone	34	32	24	B	B	B	B	21	B	B	B	B
	Asian alone	28	15	12	B	B	B	B	12	B	B	B	B
	Hispanic (of any race)	636	539	323	50.7	5.3	59.9	5.6	290	45.6	5.2	53.8	5.7
	White alone or in combination	1,384	1,288	911	65.8	3.2	70.7	3.2	840	60.7	3.3	65.2	3.4
	Black alone or in combination	46	44	34	B	B	B	B	29	B	B	B	B
	Asian alone or in combination	38	25	22	B	B	B	B	22	B	B	B	B
	Total	15,105	13,298	9,370	62.0	1.6	70.5	1.7	8,609	57.0	1.7	64.7	1.7
	Male	7,164	6,216	4,309	60.1	2.4	69.3	2.4	3,936	54.9	2.5	63.3	2.6
	Female	7,941	7,082	5,061	63.7	2.3	71.5	2.2	4,673	58.8	2.3	66.0	2.3
	White alone	10,551	9,556	6,933	65.7	1.9	72.5	1.9	6,443	61.1	2.0	67.4	2.0
NEW YORK	White non-Hispanic alone	8,764	8,365	6,188	70.6	2.0	74.0	2.0	5,775	65.9	2.1	69.0	2.1
	Black alone	2,554	2,329	1,598	62.6	3.8	68.6	3.8	1,459	57.1	3.9	62.7	4.0
	Asian alone	1,533	1,019	593	38.7	5.1	58.2	6.4	528	34.5	5.0	51.9	6.4
	Hispanic (of any race)	2,330	1,608	991	42.5	4.5	61.6	5.3	883	37.9	4.4	54.9	5.4
	White alone or in combination	10,786	9,748	7,086	65.7	1.9	72.7	1.9	6,543	60.7	2.0	67.1	2.0
	Black alone or in combination	2,722	2,464	1,694	62.2	3.7	68.7	3.7	1,523	55.9	3.8	61.8	3.9
	Asian alone or in combination	1,630	1,096	665	40.8	5.0	60.7	6.1	568	34.9	4.9	51.9	6.2
	Total	8,113	7,391	5,161	63.6	2.2	69.8	2.2	4,780	58.9	2.3	64.7	2.3
	Male	3,854	3,464	2,377	61.7	3.3	68.6	3.3	2,185	56.7	3.3	63.1	3.4
	Female	4,259	3,928	2,783	65.3	3.0	70.9	3.0	2,595	60.9	3.1	66.1	3.1
	White alone	5,775	5,194	3,638	63.0	2.6	70.0	2.6	3,379	58.5	2.7	65.0	2.8
	White non-Hispanic alone	4,859	4,765	3,418	70.4	2.7	71.7	2.7	3,173	65.3	2.8	66.6	2.8
	Black alone	1,752	1,707	1,166	66.6	4.5	68.3	4.5	1,083	61.8	4.6	63.4	4.6
	Asian alone	317	221	168	53.1	11.5	76.4	11.7	156	49.3	11.5	70.9	12.5
NORTH CAROLINA	Hispanic (of any race)	989	492	267	27.0	6.1	54.3	9.8	240	24.2	5.9	48.8	9.8
	White alone or in combination	5,894	5,313	3,725	63.2	2.6	70.1	2.6	3,449	58.5	2.7	64.9	2.7
	Black alone or in combination	1,802	1,757	1,209	67.1	4.4	68.8	4.4	1,118	62.0	4.5	63.6	4.6
	Asian alone or in combination	344	247	182	52.9	11.0	73.5	11.5	170	49.4	11.0	68.6	12.1
	Total	571	556	429	75.2	2.9	77.3	2.9	373	65.3	3.2	67.1	3.2
	Male	289	283	217	75.1	4.1	76.7	4.1	188	64.9	4.6	66.3	4.6
	Female	282	273	212	75.3	4.2	77.8	4.1	185	65.7	4.6	67.9	4.6
NORTH DAKOTA	Black alone or in combination	1,802	1,757	1,209	67.1	4.4	68.8	4.4	1,118	62.0	4.5	63.6	4.6
	Asian alone or in combination	344	247	182	52.9	11.0	73.5	11.5	170	49.4	11.0	68.6	12.1
	Total	571	556	429	75.2	2.9	77.3	2.9	373	65.3	3.2	67.1	3.2
	Male	289	283	217	75.1	4.1	76.7	4.1	188	64.9	4.6	66.3	4.6
	Female	282	273	212	75.3	4.2	77.8	4.1	185	65.7	4.6	67.9	4.6

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
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STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	White alone	503	495	393	78.2	3.0	79.3	3.0	352	70.0	3.3	71.0	3.3
	White non-Hispanic alone	489	487	388	79.3	3.0	79.7	3.0	348	71.1	3.3	71.5	3.3
	Black alone	13	8	2	B	B	B	B	2	B	B	B	B
	Asian alone	10	7	3	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	16	11	6	B	B	B	B	5	B	B	B	B
	White alone or in combination	512	505	400	78.2	3.0	79.3	2.9	356	69.5	3.3	70.5	3.3
	Black alone or in combination	15	10	4	B	B	B	B	2	B	B	B	B
	Asian alone or in combination	12	8	4	B	B	B	B	3	B	B	B	B
OHIO	Total	8,951	8,740	6,733	75.2	1.9	77.0	1.8	6,128	68.5	2.0	70.1	2.0
	Male	4,311	4,211	3,219	74.7	2.7	76.4	2.7	2,913	67.6	2.9	69.2	2.9
	Female	4,640	4,529	3,514	75.7	2.6	77.6	2.5	3,216	69.3	2.8	71.0	2.8
	White alone	7,416	7,300	5,724	77.2	2.0	78.4	2.0	5,223	70.4	2.2	71.5	2.2
	White non-Hispanic alone	7,095	7,064	5,535	78.0	2.0	78.4	2.0	5,077	71.6	2.2	71.9	2.2
	Black alone	1,069	1,042	758	70.9	5.4	72.8	5.4	678	63.4	5.8	65.1	5.8
	Asian alone	234	167	101	43.2	13.1	60.6	15.3	96	41.0	13.0	57.5	15.5
	Hispanic (of any race)	383	299	226	59.0	10.8	75.8	10.6	175	45.7	10.9	58.7	12.2
	White alone or in combination	7,592	7,476	5,844	77.0	2.0	78.2	2.0	5,324	70.1	2.2	71.2	2.1
	Black alone or in combination	1,181	1,153	831	70.4	5.2	72.1	5.2	738	62.5	5.5	64.0	5.5
	Asian alone or in combination	260	192	126	48.7	12.5	65.8	13.8	121	46.7	12.5	63.1	14.1
OKLAHOMA	Total	2,942	2,800	1,884	64.0	3.5	67.3	3.5	1,631	55.5	3.6	58.3	3.7
	Male	1,434	1,367	856	59.7	5.1	62.6	5.2	741	51.7	5.2	54.2	5.3
	Female	1,508	1,433	1,028	68.2	4.7	71.7	4.7	890	59.0	5.0	62.1	5.1
	White alone	2,289	2,175	1,537	67.1	3.9	70.6	3.9	1,347	58.9	4.1	62.0	4.1
	White non-Hispanic alone	1,977	1,962	1,442	73.0	4.0	73.5	3.9	1,276	64.6	4.3	65.0	4.3
	Black alone	231	218	123	53.3	12.4	56.4	12.7	108	46.8	12.4	49.5	12.8
	Asian alone	26	19	4	B	B	B	B	4	B	B	B	B
	Hispanic (of any race)	348	248	106	30.6	10.2	42.8	13.0	75	21.6	9.1	30.3	12.1
	White alone or in combination	2,402	2,288	1,588	66.1	3.8	69.4	3.8	1,382	57.6	4.0	60.4	4.0
	Black alone or in combination	255	242	130	50.9	11.8	53.6	12.1	113	44.3	11.8	46.6	12.1
	Asian alone or in combination	43	36	9	B	B	B	B	4	B	B	B	B
OREGON	Total	3,369	3,242	2,590	76.9	2.9	79.9	2.8	2,402	71.3	3.1	74.1	3.0
	Male	1,645	1,572	1,245	75.7	4.2	79.2	4.0	1,144	69.5	4.5	72.8	4.4
	Female	1,724	1,670	1,345	78.0	3.9	80.5	3.8	1,258	73.0	4.2	75.3	4.2
	White alone	2,955	2,876	2,345	79.4	2.9	81.5	2.9	2,191	74.2	3.2	76.2	3.1
	White non-Hispanic alone	2,712	2,696	2,229	82.2	2.9	82.7	2.9	2,094	77.2	3.2	77.7	3.2
	Black alone	82	76	47	57.6	20.6	62.2	20.9	39	47.5	20.8	51.2	21.6
	Asian alone	143	109	70	49.4	16.3	64.8	17.8	66	46.2	16.2	60.6	18.2
	Hispanic (of any race)	281	201	122	43.6	12.2	60.8	14.2	105	37.3	11.9	51.9	14.5
	White alone or in combination	3,064	2,985	2,441	79.7	2.9	81.8	2.8	2,265	73.9	3.1	75.9	3.1
	Black alone or in combination	93	87	58	62.5	18.9	66.8	19.0	50	53.5	19.5	57.2	20.0
	Asian alone or in combination	179	145	101	56.6	14.4	69.8	14.8	84	47.3	14.5	58.3	15.9
PENNSYLVANIA	Total	9,902	9,621	7,337	74.1	1.8	76.3	1.8	6,756	68.2	1.9	70.2	1.9
	Male	4,787	4,638	3,489	72.9	2.6	75.2	2.6	3,192	66.7	2.8	68.8	2.8
	Female	5,115	4,983	3,848	75.2	2.5	77.2	2.4	3,564	69.7	2.6	71.5	2.6
	White alone	8,485	8,324	6,390	75.3	1.9	76.8	1.9	5,875	69.2	2.1	70.6	2.1
	White non-Hispanic alone	7,910	7,862	6,115	77.3	1.9	77.8	1.9	5,634	71.2	2.1	71.7	2.1
	Black alone	1,042	981	751	72.0	5.5	76.5	5.3	694	66.6	5.8	70.8	5.7
	Asian alone	231	171	88	38.0	13.0	51.4	15.5	84	36.3	12.8	49.1	15.5
	Hispanic (of any race)	618	497	305	49.3	8.7	61.4	9.4	270	43.6	8.6	54.3	9.6

1 This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	White alone or in combination	8,613	8,453	6,486	75.3	1.9	76.7	1.9	5,965	69.3	2.0	70.6	2.0
	Black alone or in combination	1,139	1,078	824	72.3	5.2	76.4	5.1	761	66.9	5.5	70.6	5.5
	Asian alone or in combination	246	186	103	41.8	12.8	55.4	14.8	99	40.3	12.7	53.2	14.8
RHODE ISLAND	Total	840	776	575	68.5	3.2	74.1	3.2	515	61.3	3.4	66.3	3.4
	Male	402	377	273	68.0	4.7	72.5	4.7	246	61.3	4.9	65.3	5.0
	Female	438	399	302	69.1	4.5	75.7	4.3	269	61.4	4.7	67.2	4.8
	White alone	742	698	519	69.9	3.4	74.3	3.3	462	62.2	3.6	66.1	3.6
	White non-Hispanic alone	659	642	484	73.4	3.5	75.4	3.4	429	65.1	3.8	66.8	3.8
	Black alone	61	53	39	B	B	B	B	37	B	B	B	B
	Asian alone	25	15	10	B	B	B	B	10	B	B	B	B
	Hispanic (of any race)	88	60	38	B	B	B	B	36	B	B	B	B
	White alone or in combination	750	706	525	70.0	3.4	74.4	3.3	466	62.2	3.6	66.0	3.6
	Black alone or in combination	68	60	45	B	B	B	B	41	B	B	B	B
	Asian alone or in combination	25	15	10	B	B	B	B	10	B	B	B	B
SOUTH CAROLINA	Total	4,010	3,878	2,713	67.7	3.0	70.0	3.0	2,459	61.3	3.1	63.4	3.1
	Male	1,887	1,820	1,266	67.1	4.4	69.5	4.4	1,158	61.3	4.5	63.6	4.6
	Female	2,123	2,058	1,447	68.2	4.1	70.3	4.1	1,302	61.3	4.3	63.3	4.3
	White alone	2,840	2,739	2,013	70.9	3.5	73.5	3.4	1,845	64.9	3.6	67.4	3.6
	White non-Hispanic alone	2,605	2,590	1,945	74.7	3.5	75.1	3.4	1,789	68.7	3.7	69.0	3.7
	Black alone	1,032	1,012	613	59.4	5.9	60.5	5.9	546	52.9	6.0	53.9	6.1
	Asian alone	50	40	37	B	B	B	B	34	B	B	B	B
	Hispanic (of any race)	257	163	77	30.1	12.1	47.5	16.6	62	24.3	11.3	38.3	16.1
	White alone or in combination	2,888	2,786	2,049	71.0	3.4	73.6	3.4	1,871	64.8	3.6	67.1	3.6
	Black alone or in combination	1,047	1,026	618	59.1	5.9	60.2	5.9	551	52.7	6.0	53.7	6.0
	Asian alone or in combination	70	59	53	B	B	B	B	51	B	B	B	B
SOUTH DAKOTA	Total	659	649	437	66.3	3.4	67.4	3.4	380	57.7	3.5	58.5	3.5
	Male	330	326	217	65.6	4.8	66.5	4.8	189	57.2	5.0	57.9	5.0
	Female	329	323	221	67.0	4.8	68.2	4.8	191	58.1	5.0	59.2	5.0
	White alone	587	585	401	68.3	3.5	68.5	3.5	351	59.7	3.7	59.9	3.7
	White non-Hispanic alone	577	577	397	68.8	3.5	68.8	3.5	348	60.3	3.7	60.3	3.7
	Black alone	18	13	5	B	B	B	B	4	B	B	B	B
	Asian alone	12	9	4	B	B	B	B	4	B	B	B	B
	Hispanic (of any race)	13	10	6	B	B	B	B	5	B	B	B	B
	White alone or in combination	600	598	411	68.5	3.5	68.7	3.5	360	60.0	3.7	60.2	3.7
	Black alone or in combination	18	13	5	B	B	B	B	4	B	B	B	B
	Asian alone or in combination	18	15	8	B	B	B	B	8	B	B	B	B
TENNESSEE	Total	5,283	5,038	3,742	70.8	2.6	74.3	2.5	3,346	63.3	2.7	66.4	2.7
	Male	2,544	2,409	1,766	69.4	3.7	73.3	3.7	1,563	61.4	3.9	64.9	4.0
	Female	2,738	2,629	1,976	72.2	3.5	75.2	3.4	1,783	65.1	3.7	67.8	3.7
	White alone	4,212	4,014	2,992	71.0	2.9	74.5	2.8	2,677	63.6	3.0	66.7	3.0
	White non-Hispanic alone	3,918	3,890	2,924	74.6	2.8	75.2	2.8	2,619	66.8	3.1	67.3	3.1
	Black alone	866	853	658	76.0	5.7	77.1	5.6	592	68.3	6.2	69.4	6.2
	Asian alone	99	65	37	B	B	B	B	34	B	B	B	B
	Hispanic (of any race)	329	152	72	22.0	9.8	47.6	17.3	63	19.1	9.3	41.4	17.1
	White alone or in combination	4,298	4,101	3,032	70.5	2.8	73.9	2.8	2,708	63.0	3.0	66.0	3.0
	Black alone or in combination	895	882	671	75.0	5.7	76.1	5.6	602	67.2	6.1	68.2	6.1
	Asian alone or in combination	111	76	49	43.9	19.0	63.7	22.1	46	41.3	18.8	59.9	22.6
TEXAS	Total	21,485	18,581	13,343	62.1	1.4	71.8	1.4	11,874	55.3	1.4	63.9	1.5
	Male	10,513	9,082	6,338	60.3	2.0	69.8	2.0	5,580	53.1	2.0	61.4	2.1

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Female	10,972	9,500	7,005	63.8	1.9	73.7	1.9	6,295	57.4	2.0	66.3	2.0
	White alone	17,042	14,760	10,734	63.0	1.5	72.7	1.5	9,612	56.4	1.6	65.1	1.6
	White non-Hispanic alone	9,615	9,423	7,396	76.9	1.8	78.5	1.8	6,785	70.6	1.9	72.0	1.9
	Black alone	2,700	2,502	1,759	65.1	3.6	70.3	3.6	1,521	56.3	3.8	60.8	3.9
	Asian alone	1,239	821	521	42.1	5.7	63.5	6.8	482	38.9	5.6	58.7	7.0
	Hispanic (of any race)	7,730	5,599	3,538	45.8	2.5	63.2	2.8	2,972	38.4	2.4	53.1	2.9
	White alone or in combination	17,361	15,079	10,928	62.9	1.5	72.5	1.5	9,762	56.2	1.6	64.7	1.6
	Black alone or in combination	2,890	2,692	1,882	65.1	3.5	69.9	3.5	1,636	56.6	3.6	60.8	3.7
	Asian alone or in combination	1,355	937	601	44.4	5.5	64.2	6.4	546	40.3	5.4	58.3	6.6
UTAH	Total	2,320	2,178	1,468	63.3	2.7	67.4	2.7	1,386	59.7	2.8	63.6	2.8
	Male	1,146	1,068	699	61.0	3.9	65.5	4.0	647	56.5	4.0	60.6	4.1
	Female	1,174	1,110	769	65.5	3.8	69.3	3.8	739	62.9	3.9	66.6	3.9
	White alone	2,096	2,000	1,368	65.3	2.8	68.4	2.8	1,293	61.7	2.9	64.7	2.9
	White non-Hispanic alone	1,860	1,832	1,268	68.2	3.0	69.2	2.9	1,203	64.7	3.0	65.7	3.0
	Black alone	40	33	9	B	B	B	B	9	B	B	B	B
	Asian alone	51	18	10	B	B	B	B	10	B	B	B	B
	Hispanic (of any race)	253	180	100	39.4	8.8	55.4	10.6	89	35.3	8.6	49.6	10.6
	White alone or in combination	2,118	2,019	1,378	65.1	2.8	68.2	2.8	1,303	61.5	2.9	64.5	2.9
	Black alone or in combination	48	41	11	B	B	B	B	11	B	B	B	B
	Asian alone or in combination	55	20	13	B	B	B	B	13	B	B	B	B
VERMONT	Total	507	500	365	72.0	3.4	73.0	3.4	342	67.5	3.6	68.4	3.6
	Male	250	247	178	71.2	4.9	72.1	4.9	163	65.5	5.1	66.3	5.2
	Female	257	253	187	72.9	4.7	74.0	4.7	178	69.4	4.9	70.5	4.9
	White alone	477	474	354	74.3	3.4	74.8	3.4	332	69.7	3.6	70.2	3.6
	White non-Hispanic alone	474	470	351	74.1	3.4	74.6	3.4	329	69.4	3.6	69.9	3.6
	Black alone	8	5	1	B	B	B	B	1	B	B	B	B
	Asian alone	11	11	3	B	B	B	B	3	B	B	B	B
	Hispanic (of any race)	6	6	4	B	B	B	B	4	B	B	B	B
	White alone or in combination	485	482	360	74.1	3.4	74.7	3.4	337	69.4	3.6	69.9	3.6
	Black alone or in combination	10	7	1	B	B	B	B	1	B	B	B	B
	Asian alone or in combination	14	14	6	B	B	B	B	6	B	B	B	B
VIRGINIA	Total	6,481	5,974	4,541	70.1	2.4	76.0	2.3	4,275	66.0	2.5	71.5	2.4
	Male	3,084	2,842	2,092	67.8	3.5	73.6	3.5	1,981	64.2	3.6	69.7	3.6
	Female	3,396	3,132	2,449	72.1	3.2	78.2	3.1	2,293	67.5	3.4	73.2	3.3
	White alone	4,526	4,268	3,393	75.0	2.7	79.5	2.6	3,204	70.8	2.8	75.1	2.8
	White non-Hispanic alone	3,979	3,904	3,160	79.4	2.7	80.9	2.6	3,018	75.9	2.8	77.3	2.8
	Black alone	1,237	1,129	764	61.8	5.5	67.7	5.6	722	58.3	5.6	63.9	5.7
	Asian alone	512	409	271	52.9	9.1	66.1	9.6	253	49.4	9.1	61.8	9.9
	Hispanic (of any race)	678	425	271	39.9	8.2	63.8	10.2	218	32.1	7.8	51.3	10.6
	White alone or in combination	4,620	4,362	3,454	74.8	2.7	79.2	2.6	3,248	70.3	2.8	74.5	2.8
	Black alone or in combination	1,304	1,196	805	61.7	5.4	67.3	5.4	748	57.4	5.5	62.5	5.6
	Asian alone or in combination	535	432	287	53.6	8.9	66.4	9.3	269	50.3	8.9	62.3	9.6
WASHINGTON	Total	5,993	5,389	4,029	67.2	2.5	74.8	2.4	3,854	64.3	2.6	71.5	2.5
	Male	2,947	2,638	1,921	65.2	3.6	72.8	3.6	1,806	61.3	3.7	68.5	3.7
	Female	3,046	2,751	2,109	69.2	3.5	76.7	3.3	2,047	67.2	3.5	74.4	3.4
	White alone	4,735	4,413	3,452	72.9	2.7	78.2	2.6	3,309	69.9	2.8	75.0	2.7
	White non-Hispanic alone	4,122	3,985	3,177	77.1	2.7	79.7	2.6	3,070	74.5	2.8	77.0	2.8
	Black alone	257	210	136	53.1	12.3	64.7	13.0	130	50.8	12.3	61.9	13.2
	Asian alone	557	334	213	38.3	8.4	63.9	10.7	210	37.7	8.4	62.8	10.8

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.
Source: U.S. Census Bureau, Current Population Survey, November 2020

STATE	Sex, Race, and Hispanic-Origin	Total population	Total citizen population	Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Hispanic (of any race)	680	485	296	43.6	8.2	61.0	9.6	261	38.4	8.1	53.7	9.8
	White alone or in combination	4,928	4,593	3,573	72.5	2.6	77.8	2.5	3,426	69.5	2.7	74.6	2.7
	Black alone or in combination	331	285	170	51.2	10.9	59.5	11.5	164	49.4	10.9	57.4	11.6
	Asian alone or in combination	590	363	227	38.5	8.2	62.5	10.4	224	37.9	8.1	61.6	10.4
WEST VIRGINIA	Total	1,397	1,379	928	66.4	3.4	67.3	3.4	773	55.3	3.6	56.1	3.6
	Male	684	675	457	66.9	4.9	67.7	4.9	379	55.4	5.1	56.1	5.2
	Female	714	704	471	65.9	4.8	66.8	4.8	395	55.3	5.0	56.0	5.1
	White alone	1,324	1,314	879	66.4	3.5	66.9	3.5	735	55.5	3.7	56.0	3.7
	White non-Hispanic alone	1,303	1,301	871	66.9	3.5	67.0	3.5	729	56.0	3.7	56.1	3.7
	Black alone	45	42	26	B	B	B	B	18	B	B	B	B
	Asian alone	5	1	1	B	B	B	B	1	B	B	B	B
	Hispanic (of any race)	23	15	10	B	B	B	B	8	B	B	B	B
	White alone or in combination	1,346	1,336	900	66.9	3.5	67.4	3.5	754	56.0	3.7	56.5	3.7
	Black alone or in combination	54	50	34	B	B	B	B	25	B	B	B	B
	Asian alone or in combination	6	2	2	B	B	B	B	2	B	B	B	B
WISCONSIN	Total	4,538	4,421	3,391	74.7	2.7	76.7	2.6	3,253	71.7	2.8	73.6	2.7
	Male	2,223	2,158	1,616	72.7	3.9	74.9	3.8	1,533	68.9	4.0	71.0	4.0
	Female	2,315	2,263	1,775	76.7	3.6	78.5	3.6	1,720	74.3	3.7	76.0	3.7
	White alone	4,005	3,931	3,119	77.9	2.7	79.3	2.7	3,008	75.1	2.8	76.5	2.8
	White non-Hispanic alone	3,776	3,772	3,020	80.0	2.7	80.1	2.7	2,914	77.2	2.8	77.2	2.8
	Black alone	263	263	126	47.7	12.1	47.7	12.1	114	43.5	12.0	43.5	12.0
	Asian alone	117	73	44	B	B	B	B	44	B	B	B	B
	Hispanic (of any race)	242	173	105	43.5	13.7	61.0	16.0	101	41.7	13.7	58.4	16.2
	White alone or in combination	4,113	4,040	3,192	77.6	2.7	79.0	2.6	3,081	74.9	2.8	76.3	2.8
	Black alone or in combination	318	318	152	47.8	11.0	47.8	11.0	141	44.3	11.0	44.3	11.0
	Asian alone or in combination	138	94	59	42.4	17.1	62.0	20.3	59	42.4	17.1	62.0	20.3
WYOMING	Total	436	427	296	67.9	3.4	69.3	3.4	280	64.1	3.5	65.5	3.5
	Male	217	212	141	65.0	5.0	66.5	5.0	132	61.1	5.1	62.5	5.1
	Female	219	215	155	70.8	4.7	72.1	4.7	147	67.2	4.9	68.4	4.8
	White alone	410	405	280	68.3	3.5	69.2	3.5	265	64.5	3.6	65.4	3.6
	White non-Hispanic alone	379	376	265	70.0	3.6	70.6	3.6	251	66.2	3.7	66.8	3.7
	Black alone	2	2	1	B	B	B	B	1	B	B	B	B
	Asian alone	2	-	-	B	B	B	B	-	B	B	B	B
	Hispanic (of any race)	40	38	23	B	B	B	B	21	B	B	B	B
	White alone or in combination	422	416	290	68.6	3.5	69.6	3.5	273	64.7	3.6	65.7	3.6
	Black alone or in combination	4	3	3	B	B	B	B	3	B	B	B	B
	Asian alone or in combination	4	2	2	B	B	B	B	2	B	B	B	B

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

A dash '-' represents zero or rounds to zero.

The symbol B means that the base is less than 75,000 and therefore too small to show the derived measure.

Estimates may not sum to totals due to rounding.

For information on confidentiality protection, sampling error, nonsampling error, and definitions, see <https://www.census.gov/programs-surveys/cps/technical-documentation/complete.2020.html>

Source: U.S. Census Bureau, Current Population Survey, November 2020

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

Source: U.S. Census Bureau, Current Population Survey, November 2020

EXHIBIT C

Table 4b. Reported Voting and Registration of the Total Voting-Age Population, by Sex, Race and Hispanic Origin, for States: November 2022
(Numbers in thousands)

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
UNITED STATES	Total	255,457	233,546	161,422	63.2	0.5	69.1	0.5	121,916	47.7	0.5	52.2	0.5
	Male	124,329	112,996	77,021	61.9	0.6	68.2	0.6	57,966	46.6	0.6	51.3	0.6
	Female	131,128	120,549	84,401	64.4	0.5	70.0	0.5	63,950	48.8	0.5	53.0	0.6
	White alone	196,926	182,214	129,133	65.6	0.5	70.9	0.5	99,600	50.6	0.5	54.7	0.5
	White non-Hispanic alone	157,737	154,963	113,427	71.9	0.5	73.2	0.5	89,318	56.6	0.6	57.6	0.6
	Black alone	32,833	30,825	19,770	60.2	1.3	64.1	1.3	13,899	42.3	1.3	45.1	1.3
	Asian alone	16,510	12,111	7,256	43.9	1.8	59.9	2.1	4,869	29.5	1.6	40.2	2.0
	Hispanic (any race)	44,273	31,187	18,025	40.7	1.2	57.8	1.3	11,807	26.7	1.1	37.9	1.3
	White alone or in combination	201,864	186,758	132,178	65.5	0.5	70.8	0.5	101,683	50.4	0.5	54.4	0.5
	Black alone or in combination	34,974	32,776	20,967	59.9	1.2	64.0	1.2	14,604	41.8	1.2	44.6	1.3
ALABAMA	Asian alone or in combination	18,167	13,631	8,382	46.1	1.7	61.5	2.0	5,658	31.1	1.5	41.5	1.9
	Total	3,857	3,716	2,499	64.8	3.0	67.3	2.7	1,688	43.8	3.3	45.4	3.0
	Male	1,823	1,737	1,143	62.7	4.0	65.8	3.7	792	43.4	3.6	45.6	3.2
	Female	2,034	1,979	1,357	66.7	2.8	68.5	2.6	896	44.0	3.7	45.3	3.6
	White alone	2,716	2,616	1,817	66.9	3.3	69.5	3.3	1,184	43.6	3.5	45.3	3.4
	White non-Hispanic alone	2,537	2,520	1,770	69.8	3.5	70.2	3.4	1,158	45.6	3.7	45.9	3.6
	Black alone	1,017	1,007	640	62.9	4.2	63.6	4.1	473	46.5	5.0	47.0	4.9
	Asian alone	54	35	19	35.2	27.0	55.3	26.5	14	26.3	21.5	41.2	23.7
	Hispanic (any race)	195	96	48	24.5	7.5	49.7	16.9	26	13.5	8.2	27.3	20.0
	White alone or in combination	2,763	2,664	1,838	66.5	3.4	69.0	3.4	1,200	43.4	3.7	45.1	3.5
ALASKA	Black alone or in combination	1,031	1,020	640	62.1	4.4	62.7	4.2	473	45.9	5.1	46.4	4.8
	Asian alone or in combination	65	46	28	42.5	27.5	60.8	24.8	23	35.0	24.8	50.1	25.2
	Total	531	516	373	70.2	2.9	72.2	2.9	282	53.1	2.8	54.6	2.7
	Male	273	266	189	69.0	4.1	71.0	4.3	143	52.3	3.8	53.8	3.9
	Female	258	251	184	71.5	3.1	73.5	3.0	139	54.0	3.5	55.5	3.4
	White alone	346	338	269	77.8	3.5	79.7	3.4	216	62.3	3.8	63.9	3.9
	White non-Hispanic alone	312	308	249	79.9	3.0	80.8	3.1	205	65.8	3.8	66.6	4.0
	Black alone	15	14	8	53.8	18.0	59.1	20.3	5	33.7	19.1	37.0	19.5
	Asian alone	21	16	5	22.4	16.2	28.8	19.0	2	8.1	8.5	10.3	10.4
	Hispanic (any race)	44	39	23	53.3	14.1	59.3	13.7	13	30.1	10.5	33.5	10.4
ARIZONA	White alone or in combination	380	371	291	76.6	3.2	78.3	2.9	230	60.6	3.6	62.0	3.6
	Black alone or in combination	22	21	11	50.1	15.1	53.3	16.5	6	26.9	15.9	28.6	16.4
	Asian alone or in combination	30	26	12	38.8	14.1	45.7	15.2	6	20.1	12.2	23.7	14.0
	Total	5,731	5,093	3,560	62.1	3.2	69.9	3.3	2,844	49.6	3.1	55.8	3.3
	Male	2,820	2,528	1,725	61.2	3.5	68.2	3.6	1,369	48.5	3.6	54.1	3.8
	Female	2,911	2,565	1,834	63.0	3.7	71.5	3.8	1,475	50.7	3.4	57.5	3.8
	White alone	4,995	4,436	3,130	62.7	3.2	70.6	3.2	2,551	51.1	3.1	57.5	3.2
	White non-Hispanic alone	3,161	3,105	2,314	73.2	3.8	74.5	3.8	2,026	64.1	3.5	65.3	3.5
	Black alone	322	311	182	56.6	22.0	58.5	23.3	132	40.9	17.8	42.3	18.9
	Asian alone	207	138	93	45.2	13.8	67.6	17.8	62	29.9	11.4	44.7	15.8
	Hispanic (any race)	1,877	1,374	853	45.4	5.4	62.1	5.9	550	29.3	4.9	40.0	5.9
	White alone or in combination	5,079	4,520	3,207	63.1	3.2	71.0	3.1	2,599	51.2	3.1	57.5	3.2
	Black alone or in combination	373	362	233	62.5	20.0	64.4	21.0	152	40.8	15.7	42.0	16.5
	Asian alone or in combination	236	167	122	51.9	12.6	73.2	14.8	85	36.1	11.1	50.9	14.4
	Total	2,277	2,188	1,360	59.8	3.0	62.2	2.8	961	42.2	3.0	43.9	2.8
	Male	1,089	1,043	673	61.8	3.5	64.5	3.1	457	42.0	3.1	43.8	3.0
	Female	1,188	1,145	688	57.9	3.6	60.1	3.6	504	42.4	3.7	44.0	3.6

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
ARKANSAS	White alone	1,841	1,783	1,133	61.5	3.1	63.5	2.8	823	44.7	3.2	46.1	3.0
	White non-Hispanic alone	1,692	1,686	1,106	65.4	2.6	65.6	2.6	810	47.9	2.7	48.0	2.7
	Black alone	337	326	191	56.6	9.0	58.6	8.9	117	34.9	8.1	36.1	8.1
	Asian alone	56	36	17	29.7	16.7	46.2	21.7	10	18.8	15.9	29.3	22.0
	Hispanic (any race)	156	102	27	17.2	6.6	26.2	8.5	13	8.3	5.5	12.6	7.8
	White alone or in combination	1,872	1,815	1,145	61.2	3.0	63.1	2.7	831	44.4	3.2	45.8	3.0
	Black alone or in combination	342	330	194	56.8	8.8	58.8	8.6	119	34.8	7.9	36.0	7.9
	Asian alone or in combination	62	42	19	30.4	15.1	44.8	18.2	10	16.9	14.0	24.9	18.9
CALIFORNIA	Total	29,870	25,315	17,032	57.0	1.7	67.3	1.6	13,044	43.7	1.6	51.5	1.6
	Male	14,693	12,323	8,140	55.4	2.0	66.1	2.0	6,185	42.1	1.9	50.2	1.9
	Female	15,176	12,992	8,892	58.6	1.8	68.4	1.7	6,860	45.2	1.6	52.8	1.7
	White alone	20,845	17,698	12,334	59.2	2.1	69.7	2.0	9,731	46.7	2.0	55.0	2.0
	White non-Hispanic alone	11,368	10,917	8,194	72.1	2.1	75.1	2.0	6,851	60.3	2.3	62.8	2.3
	Black alone	1,843	1,735	1,121	60.8	4.9	64.6	5.1	751	40.8	4.7	43.3	5.0
	Asian alone	5,559	4,458	2,628	47.3	3.2	59.0	3.4	1,888	34.0	3.3	42.3	3.6
	Hispanic (any race)	10,562	7,705	4,674	44.3	2.7	60.7	2.9	3,242	30.7	2.3	42.1	2.8
	White alone or in combination	21,651	18,422	12,875	59.5	2.1	69.9	2.0	10,136	46.8	2.0	55.0	2.0
	Black alone or in combination	2,046	1,921	1,266	61.9	4.6	65.9	4.8	835	40.8	4.5	43.5	4.8
	Asian alone or in combination	5,965	4,840	2,918	48.9	3.2	60.3	3.3	2,129	35.7	3.2	44.0	3.5
COLORADO	Total	4,571	4,384	3,162	69.2	3.7	72.1	3.5	2,687	58.8	4.4	61.3	4.1
	Male	2,282	2,190	1,510	66.2	4.2	68.9	4.0	1,283	56.2	4.8	58.6	4.6
	Female	2,290	2,194	1,653	72.2	4.1	75.3	3.9	1,404	61.3	4.6	64.0	4.3
	White alone	4,083	3,925	2,897	71.0	3.8	73.8	3.5	2,504	61.3	4.7	63.8	4.3
	White non-Hispanic alone	3,438	3,396	2,558	74.4	3.8	75.3	3.8	2,273	66.1	4.0	66.9	3.9
	Black alone	197	197	108	55.0	24.3	55.0	24.3	56	28.3	20.7	28.3	20.7
	Asian alone	109	89	62	57.4	21.1	70.0	19.5	52	47.8	18.0	58.2	19.4
	Hispanic (any race)	748	623	391	52.3	8.5	62.8	7.6	269	35.9	11.3	43.1	11.5
	White alone or in combination	4,203	4,035	2,957	70.4	3.7	73.3	3.4	2,553	60.8	4.6	63.3	4.2
	Black alone or in combination	219	219	121	55.5	21.7	55.5	21.7	69	31.5	19.4	31.5	19.4
	Asian alone or in combination	161	141	99	61.5	17.6	70.0	17.3	81	50.4	16.2	57.4	17.3
CONNECTICUT	Total	2,839	2,527	1,778	62.6	4.1	70.4	3.8	1,253	44.1	4.1	49.6	4.2
	Male	1,388	1,201	839	60.4	4.7	69.8	4.4	604	43.5	4.8	50.3	5.2
	Female	1,451	1,325	939	64.7	4.5	70.9	4.3	649	44.7	4.6	49.0	4.7
	White alone	2,247	2,086	1,489	66.2	4.0	71.3	3.8	1,107	49.3	4.3	53.0	4.4
	White non-Hispanic alone	1,824	1,763	1,305	71.6	4.3	74.0	4.1	993	54.5	4.9	56.3	4.9
	Black alone	355	282	204	57.5	13.1	72.4	12.6	107	30.1	11.8	37.9	14.1
	Asian alone	203	128	64	31.7	13.0	50.2	18.0	30	15.0	9.4	23.8	13.8
	Hispanic (any race)	488	356	201	41.1	8.7	56.4	9.6	126	25.8	7.1	35.3	8.2
	White alone or in combination	2,267	2,104	1,497	66.0	4.1	71.2	3.8	1,107	48.8	4.3	52.6	4.4
	Black alone or in combination	358	285	207	57.9	12.9	72.8	12.5	107	29.8	11.9	37.5	14.1
	Asian alone or in combination	220	142	69	31.4	12.5	48.7	18.1	30	13.8	8.7	21.4	12.6
DELAWARE	Total	798	754	578	72.4	4.5	76.6	4.0	409	51.2	3.9	54.2	3.9
	Male	381	357	266	69.8	5.2	74.5	4.9	188	49.3	5.0	52.6	4.9
	Female	418	397	312	74.7	4.8	78.6	4.4	221	52.9	4.1	55.6	4.2
	White alone	561	541	431	76.7	4.3	79.5	4.1	318	56.7	4.7	58.8	4.8
	White non-Hispanic alone	520	518	416	80.0	4.1	80.4	4.0	312	59.9	4.6	60.2	4.7
	Black alone	176	168	111	63.1	10.1	66.3	10.0	67	38.1	9.1	40.1	8.9
	Asian alone	26	17	13	49.4	21.1	75.4	19.3	8	31.2	18.4	47.5	22.8
	Hispanic (any race)	71	47	32	45.3	18.1	68.8	13.1	18	24.9	13.7	37.8	15.3

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	White alone or in combination	581	561	447	77.0	4.2	79.8	4.0	331	57.0	4.6	59.0	4.7
	Black alone or in combination	190	181	122	64.2	9.6	67.2	9.4	74	39.1	8.7	41.0	8.5
	Asian alone or in combination	28	19	15	52.7	21.3	77.7	17.7	8	29.2	17.1	43.0	21.9
DISTRICT OF COLUMBIA	Total	512	476	393	76.7	2.5	82.4	2.5	300	58.6	2.9	62.9	3.0
	Male	241	223	179	74.4	3.6	80.5	3.5	135	56.2	3.7	60.8	4.0
	Female	271	254	213	78.8	3.0	84.1	3.1	164	60.7	3.5	64.8	3.7
	White alone	241	224	196	81.2	3.0	87.6	2.6	156	64.6	3.6	69.7	3.5
	White non-Hispanic alone	212	203	180	85.1	3.0	88.9	2.6	145	68.6	3.4	71.7	3.4
	Black alone	225	217	168	74.8	4.1	77.6	4.2	124	55.1	4.8	57.1	5.0
	Asian alone	27	19	15	53.7	12.1	75.1	10.9	9	34.5	9.7	48.2	11.2
	Hispanic (any race)	44	31	22	50.3	9.8	70.6	10.1	14	32.1	8.4	45.1	10.6
	White alone or in combination	251	233	204	80.9	3.0	87.2	2.7	162	64.5	3.6	69.5	3.5
	Black alone or in combination	230	222	173	74.9	4.0	77.8	4.1	127	55.4	4.6	57.5	4.8
	Asian alone or in combination	33	25	20	59.2	11.6	77.3	10.3	13	38.8	10.1	50.7	10.9
FLORIDA	Total	17,520	15,449	9,770	55.8	1.8	63.2	1.9	7,575	43.2	1.9	49.0	2.1
	Male	8,414	7,373	4,548	54.0	2.0	61.7	2.2	3,550	42.2	2.0	48.1	2.3
	Female	9,105	8,077	5,223	57.4	2.2	64.7	2.2	4,025	44.2	2.4	49.8	2.4
	White alone	13,941	12,340	7,925	56.8	2.0	64.2	2.0	6,274	45.0	2.0	50.8	2.2
	White non-Hispanic alone	9,505	9,193	6,113	64.3	2.4	66.5	2.4	5,007	52.7	2.4	54.5	2.5
	Black alone	2,703	2,419	1,450	53.6	4.7	59.9	4.6	1,007	37.3	4.9	41.6	5.2
	Asian alone	504	380	216	42.9	9.7	57.0	11.0	151	30.0	8.9	39.8	10.5
	Hispanic (any race)	4,885	3,506	2,024	41.4	3.6	57.7	4.3	1,408	28.8	3.5	40.2	4.5
	White alone or in combination	14,121	12,477	8,027	56.8	1.9	64.3	2.0	6,349	45.0	2.0	50.9	2.1
	Black alone or in combination	2,817	2,513	1,512	53.7	4.6	60.2	4.5	1,046	37.1	4.7	41.6	5.2
	Asian alone or in combination	541	400	234	43.2	9.6	58.5	10.9	163	30.2	9.0	40.8	10.6
GEORGIA	Total	8,314	7,601	5,275	63.4	3.7	69.4	3.6	4,323	52.0	3.6	56.9	3.6
	Male	3,955	3,521	2,434	61.6	4.9	69.1	4.5	1,994	50.4	4.5	56.6	4.3
	Female	4,359	4,080	2,840	65.2	3.3	69.6	3.5	2,329	53.4	3.7	57.1	3.9
	White alone	4,935	4,591	3,256	66.0	5.3	70.9	4.9	2,729	55.3	4.6	59.5	4.4
	White non-Hispanic alone	4,328	4,280	3,090	71.4	4.0	72.2	4.0	2,598	60.0	3.8	60.7	3.8
	Black alone	2,648	2,584	1,766	66.7	4.6	68.3	4.6	1,397	52.7	5.5	54.0	5.5
	Asian alone	517	250	152	29.4	10.3	60.9	14.2	127	24.6	8.6	51.0	12.4
	Hispanic (any race)	815	429	234	28.7	10.3	54.6	20.0	186	22.8	10.6	43.3	20.0
	White alone or in combination	5,067	4,723	3,342	65.9	5.2	70.8	4.9	2,784	54.9	4.6	58.9	4.4
	Black alone or in combination	2,723	2,660	1,804	66.2	4.6	67.8	4.7	1,423	52.3	5.4	53.5	5.4
	Asian alone or in combination	553	286	168	30.4	9.0	58.8	12.8	136	24.6	7.5	47.6	12.2
HAWAII	Total	1,079	1,019	651	60.3	4.0	63.9	4.0	509	47.2	3.6	50.0	3.7
	Male	520	497	321	61.7	5.0	64.5	5.2	245	47.1	4.3	49.2	4.5
	Female	560	522	331	59.1	3.9	63.3	3.9	265	47.3	4.0	50.7	4.0
	White alone	259	247	169	65.1	5.0	68.5	5.0	137	52.7	5.1	55.4	5.3
	White non-Hispanic alone	233	222	158	67.7	5.5	71.1	5.3	130	55.9	5.5	58.6	5.6
	Black alone	17	17	12	70.5	18.7	70.5	18.7	9	53.4	20.6	53.4	20.6
	Asian alone	377	343	211	56.0	5.2	61.7	5.4	179	47.5	5.0	52.2	5.1
	Hispanic (any race)	96	92	54	56.8	14.0	58.9	14.5	33	34.5	13.1	35.8	13.5
	White alone or in combination	437	423	277	63.3	5.2	65.4	5.3	218	49.7	4.8	51.4	5.0
	Black alone or in combination	46	46	26	55.9	19.3	55.9	19.3	19	40.8	17.3	40.8	17.3
	Asian alone or in combination	563	529	343	60.9	5.0	64.9	5.1	281	49.9	4.4	53.1	4.5
	Total	1,489	1,417	917	61.6	4.2	64.7	4.0	685	46.0	2.4	48.3	2.4
	Male	742	706	437	58.8	4.8	61.9	4.8	332	44.7	3.0	47.0	3.0

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
IDAHO	Female	746	711	480	64.4	4.0	67.6	3.8	353	47.3	2.6	49.6	2.6
	White alone	1,397	1,337	888	63.6	4.2	66.4	4.1	668	47.8	2.5	50.0	2.4
	White non-Hispanic alone	1,245	1,235	849	68.2	3.8	68.8	3.9	643	51.7	2.5	52.1	2.5
	Black alone	6	0	0	0.0	0.0	0.0	0.0	0	0.0	0.0	0.0	0.0
	Asian alone	22	18	2	9.0	11.8	11.2	15.3	1	4.3	8.1	5.4	10.3
	Hispanic (any race)	165	113	40	24.4	6.7	35.5	8.5	25	15.0	5.8	21.9	8.0
	White alone or in combination	1,425	1,363	896	62.9	4.1	65.7	4.0	675	47.3	2.5	49.5	2.4
	Black alone or in combination	11	6	2	18.3	33.4	37.1	61.3	0	0.0	0.0	0.0	0.0
ILLINOIS	Asian alone or in combination	29	25	6	19.8	16.4	23.2	19.3	3	9.0	10.8	10.6	12.7
	Total	9,648	8,824	6,110	63.3	2.7	69.2	2.6	4,600	47.7	2.7	52.1	2.8
	Male	4,738	4,251	2,912	61.5	3.2	68.5	3.2	2,210	46.6	3.2	52.0	3.4
	Female	4,909	4,573	3,197	65.1	2.8	69.9	2.8	2,390	48.7	3.1	52.3	3.1
	White alone	7,638	7,022	4,983	65.2	3.3	71.0	3.1	3,811	49.9	3.3	54.3	3.2
	White non-Hispanic alone	5,881	5,800	4,357	74.1	3.0	75.1	3.0	3,437	58.4	3.1	59.2	3.1
	Black alone	1,360	1,238	760	55.9	8.2	61.4	8.2	567	41.7	7.7	45.8	7.9
	Asian alone	480	394	229	47.7	11.9	58.1	14.0	157	32.8	10.3	39.9	12.4
	Hispanic (any race)	1,896	1,336	666	35.1	6.2	49.9	7.6	391	20.6	5.2	29.3	6.9
	White alone or in combination	7,759	7,144	5,086	65.6	3.3	71.2	3.0	3,860	49.8	3.3	54.0	3.2
	Black alone or in combination	1,416	1,294	811	57.3	7.9	62.7	7.9	582	41.1	7.8	44.9	7.9
	Asian alone or in combination	536	450	272	50.7	10.9	60.3	12.5	189	35.2	9.6	42.0	11.3
INDIANA	Total	5,199	4,903	3,259	62.7	3.5	66.5	3.2	2,056	39.5	2.9	41.9	2.8
	Male	2,525	2,349	1,544	61.1	3.9	65.7	3.7	1,009	39.9	3.9	42.9	4.0
	Female	2,674	2,554	1,715	64.1	4.4	67.2	4.0	1,047	39.2	3.3	41.0	3.2
	White alone	4,406	4,259	2,898	65.8	3.4	68.1	3.4	1,865	42.3	3.0	43.8	3.0
	White non-Hispanic alone	3,984	3,939	2,711	68.0	3.6	68.8	3.6	1,801	45.2	3.3	45.7	3.4
	Black alone	477	456	256	53.6	9.9	56.0	9.5	147	30.8	9.3	32.2	9.3
	Asian alone	86	61	31	35.8	22.9	50.7	28.6	18	20.5	16.0	29.0	21.2
	Hispanic (any race)	590	386	221	37.5	9.0	57.4	9.9	71	12.0	6.0	18.4	8.7
	White alone or in combination	4,617	4,380	2,966	64.2	3.6	67.7	3.3	1,888	40.9	3.0	43.1	3.0
	Black alone or in combination	545	506	278	51.0	10.3	55.0	9.8	156	28.5	8.8	30.8	8.8
	Asian alone or in combination	188	91	61	32.5	22.9	67.2	24.4	21	11.4	10.0	23.6	16.5
	Total	2,422	2,345	1,732	71.5	3.8	73.9	3.7	1,215	50.2	3.8	51.8	3.7
IOWA	Male	1,219	1,186	882	72.4	3.8	74.4	3.6	603	49.5	4.1	50.9	4.0
	Female	1,203	1,160	850	70.6	4.9	73.3	5.1	612	50.9	4.5	52.8	4.5
	White alone	2,241	2,202	1,667	74.4	4.3	75.7	4.3	1,184	52.8	4.3	53.8	4.2
	White non-Hispanic alone	2,145	2,136	1,627	75.9	4.2	76.2	4.3	1,167	54.4	3.9	54.6	4.0
	Black alone	87	84	34	38.9	13.5	40.5	13.2	24	27.9	14.8	29.1	15.0
	Asian alone	64	31	14	21.4	15.7	44.7	36.1	3	4.3	7.9	9.0	18.1
	Hispanic (any race)	100	70	40	40.3	16.2	57.9	21.7	18	17.7	12.5	25.5	16.5
	White alone or in combination	2,254	2,215	1,678	74.4	4.3	75.8	4.3	1,188	52.7	4.3	53.7	4.3
	Black alone or in combination	93	90	37	39.9	12.1	41.5	11.7	24	26.1	14.2	27.1	14.4
	Asian alone or in combination	64	31	14	21.4	15.7	44.7	36.1	3	4.3	7.9	9.0	18.1
KANSAS	Total	2,173	2,087	1,587	73.0	3.8	76.1	3.4	1,239	57.0	4.3	59.4	4.0
	Male	1,081	1,034	762	70.5	4.5	73.7	4.2	595	55.0	4.8	57.5	4.5
	Female	1,092	1,052	825	75.5	4.1	78.4	3.6	644	59.0	4.5	61.2	4.2
	White alone	1,922	1,856	1,412	73.5	3.9	76.1	3.4	1,097	57.1	4.5	59.1	4.1
	White non-Hispanic alone	1,775	1,757	1,361	76.7	3.1	77.5	3.1	1,067	60.1	3.8	60.7	3.7
	Black alone	130	126	89	68.3	15.9	70.8	15.1	76	58.4	18.6	60.5	17.9
	Asian alone	47	32	28	59.5	23.8	87.6	16.2	24	50.4	21.1	74.3	18.9

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Hispanic (any race)	179	130	73	40.8	13.6	56.3	15.5	53	29.5	16.1	40.6	20.2
	White alone or in combination	1,972	1,906	1,454	73.7	3.8	76.3	3.4	1,123	56.9	4.5	58.9	4.2
	Black alone or in combination	153	148	106	69.3	13.3	71.5	12.9	88	57.6	16.1	59.4	15.7
	Asian alone or in combination	49	34	30	61.5	22.9	88.5	15.0	24	47.9	20.0	68.9	18.9
KENTUCKY	Total	3,431	3,233	2,321	67.6	4.7	71.8	4.6	1,690	49.3	5.9	52.3	6.0
	Male	1,670	1,573	1,131	67.7	4.9	71.9	4.9	834	50.0	6.6	53.0	6.9
	Female	1,761	1,660	1,190	67.6	5.3	71.7	5.1	856	48.6	5.8	51.6	5.8
	White alone	3,066	2,912	2,110	68.8	4.9	72.4	4.7	1,559	50.8	6.2	53.5	6.3
	White non-Hispanic alone	2,860	2,851	2,083	72.8	4.8	73.1	4.8	1,547	54.1	6.4	54.3	6.4
	Black alone	286	261	174	60.9	13.4	66.6	13.5	99	34.7	12.4	37.9	13.1
	Asian alone	42	23	6	15.4	23.5	28.5	42.0	6	15.4	23.5	28.5	42.0
	Hispanic (any race)	220	70	36	16.2	10.4	51.1	24.0	12	5.6	6.8	17.7	20.1
	White alone or in combination	3,104	2,949	2,140	69.0	4.8	72.6	4.7	1,585	51.1	6.2	53.7	6.3
	Black alone or in combination	299	275	188	62.7	12.3	68.3	12.3	113	37.7	12.0	41.0	12.6
	Asian alone or in combination	52	33	17	32.3	26.7	51.3	36.9	12	22.6	23.1	35.9	33.6
	Total	3,437	3,263	2,215	64.4	3.3	67.9	3.3	1,574	45.8	3.8	48.2	3.8
LOUISIANA	Male	1,629	1,535	1,012	62.1	3.6	65.9	3.7	726	44.6	3.9	47.3	4.2
	Female	1,808	1,729	1,203	66.5	3.5	69.6	3.3	848	46.9	4.4	49.0	4.5
	White alone	2,222	2,086	1,471	66.2	4.0	70.5	3.9	1,021	46.0	4.1	49.0	4.3
	White non-Hispanic alone	2,012	1,990	1,420	70.6	3.9	71.4	4.0	994	49.4	4.4	50.0	4.5
	Black alone	1,065	1,044	659	61.9	5.4	63.1	5.2	515	48.4	5.7	49.4	5.5
	Asian alone	55	48	16	28.9	16.0	33.3	17.0	8	14.9	11.3	17.1	13.0
	Hispanic (any race)	250	112	58	23.4	8.7	52.1	15.4	30	12.0	6.0	26.6	11.8
	White alone or in combination	2,272	2,129	1,506	66.3	4.0	70.7	3.9	1,034	45.5	4.1	48.6	4.2
	Black alone or in combination	1,093	1,071	685	62.7	5.3	63.9	5.1	526	48.2	5.6	49.1	5.5
	Asian alone or in combination	68	60	28	42.1	19.5	47.2	19.5	8	12.1	9.1	13.6	10.4
	Total	1,150	1,131	856	74.4	2.8	75.6	2.8	722	62.7	3.5	63.8	3.6
	Male	562	552	404	71.9	3.5	73.2	3.3	350	62.2	4.6	63.3	4.6
MAINE	Female	588	579	451	76.7	3.8	77.9	3.7	372	63.2	4.2	64.2	4.4
	White alone	1,083	1,074	815	75.2	2.9	75.8	2.8	695	64.2	3.8	64.7	3.8
	White non-Hispanic alone	1,072	1,063	810	75.6	2.8	76.2	2.8	690	64.4	3.8	64.9	3.7
	Black alone	13	7	3	22.0	15.2	43.6	31.5	3	22.0	15.2	43.6	31.5
	Asian alone	19	15	9	45.6	35.9	57.0	40.8	9	45.6	35.9	57.0	40.8
	Hispanic (any race)	11	11	5	42.5	33.5	42.5	33.5	5	42.5	33.5	42.5	33.5
	White alone or in combination	1,118	1,109	844	75.5	2.9	76.1	2.8	710	63.5	3.7	64.0	3.7
	Black alone or in combination	21	14	8	40.3	22.3	59.3	25.5	8	40.3	22.3	59.3	25.5
	Asian alone or in combination	24	20	14	56.7	31.4	67.4	32.9	14	56.7	31.4	67.4	32.9
	Total	4,716	4,364	3,301	70.0	3.5	75.6	3.4	2,525	53.5	3.4	57.9	3.7
	Male	2,234	2,064	1,540	68.9	4.3	74.6	4.4	1,146	51.3	4.1	55.5	4.6
	Female	2,482	2,300	1,761	71.0	4.0	76.6	4.0	1,379	55.5	4.1	59.9	4.3
MARYLAND	White alone	2,852	2,639	2,017	70.7	4.4	76.4	4.2	1,626	57.0	4.4	61.6	4.5
	White non-Hispanic alone	2,553	2,480	1,946	76.2	4.4	78.5	4.3	1,577	61.8	4.7	63.6	4.7
	Black alone	1,476	1,425	1,058	71.7	5.6	74.3	6.0	769	52.1	5.9	54.0	6.3
	Asian alone	249	188	156	62.4	16.9	82.6	12.4	74	29.8	12.2	39.5	13.8
	Hispanic (any race)	406	224	125	30.8	12.7	55.7	18.0	91	22.4	11.8	40.5	17.3
	White alone or in combination	2,954	2,728	2,069	70.1	4.5	75.9	4.4	1,663	56.3	4.4	61.0	4.6
	Black alone or in combination	1,559	1,495	1,091	70.0	5.7	73.0	5.7	794	51.0	5.8	53.1	6.0
	Asian alone or in combination	249	188	156	62.4	16.9	82.6	12.4	74	29.8	12.2	39.5	13.8
	Total	5,518	4,892	3,618	65.6	2.7	74.0	2.3	2,776	50.3	2.8	56.7	2.8

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
MASSACHUSETTS	Male	2,668	2,349	1,717	64.4	2.9	73.1	2.7	1,260	47.2	3.0	53.6	3.2
	Female	2,850	2,543	1,901	66.7	3.1	74.8	2.9	1,516	53.2	3.2	59.6	3.2
	White alone	4,532	4,173	3,158	69.7	2.9	75.7	2.6	2,479	54.7	3.0	59.4	3.0
	White non-Hispanic alone	3,924	3,728	2,921	74.4	2.8	78.4	2.7	2,336	59.5	2.9	62.7	3.0
	Black alone	466	364	263	56.6	8.5	72.4	8.8	168	36.1	7.7	46.2	8.6
	Asian alone	331	222	128	38.7	12.2	57.5	14.1	73	22.2	8.9	32.9	11.6
	Hispanic (any race)	787	561	299	37.9	7.8	53.2	9.3	186	23.6	6.1	33.1	7.8
	White alone or in combination	4,693	4,277	3,221	68.6	2.9	75.3	2.4	2,532	53.9	3.0	59.2	2.9
	Black alone or in combination	579	421	289	49.9	8.5	68.7	9.5	189	32.6	6.9	44.8	8.6
	Asian alone or in combination	371	263	159	42.7	11.6	60.3	12.3	101	27.2	9.7	38.4	11.5
MICHIGAN	Total	7,777	7,517	5,797	74.5	2.9	77.1	2.7	4,757	61.2	3.0	63.3	2.9
	Male	3,788	3,643	2,787	73.6	3.4	76.5	3.3	2,197	58.0	3.9	60.3	3.9
	Female	3,989	3,874	3,009	75.4	2.8	77.7	2.7	2,560	64.2	2.9	66.1	2.8
	White alone	6,330	6,167	4,802	75.9	3.1	77.9	2.9	3,941	62.3	3.3	63.9	3.3
	White non-Hispanic alone	5,900	5,810	4,568	77.4	3.1	78.6	3.0	3,776	64.0	3.4	65.0	3.3
	Black alone	1,015	1,015	797	78.5	6.8	78.5	6.8	659	64.9	7.9	64.9	7.9
	Asian alone	294	196	95	32.3	10.1	48.3	16.1	76	25.8	9.1	38.6	14.4
	Hispanic (any race)	443	370	247	55.8	11.0	66.7	11.6	177	40.1	10.8	47.9	12.1
	White alone or in combination	6,433	6,270	4,893	76.1	3.0	78.0	2.9	4,010	62.3	3.2	63.9	3.2
	Black alone or in combination	1,054	1,054	831	78.9	6.6	78.9	6.6	680	64.5	7.7	64.5	7.7
	Asian alone or in combination	303	206	104	34.3	10.3	50.6	15.9	85	28.1	9.5	41.4	14.6
MINNESOTA	Total	4,380	4,210	3,255	74.3	3.9	77.3	3.7	2,680	61.2	4.2	63.7	4.0
	Male	2,174	2,094	1,595	73.4	4.5	76.2	4.1	1,290	59.3	4.4	61.6	4.1
	Female	2,205	2,116	1,660	75.3	4.0	78.4	4.1	1,390	63.0	4.9	65.7	5.0
	White alone	3,752	3,689	2,905	77.4	4.0	78.7	3.9	2,419	64.5	4.0	65.6	3.9
	White non-Hispanic alone	3,551	3,529	2,797	78.8	4.1	79.3	3.9	2,357	66.4	4.2	66.8	4.1
	Black alone	302	302	202	67.0	15.2	67.0	15.2	147	48.6	17.5	48.6	17.5
	Asian alone	242	135	81	33.2	12.6	59.8	16.2	54	22.3	9.9	40.1	15.9
	Hispanic (any race)	254	214	162	63.5	15.9	75.4	16.8	87	34.2	14.8	40.6	16.5
	White alone or in combination	3,820	3,758	2,957	77.4	4.0	78.7	3.9	2,468	64.6	4.0	65.7	3.9
	Black alone or in combination	309	309	202	65.5	15.1	65.5	15.1	147	47.5	17.2	47.5	17.2
	Asian alone or in combination	254	147	92	36.3	13.2	63.0	15.7	66	25.9	10.5	44.9	15.4
MISSISSIPPI	Total	2,198	2,166	1,572	71.5	2.7	72.6	2.6	1,005	45.7	2.6	46.4	2.6
	Male	1,036	1,017	703	67.8	3.8	69.1	3.9	440	42.5	3.3	43.2	3.4
	Female	1,162	1,149	869	74.8	2.7	75.7	2.6	565	48.6	2.8	49.2	2.8
	White alone	1,334	1,313	963	72.2	3.4	73.3	3.4	612	45.9	2.9	46.6	2.9
	White non-Hispanic alone	1,288	1,284	955	74.1	3.6	74.3	3.6	612	47.5	2.9	47.6	2.9
	Black alone	808	806	583	72.2	4.9	72.4	4.8	379	46.9	4.5	47.0	4.6
	Asian alone	29	26	10	33.4	23.4	36.6	25.2	3	10.5	11.1	11.5	12.0
	Hispanic (any race)	64	41	10	15.0	9.4	23.3	14.4	2	2.9	4.7	4.5	7.2
	White alone or in combination	1,352	1,325	972	71.9	3.4	73.4	3.4	617	45.6	2.8	46.5	2.8
	Black alone or in combination	812	809	584	72.0	4.8	72.2	4.8	380	46.8	4.5	47.0	4.6
	Asian alone or in combination	29	26	10	33.4	23.4	36.6	25.2	3	10.5	11.1	11.5	12.0
MISSOURI	Total	4,744	4,655	3,532	74.5	3.8	75.9	3.9	2,460	51.9	3.2	52.9	3.2
	Male	2,313	2,271	1,686	72.9	4.0	74.2	4.0	1,156	50.0	3.9	50.9	3.9
	Female	2,430	2,384	1,846	76.0	4.4	77.4	4.5	1,304	53.7	3.7	54.7	3.7
	White alone	4,105	4,025	3,092	75.3	4.0	76.8	4.1	2,158	52.6	3.3	53.6	3.4
	White non-Hispanic alone	3,935	3,902	3,016	76.7	4.0	77.3	4.2	2,110	53.6	3.3	54.1	3.4
	Black alone	505	497	334	66.3	9.5	67.3	9.2	254	50.4	8.8	51.2	8.6

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Asian alone	26	26	8	30.9	40.0	30.9	40.0	4	16.0	29.5	16.0	29.5
	Hispanic (any race)	176	129	83	46.8	16.6	63.9	18.2	48	27.5	13.4	37.5	16.4
	White alone or in combination	4,180	4,100	3,160	75.6	3.8	77.1	4.0	2,191	52.4	3.2	53.5	3.2
	Black alone or in combination	534	526	356	66.8	9.1	67.8	8.8	258	48.3	8.3	49.1	8.2
	Asian alone or in combination	52	52	34	65.0	33.9	65.0	33.9	22	43.2	33.5	43.2	33.5
MONTANA	Total	886	878	613	69.1	3.6	69.8	3.6	496	56.0	3.6	56.5	3.6
	Male	446	443	304	68.3	4.2	68.8	4.2	249	55.8	4.1	56.2	4.1
	Female	441	435	308	70.0	3.6	70.8	3.7	247	56.2	3.9	56.9	3.9
	White alone	837	831	583	69.7	3.6	70.2	3.6	476	56.9	3.6	57.3	3.6
	White non-Hispanic alone	816	813	570	69.8	3.7	70.1	3.7	466	57.1	3.6	57.4	3.7
	Black alone	4	2	1	34.3	29.4	52.2	28.1	1	34.3	29.4	52.2	28.1
	Asian alone	5	4	3	48.7	36.7	67.3	43.7	2	36.6	33.4	50.7	40.9
	Hispanic (any race)	24	21	14	57.9	17.7	64.9	19.0	10	42.0	17.9	47.1	19.4
	White alone or in combination	851	844	593	69.7	3.6	70.2	3.6	483	56.7	3.6	57.1	3.6
	Black alone or in combination	6	5	3	49.9	26.0	62.6	28.8	1	20.3	20.5	25.4	22.3
	Asian alone or in combination	10	8	6	59.3	31.8	70.5	32.3	5	52.4	32.2	62.3	33.7
NEBRASKA	Total	1,460	1,351	933	63.9	4.0	69.1	3.8	659	45.1	3.2	48.8	3.3
	Male	721	656	441	61.2	4.1	67.3	3.7	312	43.2	3.8	47.5	4.1
	Female	739	695	492	66.5	4.5	70.8	4.6	347	46.9	4.1	49.9	4.2
	White alone	1,314	1,235	880	67.0	4.3	71.2	3.7	628	47.8	3.6	50.9	3.4
	White non-Hispanic alone	1,161	1,159	843	72.6	3.4	72.8	3.4	615	53.0	3.5	53.1	3.5
	Black alone	37	34	19	50.8	19.8	55.3	20.7	9	24.7	15.6	26.8	17.2
	Asian alone	41	18	9	22.0	15.9	50.4	35.1	5	11.2	10.2	25.6	22.5
	Hispanic (any race)	162	81	37	22.7	7.3	45.1	10.6	14	8.4	5.0	16.7	9.2
	White alone or in combination	1,322	1,244	885	66.9	4.3	71.1	3.7	633	47.9	3.6	50.9	3.4
	Black alone or in combination	45	42	19	41.8	18.6	44.7	21.4	9	20.3	14.0	21.7	15.9
	Asian alone or in combination	51	29	14	26.9	17.2	48.4	38.4	9	18.3	15.0	33.0	31.7
NEVADA	Total	2,451	2,206	1,436	58.6	3.4	65.1	3.4	1,123	45.8	3.5	50.9	3.5
	Male	1,212	1,093	703	58.0	4.4	64.3	4.4	553	45.7	4.3	50.7	4.4
	Female	1,238	1,113	734	59.3	3.8	65.9	3.9	569	46.0	3.9	51.1	4.0
	White alone	1,787	1,598	1,049	58.7	4.0	65.6	3.8	845	47.3	3.9	52.9	3.9
	White non-Hispanic alone	1,249	1,223	853	68.3	4.3	69.7	4.3	731	58.5	4.2	59.8	4.2
	Black alone	240	228	149	62.1	12.0	65.4	12.4	120	50.1	12.1	52.7	12.4
	Asian alone	218	177	105	48.1	9.9	59.2	11.3	62	28.6	10.1	35.2	12.5
	Hispanic (any race)	636	470	252	39.6	7.2	53.6	8.2	151	23.7	5.6	32.1	6.9
	White alone or in combination	1,879	1,687	1,096	58.3	4.0	65.0	3.8	879	46.8	3.8	52.1	3.9
	Black alone or in combination	294	279	166	56.5	11.1	59.6	11.2	128	43.7	10.8	46.1	11.0
	Asian alone or in combination	243	202	120	49.2	9.6	59.1	10.4	77	31.7	10.1	38.1	12.0
NEW HAMPSHIRE	Total	1,143	1,106	804	70.3	3.3	72.6	3.3	654	57.2	3.3	59.1	3.3
	Male	567	552	398	70.2	4.2	72.1	4.2	316	55.7	4.3	57.3	4.3
	Female	577	554	406	70.4	3.5	73.2	3.5	338	58.6	3.7	61.0	3.7
	White alone	1,053	1,042	762	72.4	3.3	73.2	3.3	627	59.6	3.3	60.2	3.3
	White non-Hispanic alone	1,026	1,016	752	73.3	3.2	74.0	3.2	620	60.4	3.3	61.0	3.3
	Black alone	22	19	15	68.3	22.7	79.4	19.1	8	35.2	26.4	40.9	30.2
	Asian alone	56	33	19	34.8	15.5	59.2	21.9	15	27.2	12.4	46.3	18.5
	Hispanic (any race)	33	32	11	34.4	18.3	36.1	18.6	7	21.5	13.7	22.6	14.1
	White alone or in combination	1,064	1,053	769	72.3	3.3	73.1	3.3	631	59.3	3.3	60.0	3.3
	Black alone or in combination	23	20	17	70.7	22.1	81.2	18.3	8	32.5	25.6	37.3	29.4
	Asian alone or in combination	60	37	23	37.9	15.2	61.5	19.8	17	28.6	11.5	46.3	16.8

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
NEW JERSEY	Total	7,163	6,241	4,402	61.5	3.1	70.5	3.3	3,151	44.0	3.1	50.5	3.3
	Male	3,487	3,029	2,081	59.7	3.7	68.7	3.9	1,482	42.5	3.4	48.9	3.7
	Female	3,676	3,212	2,321	63.1	3.6	72.3	3.7	1,669	45.4	3.7	52.0	4.0
	White alone	5,160	4,574	3,311	64.2	3.7	72.4	3.7	2,462	47.7	3.7	53.8	3.8
	White non-Hispanic alone	3,912	3,803	2,830	72.3	3.7	74.4	3.8	2,158	55.2	4.1	56.7	4.2
	Black alone	1,047	931	617	58.9	8.9	66.3	9.2	388	37.1	9.2	41.7	9.9
	Asian alone	799	615	400	50.0	8.5	65.0	8.3	258	32.3	7.9	42.0	9.5
	Hispanic (any race)	1,486	934	547	36.8	6.6	58.6	8.3	346	23.3	5.8	37.0	8.3
	White alone or in combination	5,250	4,646	3,349	63.8	3.7	72.1	3.7	2,478	47.2	3.6	53.3	3.7
	Black alone or in combination	1,100	973	640	58.2	8.7	65.8	9.1	398	36.2	9.0	40.9	9.8
NEW MEXICO	Asian alone or in combination	822	631	416	50.6	8.4	65.9	8.2	264	32.2	7.6	41.9	9.3
	Total	1,625	1,511	1,026	63.1	3.1	67.9	3.4	818	50.3	2.9	54.1	3.2
	Male	783	721	478	61.0	4.2	66.3	4.5	376	48.0	3.8	52.2	4.3
	Female	842	790	548	65.1	3.1	69.4	3.1	442	52.4	3.2	55.9	3.4
	White alone	1,275	1,177	822	64.5	3.6	69.9	3.6	667	52.3	3.5	56.7	3.7
	White non-Hispanic alone	641	634	510	79.5	3.8	80.4	3.3	440	68.6	3.9	69.4	3.6
	Black alone	46	46	33	72.6	17.9	72.6	17.9	25	54.1	19.8	54.1	19.8
	Asian alone	32	26	17	53.5	20.2	66.1	17.1	14	43.1	17.7	53.2	17.5
	Hispanic (any race)	701	602	345	49.2	5.6	57.3	5.5	254	36.3	5.1	42.2	5.3
	White alone or in combination	1,311	1,213	849	64.7	3.6	70.0	3.5	684	52.2	3.4	56.4	3.6
NEW YORK	Black alone or in combination	59	59	44	75.2	14.9	75.2	14.9	32	54.4	16.2	54.4	16.2
	Asian alone or in combination	36	30	19	51.5	18.0	61.8	15.6	14	37.5	15.6	44.9	17.1
	Total	15,238	13,516	8,897	58.4	2.5	65.8	2.5	6,631	43.5	2.4	49.1	2.5
	Male	7,353	6,527	4,201	57.1	2.8	64.4	2.8	3,159	43.0	2.5	48.4	2.6
	Female	7,885	6,989	4,696	59.6	2.8	67.2	2.8	3,472	44.0	2.9	49.7	3.1
	White alone	10,512	9,578	6,548	62.3	2.8	68.4	2.8	5,146	49.0	2.7	53.7	2.8
	White non-Hispanic alone	8,714	8,380	5,864	67.3	2.9	70.0	2.9	4,690	53.8	2.9	56.0	3.0
	Black alone	2,591	2,283	1,408	54.3	5.0	61.7	5.2	947	36.5	4.7	41.5	5.1
	Asian alone	1,712	1,277	680	39.7	7.4	53.3	9.0	375	21.9	5.5	29.4	6.9
	Hispanic (any race)	2,446	1,682	992	40.5	5.3	59.0	5.8	639	26.1	4.5	38.0	5.7
NORTH CAROLINA	White alone or in combination	10,780	9,839	6,728	62.4	2.7	68.4	2.7	5,268	48.9	2.7	53.5	2.8
	Black alone or in combination	2,808	2,492	1,564	55.7	4.8	62.8	4.8	1,046	37.2	4.5	42.0	4.7
	Asian alone or in combination	1,788	1,353	750	41.9	7.3	55.4	8.7	426	23.8	5.5	31.5	6.8
	Total	8,175	7,533	4,583	56.1	3.3	60.8	3.2	3,439	42.1	2.8	45.7	2.7
	Male	3,893	3,576	2,184	56.1	4.2	61.1	4.1	1,635	42.0	3.0	45.7	3.0
	Female	4,282	3,957	2,399	56.0	3.2	60.6	3.2	1,804	42.1	3.0	45.6	3.0
	White alone	5,631	5,245	3,325	59.1	3.4	63.4	3.3	2,587	45.9	3.2	49.3	3.1
	White non-Hispanic alone	4,932	4,867	3,133	63.5	3.3	64.4	3.3	2,469	50.1	3.1	50.7	3.2
	Black alone	1,760	1,714	999	56.7	6.5	58.3	6.6	706	40.1	5.0	41.2	5.1
	Asian alone	436	231	126	28.8	9.6	54.4	13.9	72	16.5	6.8	31.2	10.8
	Hispanic (any race)	765	413	215	28.1	7.2	52.2	9.9	128	16.8	6.7	31.1	10.5
	White alone or in combination	5,776	5,391	3,408	59.0	3.4	63.2	3.3	2,632	45.6	3.1	48.8	3.1
	Black alone or in combination	1,869	1,817	1,032	55.2	6.3	56.8	6.4	711	38.1	4.7	39.2	4.9
	Asian alone or in combination	483	273	167	34.7	9.2	61.3	11.9	99	20.5	6.8	36.3	10.0
	Total	575	554	418	72.8	2.7	75.6	2.7	288	50.0	2.9	52.0	3.0
	Male	296	283	209	70.7	3.0	74.0	2.9	144	48.4	3.1	50.7	3.3
	Female	279	271	209	75.0	3.3	77.2	3.1	144	51.7	3.6	53.3	3.5
	White alone	518	509	396	76.5	2.7	77.8	2.7	278	53.7	3.2	54.7	3.3
	White non-Hispanic alone	501	497	387	77.3	2.7	77.9	2.6	275	55.0	3.4	55.4	3.4

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
NORTH DAKOTA	Black alone	15	13	9	58.5	15.8	67.4	18.1	1	8.6	7.7	9.9	8.9
	Asian alone	8	3	2	23.1	20.5	68.1	35.9	1	16.7	18.2	49.0	40.1
	Hispanic (any race)	18	13	10	52.5	20.9	74.4	15.6	3	17.7	11.8	25.2	14.2
	White alone or in combination	524	515	400	76.4	2.7	77.7	2.7	280	53.5	3.2	54.4	3.2
	Black alone or in combination	19	17	10	54.0	16.5	62.6	17.5	1	6.8	6.1	7.9	7.0
	Asian alone or in combination	9	4	3	30.4	22.4	75.6	28.6	1	15.1	16.5	37.5	35.7
OHIO	Total	9,024	8,708	5,890	65.3	2.8	67.6	2.9	4,162	46.1	2.6	47.8	2.7
	Male	4,371	4,216	2,842	65.0	3.2	67.4	3.3	1,994	45.6	2.9	47.3	3.1
	Female	4,653	4,492	3,048	65.5	3.2	67.9	3.3	2,169	46.6	3.1	48.3	3.2
	White alone	7,395	7,284	5,115	69.2	3.1	70.2	3.0	3,689	49.9	2.8	50.6	2.8
	White non-Hispanic alone	7,098	7,073	4,978	70.1	3.1	70.4	3.1	3,607	50.8	2.8	51.0	2.8
	Black alone	1,111	1,045	550	49.5	9.5	52.6	9.7	344	30.9	7.4	32.9	7.7
	Asian alone	264	140	96	36.3	15.6	68.7	18.5	75	28.5	15.3	53.9	20.1
	Hispanic (any race)	380	267	162	42.6	11.8	60.5	12.7	89	23.3	10.3	33.1	12.3
	White alone or in combination	7,629	7,504	5,240	68.7	3.0	69.8	2.9	3,739	49.0	2.7	49.8	2.7
	Black alone or in combination	1,263	1,183	628	49.7	8.5	53.1	8.9	383	30.3	6.8	32.4	7.1
	Asian alone or in combination	307	182	123	40.2	14.0	67.8	15.7	75	24.6	13.4	41.4	17.9
	Total	2,999	2,841	1,936	64.6	3.0	68.1	2.9	1,335	44.5	2.8	47.0	2.7
OKLAHOMA	Male	1,460	1,360	922	63.1	3.7	67.8	3.7	643	44.1	3.6	47.3	3.8
	Female	1,539	1,481	1,014	65.9	3.6	68.5	3.6	691	44.9	3.2	46.7	3.2
	White alone	2,223	2,128	1,535	69.0	2.8	72.1	2.7	1,091	49.0	3.1	51.3	3.1
	White non-Hispanic alone	1,907	1,905	1,435	75.3	2.9	75.4	2.9	1,037	54.4	3.3	54.5	3.3
	Black alone	208	172	79	38.1	10.1	45.9	11.7	47	22.7	8.2	27.3	9.2
	Asian alone	89	72	34	37.9	20.2	46.7	22.0	23	26.0	20.8	32.1	24.7
	Hispanic (any race)	341	244	108	31.6	9.0	44.2	11.8	57	16.6	5.8	23.2	8.0
	White alone or in combination	2,344	2,248	1,605	68.5	2.9	71.4	2.8	1,131	48.3	3.1	50.3	3.1
	Black alone or in combination	238	203	91	38.4	9.3	45.0	10.6	53	22.2	7.5	26.1	8.3
	Asian alone or in combination	103	86	37	36.4	19.0	43.5	20.5	23	22.5	17.9	27.0	20.8
	Total	3,345	3,122	2,581	77.2	2.6	82.7	2.3	2,185	65.3	3.3	70.0	3.2
	Male	1,643	1,535	1,275	77.6	3.7	83.1	3.0	1,054	64.1	4.5	68.7	4.1
OREGON	Female	1,702	1,587	1,306	76.8	2.5	82.3	2.3	1,131	66.5	3.1	71.3	3.2
	White alone	2,961	2,788	2,321	78.4	2.7	83.3	2.6	1,983	67.0	3.6	71.1	3.7
	White non-Hispanic alone	2,598	2,570	2,204	84.8	2.1	85.8	2.0	1,906	73.4	3.3	74.2	3.2
	Black alone	69	63	40	57.8	21.7	63.0	22.4	26	37.6	22.6	41.0	24.1
	Asian alone	134	97	81	60.3	14.1	82.7	11.0	58	43.8	12.6	60.0	12.9
	Hispanic (any race)	421	262	145	34.5	7.7	55.6	9.9	100	23.9	6.7	38.4	9.4
	White alone or in combination	3,098	2,917	2,426	78.3	2.7	83.2	2.5	2,076	67.0	3.5	71.2	3.5
	Black alone or in combination	109	96	65	59.4	20.0	67.9	17.8	51	46.7	19.6	53.4	19.4
	Asian alone or in combination	186	150	121	65.1	12.3	80.8	10.4	99	53.2	12.2	66.0	11.9
	Total	10,124	9,741	7,009	69.2	2.3	72.0	2.2	5,843	57.7	2.4	60.0	2.4
	Male	4,929	4,739	3,389	68.7	2.6	71.5	2.5	2,838	57.6	2.9	59.9	2.9
	Female	5,195	5,002	3,620	69.7	2.6	72.4	2.5	3,004	57.8	2.7	60.1	2.7
PENNSYLVANIA	White alone	8,345	8,221	6,007	72.0	2.2	73.1	2.2	5,029	60.3	2.6	61.2	2.6
	White non-Hispanic alone	7,878	7,851	5,824	73.9	2.3	74.2	2.4	4,896	62.2	2.7	62.4	2.8
	Black alone	1,141	1,048	732	64.2	6.6	69.9	6.3	624	54.7	6.5	59.5	6.5
	Asian alone	369	216	134	36.2	11.9	61.8	15.6	104	28.3	11.0	48.2	15.6
	Hispanic (any race)	653	542	275	42.2	8.5	50.8	10.0	194	29.8	8.8	35.9	10.7
	White alone or in combination	8,493	8,360	6,063	71.4	2.2	72.5	2.2	5,082	59.8	2.6	60.8	2.6
	Black alone or in combination	1,217	1,116	760	62.5	6.4	68.1	6.1	643	52.9	6.4	57.6	6.6

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
	Asian alone or in combination	398	245	149	37.4	11.2	60.7	15.4	119	30.0	10.5	48.7	15.2
RHODE ISLAND	Total	880	843	626	71.2	3.4	74.3	3.5	458	52.1	3.6	54.4	3.7
	Male	431	407	307	71.1	4.1	75.4	4.3	211	49.0	4.3	52.0	4.5
	Female	448	436	320	71.3	3.6	73.3	3.9	247	55.1	4.4	56.6	4.5
	White alone	755	741	567	75.1	3.7	76.5	3.7	428	56.6	4.0	57.7	3.9
	White non-Hispanic alone	702	698	539	76.8	3.8	77.1	3.7	407	57.9	4.2	58.2	4.2
	Black alone	74	59	27	36.9	16.2	45.8	19.4	15	20.4	15.1	25.3	17.5
	Asian alone	37	29	23	61.5	14.7	79.6	12.8	8	22.2	13.1	28.8	17.2
	Hispanic (any race)	85	65	38	44.6	14.2	58.6	15.4	27	31.8	14.9	41.8	17.0
	White alone or in combination	764	749	573	75.1	3.7	76.5	3.7	433	56.7	4.0	57.8	4.0
	Black alone or in combination	79	65	32	40.3	15.8	49.1	18.6	19	23.7	14.3	28.9	16.4
	Asian alone or in combination	37	29	23	61.5	14.7	79.6	12.8	8	22.2	13.1	28.8	17.2
SOUTH CAROLINA	Total	4,045	3,868	2,491	61.6	3.8	64.4	3.9	1,736	42.9	3.4	44.9	3.5
	Male	1,899	1,812	1,127	59.3	4.3	62.2	4.3	785	41.4	4.1	43.3	4.1
	Female	2,147	2,056	1,364	63.6	4.3	66.3	4.5	951	44.3	3.6	46.3	3.7
	White alone	2,932	2,791	1,854	63.3	3.3	66.5	3.4	1,308	44.6	3.7	46.9	3.9
	White non-Hispanic alone	2,699	2,670	1,813	67.2	3.6	67.9	3.7	1,276	47.3	3.9	47.8	4.0
	Black alone	1,012	985	596	58.9	8.2	60.5	8.0	404	39.9	6.2	41.0	6.2
	Asian alone	49	46	21	41.9	20.8	45.3	24.1	10	20.3	19.2	21.9	20.2
	Hispanic (any race)	251	130	47	18.7	9.5	36.2	15.6	32	12.6	8.0	24.3	13.9
	White alone or in combination	2,959	2,812	1,860	62.9	3.3	66.1	3.5	1,313	44.4	3.6	46.7	3.8
	Black alone or in combination	1,032	1,004	599	58.0	8.1	59.6	7.9	407	39.4	6.1	40.5	6.1
	Asian alone or in combination	52	48	23	45.0	20.4	48.5	23.6	13	24.6	19.5	26.5	20.5
SOUTH DAKOTA	Total	676	658	460	68.1	4.2	70.0	4.4	351	52.0	3.9	53.4	4.0
	Male	341	331	234	68.5	5.0	70.7	5.0	173	50.7	3.8	52.3	3.9
	Female	334	327	226	67.7	4.1	69.2	4.4	178	53.3	5.8	54.5	6.2
	White alone	588	578	425	72.2	4.3	73.4	4.5	332	56.4	4.4	57.3	4.5
	White non-Hispanic alone	573	569	421	73.5	4.7	74.1	4.7	330	57.6	4.6	58.0	4.6
	Black alone	15	15	5	33.6	25.8	33.6	25.8	1	7.4	12.0	7.4	12.0
	Asian alone	12	7	3	27.6	23.9	49.3	29.8	1	6.9	12.8	12.3	21.2
	Hispanic (any race)	19	14	5	24.6	15.9	33.8	23.4	3	14.4	16.1	19.8	23.3
	White alone or in combination	593	583	427	71.9	4.4	73.1	4.6	334	56.2	4.5	57.2	4.6
	Black alone or in combination	17	17	5	30.1	24.4	30.1	24.4	1	6.6	10.9	6.6	10.9
	Asian alone or in combination	12	7	3	27.6	23.9	49.3	29.8	1	6.9	12.8	12.3	21.2
TENNESSEE	Total	5,391	5,145	3,467	64.3	2.7	67.4	2.6	2,291	42.5	2.7	44.5	2.7
	Male	2,570	2,440	1,654	64.4	3.6	67.8	3.4	1,108	43.1	3.3	45.4	3.4
	Female	2,821	2,705	1,812	64.2	3.0	67.0	2.9	1,183	41.9	3.0	43.7	3.0
	White alone	4,350	4,179	2,867	65.9	2.8	68.6	2.5	1,894	43.5	3.1	45.3	3.2
	White non-Hispanic alone	4,025	4,009	2,778	69.0	2.4	69.3	2.4	1,839	45.7	2.9	45.9	2.9
	Black alone	843	804	527	62.5	8.6	65.5	8.9	338	40.1	6.6	42.0	6.7
	Asian alone	118	81	24	20.4	12.4	29.7	19.5	18	15.4	9.3	22.4	14.4
	Hispanic (any race)	325	171	89	27.4	8.5	52.2	15.3	55	17.0	8.9	32.3	16.7
	White alone or in combination	4,403	4,232	2,896	65.8	2.8	68.4	2.6	1,915	43.5	3.0	45.3	3.1
	Black alone or in combination	856	818	535	62.5	8.4	65.4	8.8	346	40.4	6.5	42.3	6.7
	Asian alone or in combination	148	112	45	30.5	16.0	40.5	21.2	31	20.6	12.1	27.3	16.5
	Total	22,057	19,029	12,416	56.3	2.0	65.2	2.0	8,935	40.5	2.0	47.0	2.1
	Male	10,811	9,223	5,931	54.9	2.2	64.3	2.1	4,239	39.2	2.2	46.0	2.3
	Female	11,246	9,805	6,484	57.7	2.3	66.1	2.4	4,696	41.8	2.3	47.9	2.5
	White alone	17,444	15,006	9,921	56.9	2.4	66.1	2.3	7,189	41.2	2.3	47.9	2.4

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
TEXAS	White non-Hispanic alone	9,950	9,689	6,886	69.2	2.9	71.1	2.9	5,307	53.3	2.8	54.8	2.9
	Black alone	2,871	2,715	1,605	55.9	4.3	59.1	4.2	1,125	39.2	4.3	41.5	4.3
	Asian alone	1,188	802	550	46.3	6.6	68.6	7.5	338	28.5	6.4	42.2	8.8
	Hispanic (any race)	7,895	5,672	3,300	41.8	2.9	58.2	3.1	2,091	26.5	2.6	36.9	3.1
	White alone or in combination	17,745	15,306	10,128	57.1	2.3	66.2	2.3	7,365	41.5	2.3	48.1	2.4
	Black alone or in combination	2,966	2,811	1,661	56.0	4.2	59.1	4.2	1,182	39.8	4.2	42.0	4.3
	Asian alone or in combination	1,248	861	560	44.9	6.5	65.0	8.0	348	27.9	6.2	40.4	8.5
UTAH	Total	2,455	2,278	1,536	62.6	3.3	67.4	3.3	1,204	49.0	3.1	52.8	3.2
	Male	1,231	1,134	781	63.4	4.1	68.9	4.5	589	47.9	3.6	52.0	4.0
	Female	1,224	1,144	755	61.7	3.5	66.0	3.4	614	50.2	3.5	53.7	3.6
	White alone	2,264	2,119	1,463	64.6	3.3	69.0	3.3	1,163	51.4	3.1	54.9	3.2
	White non-Hispanic alone	1,933	1,907	1,381	71.4	3.0	72.4	2.9	1,113	57.6	2.9	58.4	3.0
	Black alone	31	31	12	36.9	27.5	36.9	27.5	10	30.6	26.3	30.6	26.3
	Asian alone	60	37	24	39.6	18.2	64.7	19.9	16	26.5	17.1	43.2	25.8
	Hispanic (any race)	354	232	85	24.0	6.4	36.6	9.3	50	14.2	4.9	21.7	7.2
	White alone or in combination	2,308	2,163	1,483	64.3	3.3	68.6	3.4	1,173	50.8	3.2	54.2	3.3
	Black alone or in combination	43	43	14	31.6	20.5	31.6	20.5	10	22.1	19.0	22.1	19.0
	Asian alone or in combination	81	58	38	46.4	16.3	65.2	16.8	21	25.9	12.5	36.3	17.1
	Total	528	521	393	74.5	3.2	75.4	3.1	324	61.4	3.4	62.2	3.4
	Male	259	256	192	74.3	3.8	75.2	3.7	157	60.7	3.6	61.5	3.6
VERMONT	Female	269	265	200	74.6	3.6	75.6	3.5	167	62.2	4.2	62.9	4.1
	White alone	497	494	380	76.6	2.9	77.0	2.9	314	63.3	3.4	63.6	3.4
	White non-Hispanic alone	491	489	377	76.7	2.9	77.1	2.9	311	63.3	3.4	63.7	3.4
	Black alone	5	3	1	28.0	18.0	42.2	27.3	1	20.1	17.1	30.3	28.3
	Asian alone	12	10	5	41.3	27.1	50.1	26.8	4	36.7	26.1	44.4	26.5
	Hispanic (any race)	8	7	4	53.0	21.6	58.8	22.8	3	40.0	21.5	44.3	23.3
	White alone or in combination	507	504	385	75.9	3.0	76.3	2.9	318	62.7	3.3	63.1	3.3
	Black alone or in combination	8	7	3	34.1	20.1	42.6	25.3	2	29.4	20.6	36.7	26.2
	Asian alone or in combination	14	12	6	42.1	23.0	49.2	22.2	5	38.2	22.2	44.6	22.0
	Total	6,583	6,043	4,487	68.2	3.1	74.3	2.7	3,216	48.8	3.2	53.2	3.2
	Male	3,176	2,928	2,118	66.7	3.4	72.3	3.1	1,567	49.3	3.6	53.5	3.6
	Female	3,407	3,115	2,369	69.5	3.4	76.1	3.1	1,649	48.4	3.6	52.9	3.6
VIRGINIA	White alone	4,601	4,336	3,244	70.5	3.4	74.8	2.9	2,446	53.2	3.6	56.4	3.4
	White non-Hispanic alone	4,062	4,000	3,035	74.7	2.8	75.9	2.9	2,308	56.8	3.4	57.7	3.5
	Black alone	1,274	1,194	868	68.1	7.9	72.7	7.4	524	41.1	8.1	43.9	8.4
	Asian alone	557	374	276	49.5	9.6	73.8	10.9	157	28.2	8.1	42.0	10.7
	Hispanic (any race)	648	394	236	36.3	11.7	59.7	14.0	138	21.3	8.6	35.1	11.8
	White alone or in combination	4,715	4,443	3,317	70.3	3.5	74.6	3.0	2,508	53.2	3.6	56.5	3.5
	Black alone or in combination	1,334	1,247	899	67.4	7.6	72.1	7.2	550	41.2	8.1	44.1	8.4
	Asian alone or in combination	583	399	301	51.7	9.3	75.4	10.2	177	30.4	8.1	44.3	10.4
	Total	6,016	5,511	4,140	68.8	2.6	75.1	2.6	3,292	54.7	2.8	59.7	2.8
	Male	3,021	2,747	2,068	68.5	3.3	75.3	3.2	1,632	54.0	3.1	59.4	3.3
	Female	2,996	2,764	2,072	69.2	3.5	75.0	3.9	1,660	55.4	3.8	60.1	4.0
WASHINGTON	White alone	4,701	4,372	3,427	72.9	2.5	78.4	2.5	2,875	61.1	3.0	65.8	2.9
	White non-Hispanic alone	4,017	3,954	3,164	78.8	2.4	80.0	2.4	2,696	67.1	3.0	68.2	3.0
	Black alone	245	222	135	55.1	15.8	60.9	16.2	76	31.0	14.7	34.2	16.3
	Asian alone	561	422	275	49.1	8.6	65.2	10.7	166	29.5	8.2	39.2	10.1
	Hispanic (any race)	771	499	320	41.5	9.0	64.1	12.7	231	30.0	9.9	46.3	14.0
	White alone or in combination	4,953	4,615	3,599	72.7	2.5	78.0	2.5	2,972	60.0	2.9	64.4	2.8

Characteristics		Total population	Total citizen population	Registered					Voted				
				Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
WEST VIRGINIA	Black alone or in combination	353	330	209	59.1	11.5	63.3	11.4	105	29.8	11.5	32.0	12.4
	Asian alone or in combination	657	509	347	52.8	8.6	68.1	9.9	191	29.2	7.4	37.6	8.8
	Total	1,406	1,400	877	62.3	5.0	62.6	5.1	538	38.2	5.2	38.4	5.3
	Male	689	687	424	61.6	6.1	61.7	6.2	263	38.1	5.8	38.2	5.8
	Female	717	713	452	63.1	4.3	63.5	4.4	275	38.3	5.1	38.6	5.1
	White alone	1,310	1,305	831	63.4	5.3	63.7	5.4	516	39.4	5.6	39.5	5.6
	White non-Hispanic alone	1,292	1,290	819	63.4	5.2	63.5	5.3	511	39.6	5.6	39.6	5.6
	Black alone	43	43	20	47.4	35.0	47.4	35.0	9	22.3	12.7	22.3	12.7
	Asian alone	13	11	3	22.2	15.1	26.1	18.8	0	0.0	0.0	0.0	0.0
	Hispanic (any race)	29	27	16	54.7	26.2	59.2	28.5	6	22.0	16.4	23.8	17.9
	White alone or in combination	1,343	1,339	852	63.4	5.2	63.6	5.2	528	39.3	5.7	39.5	5.7
	Black alone or in combination	59	59	29	49.3	23.8	49.3	23.8	11	19.6	8.6	19.6	8.6
	Asian alone or in combination	18	16	6	32.0	18.2	36.1	20.6	1	6.4	10.2	7.2	11.4
WISCONSIN	Total	4,591	4,461	3,225	70.2	3.4	72.3	3.2	2,715	59.1	3.1	60.9	2.9
	Male	2,258	2,202	1,545	68.5	4.2	70.2	4.1	1,287	57.0	3.5	58.4	3.5
	Female	2,334	2,259	1,679	72.0	3.2	74.3	2.9	1,428	61.2	3.6	63.2	3.3
	White alone	4,169	4,095	3,010	72.2	3.4	73.5	3.2	2,553	61.2	3.2	62.4	3.0
	White non-Hispanic alone	3,918	3,895	2,904	74.1	2.9	74.6	2.9	2,486	63.5	2.9	63.8	2.9
	Black alone	277	253	149	53.8	14.9	58.8	17.0	96	34.8	13.5	38.0	15.1
	Asian alone	90	57	40	44.4	26.7	69.5	19.6	40	44.4	26.7	69.5	19.6
	Hispanic (any race)	265	214	113	42.6	16.6	52.8	18.3	74	27.8	13.5	34.5	15.3
	White alone or in combination	4,202	4,128	3,031	72.1	3.4	73.4	3.3	2,574	61.3	3.2	62.4	3.1
	Black alone or in combination	299	276	164	54.8	14.5	59.4	16.3	111	37.2	13.7	40.3	15.0
	Asian alone or in combination	90	57	40	44.4	26.7	69.5	19.6	40	44.4	26.7	69.5	19.6
WYOMING	Total	440	437	274	62.3	3.5	62.8	3.5	214	48.6	3.5	49.0	3.5
	Male	222	220	135	60.7	3.8	61.3	3.8	108	48.6	3.3	49.0	3.3
	Female	218	216	139	63.8	4.0	64.2	4.0	106	48.6	4.7	48.9	4.7
	White alone	413	411	264	63.8	3.3	64.2	3.3	207	50.1	3.5	50.4	3.5
	White non-Hispanic alone	387	386	253	65.3	2.9	65.4	2.9	199	51.5	3.3	51.6	3.3
	Black alone	3	3	1	22.2	32.7	22.2	32.7	0	0.0	0.0	0.0	0.0
	Asian alone	2	2	1	43.3	33.9	43.3	33.9	1	43.3	33.9	43.3	33.9
	Hispanic (any race)	33	31	13	40.3	12.8	43.9	13.7	10	29.4	10.6	32.0	11.4
	White alone or in combination	425	423	269	63.2	3.5	63.6	3.5	211	49.6	3.6	49.9	3.6
	Black alone or in combination	3	3	1	22.2	32.7	22.2	32.7	0	0.0	0.0	0.0	0.0
	Asian alone or in combination	3	3	1	28.4	29.2	28.4	29.2	1	28.4	29.2	28.4	29.2

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

Estimates may not sum to totals due to rounding.

Information on confidentiality protection, sampling error, nonsampling error, and definitions is available at < <https://www.census.gov/programs-surveys/cps/technical-documentation/complete.22.html>>

Source: U.S. Census Bureau, Current Population Survey, November 2022

EXHIBIT D

Legislation & Laws

House of Representatives

Senate

Committees

Joint Offices

Intern Program

SENATE









Session: 2023-2024 Regular Session (Current)











Senators











Interactive Seating Chart











Seating Chart











Mailing Labels

Name	Party	District	City
 Ben Watson	Republican	1	Savannah
 Derek Mallow	Democrat	2	Savannah
 Mike Hodges	Republican	3	Brunswick
 Billy Hickman	Republican	4	Statesboro
 Sheikh Rahman	Democrat	5	Lawrenceville
 Jason Esteves	Democrat	6	Atlanta
 Nabilah Islam	Democrat	7	Lawrenceville
 Russ Goodman	Republican	8	Cogdell

	Name ▾	Party	District ▴	City ▾
	Nikki Merritt	Democrat	9	Grayson
	Emanuel Jones	Democrat	10	Decatur
	Sam Watson	Republican	11	Moultrie
	Freddie Powell Sims	Democrat	12	Dawson
	Carden Summers	Republican	13	Cordele
	Josh McLaurin	Democrat	14	Sandy Springs
	Ed Harbison	Democrat	15	Columbus
	Marty Harbin	Republican	16	Tyrone
	Brian Strickland	Republican	17	McDonough
	John F. Kennedy	Republican	18	Macon

Name	Party	District	City
 Blake Tillery	Republican	19	Vidalia
 Larry Walker, III	Republican	20	Perry
 Brandon Beach	Republican	21	Alpharetta
 Harold Jones II	Democrat	22	Augusta
 Max Burns	Republican	23	Sylvania
 Lee Anderson	Republican	24	Grovetown
 Rick Williams	Republican	25	Milledgeville
 David Lucas	Democrat	26	Macon
 Greg Dolezal	Republican	27	Cumming
 Matt Brass	Republican	28	Newnan

Name	Party	District	City
 Randy Robertson	Republican	29	Cataula
 Mike Dugan	Republican	30	Carrollton
 Jason Anavirtarte	Republican	31	Dallas
 Kay Kirkpatrick	Republican	32	Marietta
 Michael 'Doc' Rhett	Democrat	33	Marietta
 Valencia Seay	Democrat	34	Riverdale
 Donzella James	Democrat	35	Atlanta
 Nan Orrock	Democrat	36	Atlanta
 Ed Setzler	Republican	37	Acworth
 Horacena Tate	Democrat	38	Atlanta

Name	Party	District	City
 Sonya Halpern	Democrat	39	Atlanta
 Sally Harrell	Democrat	40	Atlanta
 Kim Jackson	Democrat	41	Stone Mountain
 Elena Parent	Democrat	42	Atlanta
 Tonya Anderson	Democrat	43	Lithonia
 Gail Davenport	Democrat	44	Jonesboro
 Clint Dixon	Republican	45	Gwinnett
 Bill Cowsert	Republican	46	Athens
 Frank Ginn	Republican	47	Danielsville
 Shawn Still	Republican	48	Norcross

Georgia General Assembly Representatives				
Name	Party	District	City	
 Shelly Echols	Republican	49	Alto	
 Bo Hatchett	Republican	50	Cornelia	
 Steve Gooch	Republican	51	Dahlonega	
 Chuck Hufstetler	Republican	52	Rome	
 Colton Moore	Republican	53	Trenton	
 Chuck Payne	Republican	54	Dalton	
 Gloria Butler	Democrat	55	Stone Mountain	
 John Albers	Republican	56	Roswell	

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- [Secretary of State](#)
- [Georgia Department of Motor Vehicles](#)
- [Georgia Department of Driver Services](#)
- [Georgia Department of Revenue](#)

Legislative Resources

- [House of Representatives](#)
- [Senate](#)
- [Open RFP's](#)
- [Senate Staffing](#)
- [Intern Program](#)

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Georgia General Assembly Representatives

[Georgia Department of Labor](#)

EXHIBIT E

Legislation & LawsHouse of RepresentativesSenateCommitteesJoint OfficesIntern Program

HOUSE OF REPRESENTATIVES









Session: 2023-2024 Regular Session (Current)

Representatives





Member Directory










Public Information

Other Documents & Labels











Name	Party	District	City
 Mike Cameron	Republican	1	Rossville
 Steve Tarvin	Republican	2	Chickamauga
 Mitchell Horner	Republican	3	Ringgold
 Kasey Carpenter	Republican	4	Dalton
 Matt Barton	Republican	5	Calhoun
 Jason Ridley	Republican	6	Chatsworth
 Johnny Chastain	Republican	7	
 Stan Gunter	Republican	8	Blairsville











	Name ▾	Party	District ▴	City ▾
	Will Wade	Republican	9	Dawsonville
	Victor Anderson	Republican	10	Cornelia
	Rick Jasperse	Republican	11	Jasper
	Eddie Lumsden	Republican	12	Armuchee
	Katie Dempsey	Republican	13	Rome
	Mitchell Scoggins	Republican	14	Cartersville
	Matthew Gambill	Republican	15	Cartersville
	Trey Kelley	Republican	16	Cedartown
	Martin Momtahan	Republican	17	Dallas
	Tyler Paul Smith	Republican	18	Bremen














	Name ▾	Party	District ▾	City ▾
	Joseph Gullett	Republican	19	Dallas
	Charlice Byrd	Republican	20	Woodstock
	Brad Thomas	Republican	21	Holly Springs
	Jordan Ridley	Republican	22	Woodstock
	Mandi Ballinger	Republican	23	Canton
	Carter Barrett	Republican	24	Cumming
	Todd Jones	Republican	25	South Forsyth
	Lauren McDonald	Republican	26	Cumming
	Lee Hawkins	Republican	27	Gainesville
	Brent Cox	Republican	28	Dawsonville











	Name ▾	Party	District ▾	City ▾
	Matt Dubnik	Republican	29	Gainesville
	Derrick McCollum	Republican	30	Chestnut Mountain
	Emory Dunahoo	Republican	31	Gillsville
	Chris Erwin	Republican	32	Homer
	Alan Powell	Republican	33	Hartwell
	Devan Seabaugh	Republican	34	Marietta
	Lisa Campbell	Democrat	35	Kennesaw
	Ginny Ehrhart	Republican	36	Marietta
	Mary Frances Williams	Democrat	37	Marietta
	David Wilkerson	Democrat	38	Powder Springs











	Name ▾	Party	District ▴	City ▾
	Terry Cummings	Democrat	39	Mableton
	Doug Stoner	Democrat	40	Smyrna
	Michael Smith	Democrat	41	Marietta
	Teri Anulewicz	Democrat	42	Smyrna
	Solomon Adesanya	Democrat	43	Marietta
	Don Parsons	Republican	44	Marietta
	Sharon Cooper	Republican	45	Marietta
	John Carson	Republican	46	Marietta
	Jan Jones	Republican	47	Milton
	Scott Hilton	Republican	48	Peachtree Corners














	Name ▾	Party	District ▴	City ▾
	Chuck Martin	Republican	49	Alpharetta
	Michelle Au	Democrat	50	Johns Creek
	Esther Panitch	Democrat	51	Sandy Springs
	Shea Roberts	Democrat	52	Atlanta
	Deborah Silcox	Republican	53	Sandy Springs
	Betsy Holland	Democrat	54	Atlanta
	Inga Willis	Democrat	55	Atlanta
	Mesha Mainor	Republican	56	Atlanta
	Stacey Evans	Democrat	57	Atlanta
	Park Cannon	Democrat	58	Atlanta











	Name ▾	Party	District ▴	City ▾
	Phil Olaleye	Democrat	59	Atlanta
	Sheila Jones	Democrat	60	Atlanta
	Roger Bruce	Democrat	61	Atlanta
	Tanya F. Miller	Democrat	62	Atlanta
	Kim Schofield	Democrat	63	Atlanta
	Kimberly New	Republican	64	Villa Rica
	Mandisha A. Thomas	Democrat	65	South Fulton
	Kimberly Alexander	Democrat	66	Hiram
	Lydia Glaize	Democrat	67	Fairburn
	Derrick Jackson	Democrat	68	Tyrone











	Name 	Party	District 	City 
	Tish Naghise <i>(Until 03/08/2023)</i>	Democrat	68	Fayetteville
	Debra Bazemore	Democrat	69	South Fulton
	Lynn Smith	Republican	70	Newnan
	J Collins	Republican	71	Villa Rica
	David Huddleston	Republican	72	Roopville
	Josh Bonner	Republican	73	Fayetteville
	Karen Mathiak	Republican	74	Griffin
	Eric Bell	Democrat	75	Jonesboro
	Mike Glanton <i>(Until 01/18/2023)</i>	Democrat	75	Jonesboro
	Sandra Scott	Democrat	76	Rex











	Name ▾	Party	District ▴	City ▾
	Rhonda Burnough	Democrat	77	Riverdale
	Demetrius Douglas	Democrat	78	Stockbridge
	Yasmin Neal	Democrat	79	Jonesboro
	Long Tran	Democrat	80	Dunwoody
	Scott Holcomb	Democrat	81	Atlanta
	Mary Margaret Oliver	Democrat	82	Decatur
	Karen Lupton	Democrat	83	Chamblee
	Omari Crawford	Democrat	84	Decatur
	Karla Drenner	Democrat	85	Avondale Estates
	Imani Barnes	Democrat	86	Tucker










	Name ▾	Party	District ▴	City ▾
	Viola Davis	Democrat	87	Stone Mountain
	Billy Mitchell	Democrat	88	Stone Mountain
	Becky Evans	Democrat	89	Atlanta
	Saira Draper	Democrat	90	Atlanta
	Angela Moore	Democrat	91	Stonecrest
	Rhonda Taylor	Democrat	92	Conyers
	Doreen Carter	Democrat	93	Lithonia
	Karen Bennett	Democrat	94	Stone Mountain
	Dar'shun Kendrick	Democrat	95	Lithonia
	Pedro "Pete" Marin	Democrat	96	Duluth


	Name 	Party	District 	City 
	Ruwa Romman	Democrat	97	Duluth
	Marvin Lim	Democrat	98	Norcross
	Matt Reeves	Republican	99	Duluth
	David Clark	Republican	100	Buford
	Gregg Kennard	Democrat	101	Lawrenceville
	Gabe Okoye	Democrat	102	Lawrenceville
	Soo Hong	Republican	103	Lawrenceville
	Chuck Efstration	Republican	104	Auburn
	Farooq Mughal	Democrat	105	Dacula
	Shelly Hutchinson	Democrat	106	Snellville


	Name ▾	Party	District ▴	City ▾
	Sam Park	Democrat	107	Lawrenceville
	Jasmine Clark	Democrat	108	Lilburn
	Dewey McClain	Democrat	109	Lawrenceville
	Segun Adeyina	Democrat	110	Grayson
	Reynaldo "Rey" Martinez	Republican	111	Loganville
	Bruce Williamson	Republican	112	Monroe
	Sharon Henderson	Democrat	113	Covington
	Tim Fleming	Republican	114	Covington
	Regina Lewis-Ward	Democrat	115	McDonough
	El-Mahdi Holly	Democrat	116	Stockbridge









	Name ▾	Party	District ▾	City ▾
	Lauren Daniel	Republican	117	Locust Grove
	Clint Crowe	Republican	118	Jackson
	Holt Persinger	Republican	119	Winder
	Houston Gaines	Republican	120	Athens
	Marcus Wiedower	Republican	121	Watkinsville
	Spencer Frye	Democrat	122	Athens
	Rob Leverett	Republican	123	Elberton
	Trey Rhodes	Republican	124	Greensboro
	Barry Fleming	Republican	125	Harlem
	Gloria Frazier	Democrat	126	Hephzibah





	Name ▾	Party	District ▴	City ▾
	Mark Newton	Republican	127	Augusta
	Mack Jackson	Democrat	128	Sandersville
	Karlton Howard	Democrat	129	Augusta
	Lynn Gladney	Democrat	130	Augusta
	Jodi Lott	Republican	131	Evans
	Brian Prince	Democrat	132	Augusta
	Ken Vance	Republican	133	Milledgeville
	David Knight	Republican	134	Griffin
	Beth Camp	Republican	135	Concord
	David Jenkins	Republican	136	Grantville

	Name ▾	Party	District ▴	City ▾
	Debbie Buckner	Democrat	137	Junction City
	Vance Smith	Republican	138	Pine Mountain
	Richard Smith	Republican	139	Columbus
	Tremaine Teddy Reese	Democrat	140	Columbus
	Carolyn Hugley	Democrat	141	Columbus
	Miriam Paris	Democrat	142	Macon
	James Beverly	Democrat	143	Macon
	Dale Washburn	Republican	144	Macon
	Robert Dickey	Republican	145	Musella
	Shaw Blackmon	Republican	146	Bonaire

	Name ▾	Party	District ▴	City ▾
	Bethany Ballard	Republican	147	Warner Robins
	Noel Williams, Jr.	Republican	148	Cordele
	Danny Mathis	Republican	149	Cochran
	Patty Bentley	Democrat	150	Butler
	Mike Cheokas	Republican	151	Americus
	Bill Yearta	Republican	152	Sylvester
	David Sampson	Democrat	153	Albany
	Gerald Greene	Republican	154	Cuthbert
	Matt Hatchett	Republican	155	Dublin
	Leesa Hagan	Republican	156	Lyons

	Name ▾	Party	District ▴	City ▾
	Bill Werkheiser	Republican	157	Glennville
	Butch Parrish	Republican	158	Swainsboro
	Jon Burns	Republican	159	Newington
	Lehman Franklin	Republican	160	Statesboro
	Bill Hitchens	Republican	161	Rincon
	Carl Gilliard	Democrat	162	Savannah
	Anne Allen Westbrook	Democrat	163	Savannah
	Ron Stephens	Republican	164	Savannah
	Edna Jackson	Democrat	165	Savannah
	Jesse Petrea	Republican	166	Savannah

	Name ▾	Party	District ▾	City ▾
	Buddy DeLoach	Republican	167	Townsend
	Al Williams	Democrat	168	Midway
	Clay Pirkle	Republican	169	Ashburn
	Penny Houston	Republican	170	Nashville
	Joe Campbell	Republican	171	Camilla
	Chas Cannon	Republican	172	
	Darlene Taylor	Republican	173	Thomasville
	John Corbett	Republican	174	Lake Park
	John LaHood	Republican	175	Valdosta
	James Burchett	Republican	176	Waycross

Name ▾	Party	District ▾	City ▾
 Dexter Sharper	Democrat	177	Valdosta
 Steven Meeks	Republican	178	Screven
 Rick Townsend	Republican	179	Brunswick
 Steven Sainz	Republican	180	St. Marys

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- [Secretary of State](#)
- [Georgia Department of Motor Vehicles](#)
- [Georgia Department of Driver Services](#)
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EXHIBIT F

US Senate - Rep (Vote For 1)																	
Gary W. Black						Josh Clark						Kelvin King					
County	Registered Voters	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	
Appling	11345	401	20	191	0	612	58	14	15	0	87	10	1	13	0	24	
Atkinson	4468	102	2	67	0	171	12	2	10	0	24	15	0	4	0	19	
Bacon	6535	158	11	228	0	397	25	0	20	0	45	13	2	25	0	40	
Baker	2113	104	11	67	1	183	3	0	0	0	3	4	0	1	0	5	
Baldwin	27291	279	24	266	0	569	49	2	34	0	85	67	1	59	0	127	
Banks	13064	542	37	499	1	1079	71	2	39	0	112	40	1	61	0	102	
Barrow	55127	861	51	660	0	1572	525	11	217	0	753	214	4	154	0	372	
Bartow	73915	1053	75	625	2	1755	349	23	156	0	528	315	14	160	3	492	
Ben Hill	9103	107	2	179	0	288	29	2	31	0	62	20	0	12	0	32	
Berrien	10402	420	22	283	0	725	46	1	24	0	71	23	2	32	0	57	
Bibb	103808	1423	96	518	4	2041	236	11	112	0	359	175	12	69	0	256	
Bleckley	7519	282	11	215	0	508	25	2	8	0	35	12	1	6	0	19	
Brantley	12031	137	1	89	0	227	65	1	27	0	93	30	0	16	0	46	
Brooks	0	333	5	159	0	497	27	1	6	1	35	18	4	16	0	38	
Bryan	30205	242	8	258	6	514	74	7	73	8	162	47	2	59	2	110	
Bulloch	44100	998	60	569	1	1628	109	0	48	0	157	76	5	58	0	139	
Burke	15963	166	6	76	0	248	39	2	11	0	52	11	1	7	0	19	
Butts	18378	190	20	379	0	589	50	5	67	0	122	40	3	70	0	113	
Calhoun	2931	90	9	35	0	134	7	0	4	0	11	4	1	8	0	13	
Camden	34672	227	14	279	0	520	137	4	122	0	263	86	8	120	0	214	
Candler	6308	81	2	104	0	187	11	0	9	0	20	9	1	13	0	23	
Carroll	82192	1753	61	826	1	2641	394	6	128	1	529	361	5	177	0	543	
Catoosa	44785	1134	62	980	3	2179	209	10	140	0	359	106	5	83	0	194	
Charlton	6362	128	0	2	0	130	42	1	0	0	43	40	0	0	0	40	
Chatham	196554	1370	103	685	1	2159	529	37	216	2	784	331	29	149	0	509	
Chattahoochee	0	13	0	7	0	20	6	0	7	0	13	2	1	3	0	6	
Chattooga	13975	396	10	196	0	602	73	1	38	0	112	31	0	21	0	52	
Cherokee	188333	2738	266	2206	4	5214	1583	82	827	1	2493	1215	57	848	3	2123	
Clarke	71350	1003	92	909	0	2004	172	14	115	2	303	217	15	179	1	412	
Clay	1987	20	2	29	0	51	6	0	4	0	10	3	0	10	0	13	
Clayton	174929	261	33	269	0	563	106	7	85	0	198	112	3	75	1	191	
Clinch	4147	102	2	79	1	184	10	0	4	0	14	10	3	8	0	21	
Cobb	504963	5679	794	3505	7	9985	2484	182	1088	2	3756	2735	220	1510	3	4468	
Coffee	23409	376	2	220	0	598	49	4	28	0	81	22	0	15	0	37	
Colquitt	24560	935	24	395	0	1354	62	7	43	0	112	42	1	21	0	64	
Columbia	105262	1003	65	613	2	1683	511	29	219	0	759	366	26	232	0	624	
Cook	9912	319	25	211	0	555	25	2	15	0	42	21	0	10	0	31	
Coweta	101997	2250	122	1447	2	3821	801	19	307	0	1127	419	20	306	0	745	
Crawford	8375	182	23	118	0	323	62	1	21	0	84	20	0	14	0	34	
Crisp	12297	343	19	304	0	666	20	1	22	0	43	15	1	9	0	25	
Dade	10822	253	9	170	0	432	91	2	48	0	141	60	1	22	0	83	
Dawson	21770	431	51	501	0	983	193	7	108	1	309	127	8	108	0	243	
Decatur	16060	444	12	239	1	696	30	0	15	0	45	20	1	9	0	30	
DeKalb	501756	3007	329	2076	4	5416	885	58	499	1	1443	1094	79	718	4	1895	
Dodge	0	360	21	232	1	614	39	1	16	0	56	18	1	7	0	26	
Dooley	5808	191	18	97	0	306	12	0	3	0	15	6	0	4	0	10	
Dougherty	59434	402	18	140	1	561	81	3	22	0	106	70	2	21	0	93	
Douglas	95697	525	53	571	0	1149	286	16	191	0	493	211	18	180	0	409	
Early	7037	230	7	104	0	341	10	0	10	0	20	48	1	62	1	112	
Echols	1417	118	4	109	0	231	5	1	5	0	11	3	0	3	0	6	
Effingham	44358	653	37	331	2	1023	207	8	51	0	266	86	3	53	1	143	
Elbert	12311	255	11	190	0	456	42	0	18	0	60	38	0	23	0	61	
Emanuel	13694	314	10	160	0	484	48	0	8	1	57	32	3	14	1	50	
Evans	6089	98	20	121	0	239	13	0	10	0	23	11	1	3	0	15	
Fannin	19904	399	47	193	0	639	123	6	55	0	184	77	11	54	0	142	
Fayette	0	1438	90	1299	1	2828	507	20	357	0	884	443	15	347	1	806	
Floyd	59297	800	53	443	6	1302	308	12	121	1	442	197	11	119	2	329	
Forsyth	159964	1927	200	2220	1	4348	1231	36	951	0	2218	726	45	828	1	1600	
Franklin	15088	553	24	299	0	876	119	3	51	0	173	55	1	26	0	82	

County	Registered Voters	Gary W. Black					Josh Clark					Kelvin King				
		Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes
Fulton	737975	4037	301	4503	14	8855	1465	71	1164	9	2709	1559	88	1752	3	3402
Gilmer	22137	588	25	403	1	1017	149	10	104	0	263	136	5	157	0	298
Glascocock	1976	43	9	40	0	92	7	0	6	0	13	21	0	0	0	21
Glynn	58812	432	30	456	0	918	255	10	216	0	481	137	11	160	0	308
Gordon	36148	836	30	392	1	1259	172	9	77	0	258	146	5	66	1	218
Grady	14594	283	9	161	0	453	86	3	37	0	126	25	2	27	0	54
Greene	14545	216	9	286	0	511	53	6	36	0	95	121	13	235	0	369
Gwinnett	561933	4043	352	2974	4	7373	3935	126	2090	4	6155	1668	82	1074	2	2826
Habersham	28093	829	88	1020	0	1937	187	9	90	0	286	158	16	177	0	351
Hall	129311	2330	279	1834	1	4444	1473	63	876	1	2413	619	42	592	0	1253
Hancock	5706	45	1	29	0	75	5	0	6	0	11	10	0	9	0	19
Haralson	20701	520	24	198	0	742	118	8	44	0	170	177	8	89	0	274
Harris	25494	362	26	156	0	544	108	7	43	0	158	118	4	46	0	168
Hart	16985	402	15	276	0	693	83	4	53	0	140	65	4	57	0	126
Heard	7502	339	48	116	0	503	54	4	18	0	76	27	1	9	0	37
Henry	166578	984	87	1147	0	2218	402	25	381	1	809	283	20	278	0	581
Houston	105544	906	72	1031	3	2012	309	11	226	0	546	172	19	191	0	382
Irwin	5855	198	10	138	0	346	33	0	14	1	48	6	0	13	0	19
Jackson	53627	1620	128	1744	2	3494	425	13	228	1	667	194	9	209	0	412
Jasper	10585	251	24	236	1	512	45	0	37	0	82	50	2	26	0	78
Jeff Davis	8325	185	3	97	0	285	34	0	16	0	50	20	0	8	0	28
Jefferson	10904	156	13	67	0	236	17	1	8	0	26	15	0	2	0	17
Jenkins	4986	87	5	62	0	154	13	0	2	0	15	4	0	10	0	14
Johnson	5436	62	4	55	0	121	11	1	5	0	17	2	0	2	0	4
Jones	20167	288	13	199	0	500	52	7	36	0	95	59	4	56	1	120
Lamar	12877	304	12	191	1	508	59	3	32	0	94	36	3	34	0	73
Lanier	5548	130	5	130	0	265	15	1	18	0	34	11	0	13	0	24
Laurens	33490	568	33	302	0	903	56	3	26	0	85	39	1	24	0	64
Lee	22453	426	16	245	1	688	103	2	40	0	145	57	0	25	0	82
Liberty	34364	125	12	96	1	234	40	4	43	0	87	48	5	49	0	102
Lincoln	6042	91	4	56	3	154	14	0	9	0	23	9	0	11	0	20
Long	9488	96	1	83	0	180	29	0	21	0	50	21	0	14	0	35
Lowndes	70808	1146	31	909	7	2093	122	0	90	0	212	88	3	73	0	164
Lumpkin	22085	399	28	387	1	815	160	9	151	1	321	161	8	179	0	348
Macon	6786	55	2	64	0	121	9	2	2	0	13	5	1	14	0	20
Madison	20681	759	48	499	3	1309	109	4	47	1	161	111	3	72	0	186
Marion	4781	90	7	67	0	164	18	0	12	0	30	9	4	8	0	21
McDuffie	14878	137	22	159	0	318	64	9	21	0	94	24	5	17	0	46
McIntosh	9	83	16	112	0	211	34	4	44	0	82	18	0	18	0	36
Meriwether	15259	382	17	165	0	564	70	3	25	0	98	51	1	22	0	74
Miller	3709	161	11	83	0	255	16	2	3	0	21	8	1	2	0	11
Mitchell	13125	416	51	310	0	777	36	1	20	1	58	20	0	7	0	27
Monroe	20860	509	12	296	1	818	99	6	40	0	145	59	5	47	0	111
Montgomery	5318	178	0	84	0	262	27	2	7	0	36	12	0	7	0	19
Morgan	14937	578	22	470	1	1071	76	6	31	0	113	74	1	103	0	178
Murray	22398	404	5	191	0	600	140	6	58	0	204	63	5	35	0	103
Muscogee	119249	538	67	358	0	963	310	29	137	0	476	156	13	109	0	278
Newton	78636	844	69	390	3	1306	274	15	127	0	416	209	11	101	0	321
Oconee	29155	1146	84	996	0	2226	167	14	95	0	276	194	8	137	0	339
Oglethorpe	10762	335	42	290	0	667	37	6	29	0	72	45	0	49	0	94
Paulding	115249	1046	131	1099	0	2276	434	31	390	3	858	379	26	352	0	757
Peach	18061	188	11	201	1	401	45	7	39	0	91	19	3	28	0	50
Pickens	23740	665	40	413	0	1118	254	4	109	0	367	149	4	86	0	239
Pierce	12247	137	9	197	0	343	30	4	26	1	61	31	1	20	0	52
Pike	14038	371	11	249	2	633	109	4	37	0	150	90	1	61	0	152
Polk	0	366	20	380	4	770	106	6	87	2	201	90	3	78	1	172
Pulaski	0	108	6	126	0	240	20	2	7	0	29	10	0	8	0	18
Putnam	16007	327	29	264	1	621	50	4	34	1	89	49	3	42	0	94
Quitman	1490	16	0	16	0	32	7	0	4	0	11	5	1	8	0	14
Rabun	12174	243	48	303	0	594	86	10	74	0	170	69	7	64	0	140

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County	Registered Voters	Gary W. Black						Josh Clark						Kelvin King					
		Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes			
Randolph	4206	117	4	88	0	209	5	0	8	0	13	2	0	0	0	2			
Richmond	129231	540	33	238	0	811	314	15	132	0	461	162	8	85	0	255			
Rockdale	60582	338	32	300	1	671	130	5	87	0	222	86	10	77	0	173			
Schley	2878	67	1	74	0	142	14	0	14	0	28	14	0	9	0	23			
Screven	9471	291	12	178	0	481	23	1	9	0	33	16	0	11	0	27			
Seminole	5664	218	1	78	0	297	26	0	14	0	40	18	0	12	0	30			
Spalding	45749	663	41	537	0	1241	178	11	128	0	317	122	3	130	0	255			
Stephens	17684	236	28	403	2	669	68	9	88	0	165	41	8	55	1	105			
Stewart	2734	29	1	30	1	61	1	0	2	0	3	5	0	5	0	10			
Sumter	0	302	11	213	0	526	31	0	20	0	51	19	1	30	0	50			
Talbot	4467	44	0	24	0	68	12	1	8	0	21	5	0	3	0	8			
Taliaferro	0	20	1	16	0	37	11	0	8	0	19	12	0	7	0	19			
Tattnall	11452	328	13	194	1	536	37	5	24	0	66	19	0	9	0	28			
Taylor	5155	112	3	91	1	207	10	0	9	0	19	10	0	7	0	17			
Telfair	5693	174	4	67	0	245	26	0	8	0	34	27	0	16	0	43			
Terrell	6452	175	11	76	0	262	21	3	2	0	26	10	0	6	0	16			
Thomas	29066	413	20	328	0	761	96	5	68	1	170	48	5	113	0	166			
Tift	23628	523	13	334	0	870	75	0	47	0	122	35	0	27	0	62			
Toombs	0	257	11	224	1	493	48	5	33	0	86	19	0	19	0	38			
Towns	11165	104	24	222	0	350	63	8	62	0	133	53	4	64	0	121			
Treutlen	4091	73	7	78	0	158	15	0	7	0	22	7	0	8	0	15			
Troup	42702	644	22	289	0	955	174	2	50	1	227	106	7	52	0	165			
Turner	5470	134	3	124	2	263	12	0	10	0	22	5	0	4	0	9			
Twiggs	5944	109	4	47	0	160	18	2	5	0	25	15	1	4	0	20			
Union	19889	507	27	482	0	1016	180	5	123	0	308	160	9	186	0	355			
Upson	17944	293	27	339	1	660	55	1	31	0	87	39	3	44	0	86			
Walker	42506	981	82	552	1	1616	252	8	92	0	352	114	6	93	0	213			
Walton	70149	1261	95	912	1	2269	448	19	251	0	718	240	12	193	0	445			
Ware	19532	253	6	130	1	390	47	4	27	0	78	42	1	35	0	78			
Warren	3723	30	3	37	1	71	10	0	4	0	14	7	0	4	0	11			
Washington	12659	118	8	70	0	196	10	0	4	0	14	1	0	2	0	3			
Wayne	17603	441	28	250	1	720	73	5	39	0	117	47	0	64	0	130			
Webster	0	54	5	42	0	101	5	0	2	0	7	2	0	1	0	3			
Wheeler	2941	52	2	39	2	95	25	0	3	0	28	6	0	4	0	10			
White	20616	780	59	490	1	1330	144	7	65	0	216	174	5	115	0	294			
Whitfield	53887	929	29	312	1	1271	241	6	74	1	322	177	5	77	0	259			
Wilcox	4020	191	1	84	0	276	10	1	4	0	15	3	0	3	0	6			
Wilkes	6635	150	7	113	0	270	12	0	8	0	20	22	0	11	0	33			
Wilkinson	0	143	6	35	0	184	24	0	8	0	32	12	1	1	0	14			
Worth	13378	397	16	125	0	538	49	0	22	0	71	19	1	9	0	29			
Total:	6738762	86499	6434	64308	129	157370	29030	1385	16227	51	46693	20751	1202	15944	33	37930			

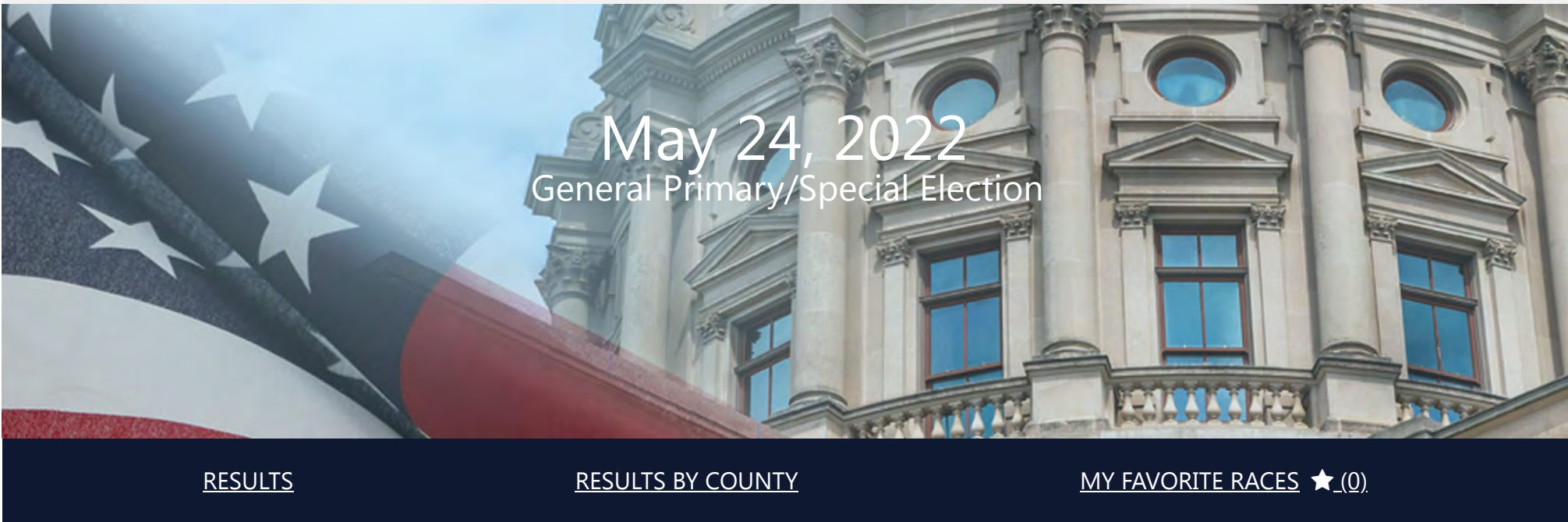
	Jonathan ""Jon"" McColumn					Latham Saddler					Herschel Junior Walker					
County	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Total
Appling	34	1	10	0	45	39	2	15	0	56	1942	85	852	0	2879	3703
Atkinson	13	0	5	0	18	6	1	5	0	12	504	8	220	0	732	976
Bacon	24	3	28	0	55	19	1	20	0	40	719	42	973	1	1735	2312
Baker	4	0	3	0	7	5	0	0	0	5	177	14	79	1	271	474
Baldwin	32	0	30	0	62	64	2	68	0	134	2054	109	1616	0	3779	4756
Banks	26	5	14	0	45	123	7	57	0	187	1179	56	954	1	2190	3715
Barrow	151	8	79	0	238	818	34	369	0	1221	4337	202	2786	2	7327	11483
Bartow	288	8	113	1	410	1207	53	473	0	1733	7461	260	3407	11	11139	16057
Ben Hill	12	0	10	0	22	12	2	15	0	29	613	20	801	2	1436	1869
Berrien	29	2	22	0	53	34	4	32	0	70	1402	68	834	0	2304	3280
Bibb	173	5	50	0	228	348	33	124	0	505	7504	375	2124	11	10014	13403
Bleckley	18	1	10	0	29	19	0	13	0	32	1125	47	741	1	1914	2537
Brantley	40	0	18	0	58	37	0	16	0	53	1645	29	933	0	2607	3084
Brooks	18	0	4	0	22	32	1	11	1	45	935	16	405	11	1367	2004
Bryan	84	1	56	2	143	106	7	119	1	233	2605	61	2169	48	4883	6045
Bulloch	110	2	52	0	164	116	7	63	0	186	4496	151	2061	3	6711	8985
Burke	26	1	9	0	36	33	2	19	0	54	1500	55	583	3	2141	2550
Butts	40	0	44	0	84	133	11	203	0	347	1106	76	1800	2	2984	4239
Calhoun	4	0	2	0	6	4	0	3	0	7	181	4	92	0	277	448
Camden	105	7	82	0	194	90	7	70	0	167	2845	100	2241	4	5190	6548
Candler	7	0	6	0	13	10	2	17	0	29	486	17	565	1	1069	1341
Carrroll	289	6	91	0	386	1255	24	447	1	1727	8375	176	3705	2	12258	18084
Catoosa	104	10	65	0	179	107	12	77	0	196	4513	149	3349	10	8021	11128
Charlton	36	0	0	0	36	29	2	0	0	31	1168	13	15	2	1198	1478
Chatham	313	17	174	1	505	1001	76	495	0	1572	13793	560	5560	13	19926	25455
Chattahoochee	10	0	7	0	17	5	0	6	0	11	162	2	77	0	241	308
Chattooga	45	3	28	0	76	99	0	61	0	160	1563	32	870	0	2465	3467
Cherokee	1099	45	626	2	1772	4025	251	2135	2	6413	19324	1009	12335	17	32685	50700
Clarke	109	18	73	0	200	685	63	584	0	1332	2553	311	1981	5	4850	9101
Clay	4	0	3	0	7	7	0	8	0	15	114	4	117	0	235	331
Clayton	82	7	57	1	147	332	27	221	1	581	1596	144	1537	3	3280	4960
Clinch	3	0	3	0	6	7	0	3	0	10	421	11	180	0	612	847
Cobb	1984	155	974	7	3120	8619	743	3887	7	13256	33824	2446	19118	45	55433	90018
Coffee	28	0	13	0	41	43	0	17	0	60	2024	32	1373	2	3431	4248
Colquitt	43	4	10	0	57	25	1	13	0	39	2702	79	1311	4	4096	5722
Columbia	317	17	147	0	481	474	40	324	1	839	12347	423	6433	6	19209	23595
Cook	18	0	9	0	27	22	1	8	0	31	1027	72	673	0	1772	2458
Coweta	388	6	176	0	570	2026	75	847	0	2948	10200	375	5574	2	16151	25362
Crawford	24	0	7	1	32	18	3	4	0	25	980	34	539	5	1558	2056
Crisp	17	0	6	0	23	11	3	16	0	30	1075	61	800	0	1936	2723
Dade	46	0	29	0	75	57	0	25	0	82	1449	28	778	1	2256	3069
Dawson	90	3	60	1	154	314	22	239	0	575	2152	85	1963	0	4200	6464
Decatur	15	1	14	0	30	108	6	96	0	210	1351	34	645	3	2033	3044
DeKalb	652	43	313	1	1009	2992	229	1521	2	4744	8817	676	5386	9	14888	29395
Dodge	18	0	9	0	27	43	3	25	0	71	1664	86	845	1	2596	3390
Dooly	6	0	0	0	6	9	1	6	0	16	518	8	235	0	761	1114
Dougherty	79	1	10	0	90	113	1	28	0	142	2617	56	498	1	3172	4164
Douglas	172	13	95	0	280	749	26	486	1	1262	3722	214	3346	3	7285	10878
Early	15	1	4	0	20	19	0	21	0	40	522	21	344	1	888	1421
Echols	2	0	0	0	2	3	0	0	0	3	174	7	129	0	310	563
Effingham	130	3	51	0	184	163	4	81	0	248	5141	118	2300	10	7569	9433
Elbert	29	3	14	0	46	52	5	32	0	89	1506	55	858	8	2427	3139
Emanuel	12	0	7	0	19	42	0	16	1	59	1824	46	732	7	2609	3278
Evans	8	0	9	0	17	14	0	10	0	24	516	40	540	1	1097	1415
Fannin	91	10	36	0	137	381	17	166	2	566	2959	183	1344	6	4492	6160
Fayette	288	10	234	1	533	1466	61	1013	1	2541	7061	311	5525	11	12908	20500
Floyd	256	12	107	0	375	912	31	362	3	1308	6601	244	2919	18	9782	13538
Forsyth	705	33	581	1	1320	2209	135	2082	4	4430	12710	629	12203	33	25575	39491
Franklin	28	0	15	0	43	89	5	35	0	129	2178	83	1098	1	3360	4663

County	Jonathan ""Jon"" McCollum					Latham Saddler					Herschel Junior Walker					Total
	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	
Fulton	1011	44	893	1	1949	6369	296	5335	20	12020	19049	857	18149	85	38140	67075
Gilmer	119	8	77	0	204	415	6	207	0	628	3148	132	2073	3	5356	7766
Glascock	3	0	3	0	6	6	0	2	1	9	382	25	257	0	664	805
Glynn	155	6	187	3	351	239	16	290	0	545	5416	288	4720	8	10432	13035
Gordon	116	3	48	0	167	569	19	177	0	765	4386	106	1698	5	6195	8862
Grady	41	1	19	0	61	38	1	29	0	68	1684	38	818	3	2543	3305
Greene	46	5	43	0	94	229	9	182	0	420	1569	89	1506	0	3164	4653
Gwinnett	1412	60	779	4	2255	5637	341	2643	4	8625	25352	1097	14792	29	41270	68504
Habersham	55	4	41	0	100	319	15	262	2	598	2698	206	2819	0	5723	8995
Hall	603	33	457	0	1093	2246	144	1255	1	3646	10788	769	7721	2	19280	32129
Hancock	5	0	0	0	5	14	2	4	0	20	269	22	153	0	444	574
Haralson	109	4	31	0	144	400	14	111	0	525	2718	100	1025	3	3846	5701
Harris	118	5	29	0	152	232	10	108	0	350	3729	136	1305	4	5174	6546
Hart	35	1	29	0	65	95	7	49	0	151	2271	88	1389	0	3748	4923
Heard	29	2	10	0	41	126	10	36	0	172	869	89	300	1	1259	2088
Henry	306	8	222	1	537	1254	57	947	1	2259	6536	330	6422	5	13293	19697
Houston	214	18	203	0	435	325	16	308	0	649	7279	397	6361	13	14050	18074
Irwin	8	0	3	0	11	13	0	13	0	26	767	21	443	1	1232	1682
Jackson	124	2	69	0	195	626	21	419	1	1067	4292	218	3526	4	8040	13875
Jasper	42	0	14	1	57	164	7	94	0	265	1190	56	696	10	1952	2946
Jeff Davis	21	0	3	0	24	11	1	15	0	27	1190	22	472	0	1684	2098
Jefferson	6	1	2	0	9	4	0	5	0	9	1080	40	463	1	1584	1881
Jenkins	7	0	1	0	8	7	0	7	0	14	503	19	324	0	846	1051
Johnson	3	0	1	0	4	7	0	3	0	10	863	30	663	0	1556	1712
Jones	51	2	21	0	74	64	2	27	1	94	2252	109	1306	10	3677	4560
Lamar	50	1	26	1	78	219	8	86	0	313	1402	43	710	1	2156	3222
Lanier	18	0	4	0	22	12	0	4	0	16	424	17	377	0	818	1179
Laurens	37	0	11	0	48	51	3	26	0	80	4331	164	1538	3	6036	7216
Lee	104	0	22	0	126	103	5	47	0	155	3061	52	1191	0	4304	5500
Liberty	49	1	33	0	83	48	4	38	0	90	1244	77	988	3	2312	2908
Lincoln	9	1	13	0	23	7	4	18	0	29	988	52	607	12	1659	1908
Long	26	0	11	0	37	16	1	20	0	37	666	12	412	5	1095	1434
Lowndes	79	0	48	1	128	109	2	150	0	261	4353	130	3292	27	7802	10660
Lumpkin	61	0	44	0	105	266	13	227	0	506	1931	92	1714	0	3737	5832
Macon	13	0	8	0	21	5	0	11	0	16	314	7	266	0	587	778
Madison	61	2	24	0	87	308	13	87	0	408	2530	95	1345	4	3974	6125
Marion	29	0	10	0	39	8	0	14	0	22	605	9	314	0	928	1204
McDuffie	23	4	6	0	33	33	9	26	0	68	1323	97	1069	0	2489	3048
McIntosh	22	2	30	0	54	23	6	43	0	72	890	63	1099	1	2053	2508
Meriwether	53	5	9	0	67	281	6	76	0	363	1574	64	557	0	2195	3361
Miller	16	0	0	0	16	9	0	4	0	13	470	20	264	0	754	1070
Mitchell	11	1	19	0	31	12	1	11	0	24	1045	49	586	0	1680	2597
Monroe	68	2	28	0	98	140	4	52	0	196	3299	41	1526	4	4870	6238
Montgomery	13	0	4	0	17	21	2	14	0	37	811	23	402	1	1237	1608
Morgan	45	3	21	0	69	256	6	143	0	405	1792	53	1118	1	2964	4800
Murray	89	0	41	0	130	80	3	38	0	121	3285	62	1569	0	4916	6074
Muscogee	232	14	119	0	365	612	65	451	1	1129	6514	495	3186	6	10201	13412
Newton	203	7	63	0	273	797	42	292	1	1132	4524	255	2065	5	6849	10297
Oconee	92	6	69	0	167	808	30	501	0	1339	3450	155	2481	3	6089	10436
Oglethorpe	28	1	28	0	57	128	18	91	0	237	1069	109	852	2	2032	3159
Paulding	330	12	279	1	622	1272	86	954	3	2315	7873	481	6435	12	14801	21629
Peach	29	0	30	0	59	42	1	55	0	98	1208	52	1060	3	2323	3022
Pickens	116	4	70	0	190	467	34	233	1	735	2896	80	1817	3	4796	7445
Pierce	17	1	10	0	28	45	4	39	0	88	1511	70	1651	2	3234	3806
Pike	46	2	28	0	76	284	12	134	0	430	1870	60	1161	1	3092	4533
Polk	112	3	87	4	206	324	16	219	4	563	2311	115	2421	28	4875	6787
Pulaski	6	0	6	0	12	10	3	10	0	23	561	26	490	0	1077	1399
Putnam	46	0	24	0	70	226	15	142	0	383	1894	109	1285	3	3291	4548
Quitman	9	0	2	0	11	3	0	1	0	4	125	7	101	0	233	305
Rabun	31	1	42	0	74	143	20	166	0	329	1166	158	1342	0	2666	3973

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County	Jonathan ""Jon"" McColumn					Latham Saddler					Herschel Junior Walker					Total
	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	Election Day Votes	Absentee by Mail Votes	Advanced Voting Votes	Provisional Votes	Total Votes	
Randolph	6	1	7	0	14	0	0	3	0	3	321	12	141	1	475	716
Richmond	185	8	69	1	263	362	25	150	0	537	7235	341	2582	0	10158	12485
Rockdale	79	0	56	0	135	395	24	264	0	683	2045	150	1684	1	3880	5764
Schley	12	1	6	0	19	11	1	6	0	18	401	19	237	0	657	887
Screven	13	0	7	1	21	11	1	14	0	26	914	23	525	1	1463	2051
Seminole	14	1	6	0	21	15	0	16	0	31	637	19	226	0	882	1301
Spalding	124	2	77	1	204	605	21	295	1	922	3385	127	2445	2	5959	8898
Stephens	30	6	45	0	81	54	6	58	0	118	1124	143	1754	10	3031	4169
Stewart	3	0	4	0	7	7	0	2	0	9	172	6	80	1	259	349
Sumter	25	2	10	0	37	39	1	36	0	76	1341	45	787	5	2178	2918
Talbot	10	0	3	0	13	16	0	8	0	24	369	10	146	0	525	659
Taliaferro	0	0	2	0	2	5	0	2	0	7	84	2	44	0	130	214
Tattnall	26	1	11	0	38	19	1	15	0	35	1460	53	796	2	2311	3014
Taylor	10	0	3	0	13	9	0	4	0	13	504	23	392	1	920	1189
Telfair	7	0	7	0	14	15	0	8	0	23	713	33	331	0	1077	1436
Terrell	11	0	5	0	16	10	0	1	0	11	521	16	181	0	718	1049
Thomas	71	4	68	0	143	89	2	63	0	154	2613	84	2170	6	4873	6267
Tift	24	3	19	0	46	84	1	74	0	159	2310	52	1444	1	3807	5066
Toombs	18	2	13	1	34	52	6	51	0	109	1444	74	1126	0	2644	3404
Towns	34	0	42	0	76	140	11	124	0	275	1021	69	1297	1	2388	3343
Treutlen	3	0	6	0	9	6	0	0	0	6	485	15	345	0	845	1055
Troup	117	2	43	0	162	527	20	215	1	763	3648	164	1688	4	5504	7776
Turner	7	0	2	0	9	6	0	6	0	12	477	8	371	2	858	1173
Twiggs	16	0	4	0	20	15	0	0	0	15	681	21	232	1	935	1175
Union	121	7	105	0	233	388	17	230	0	635	2558	134	2315	2	5009	7556
Upson	40	3	32	0	75	199	12	146	0	357	1351	81	1379	5	2816	4081
Walker	146	3	63	0	212	145	11	49	0	205	4486	222	2394	3	7105	9703
Walton	301	10	159	0	470	1362	48	621	1	2032	7506	338	4569	5	12418	18352
Ware	37	2	22	0	61	48	5	24	0	77	2432	119	1176	3	3730	4414
Warren	5	0	4	0	9	3	1	6	0	10	321	21	205	0	547	662
Washington	3	0	4	0	7	23	1	9	0	33	1075	48	521	2	1646	1899
Wayne	66	3	42	0	111	118	5	75	0	198	2493	93	1299	3	3888	5098
Webster	3	0	1	0	4	3	0	2	0	5	155	17	126	0	298	418
Wheeler	3	0	2	0	5	2	1	1	0	4	390	24	194	0	608	750
White	71	1	44	0	116	354	9	151	0	514	2443	130	1454	7	4034	6504
Whitfield	176	3	62	0	241	222	16	84	0	322	7079	174	2069	19	9341	11756
Wilcox	6	0	3	0	9	5	0	1	0	6	635	20	262	0	917	1229
Wilkes	6	0	5	0	11	12	0	5	0	17	736	33	390	3	1162	1513
Wilkinson	16	2	5	0	23	14	0	2	0	16	1071	25	278	0	1374	1643
Worth	51	0	22	0	73	41	0	11	0	52	1772	24	601	2	2399	3162
Total:	17501	812	10248	40	28601	63788	3719	36892	72	104471	480057	22342	300419	742	803560	1178625

EXHIBIT G



Official & Complete Results

★ PSC - DISTRICT 3 - REP
(VOTE FOR: 1)

Last updated ★ (0)
📅 Monday, June 6, 2022, 4:56:47 PM (1 year ago)

Select County ▾

Results

Party / Candidate

Votes

REP

Fitz Johnson (I)

1,007,354

100.00%

Vote Cast

1,007,354

APPLING

▼

ATKINSON

➤

BACON

➤

BAKER

➤

BALDWIN

➤

BANKS

➤

BARROW

➤

BARTOW

➤

BEN HILL

➤

BERRIEN

➤

BIBB

30 / 15

BLECKLEY

BRANTLEY	>
BROOKS	>
BRYAN	>
BULLOCH	>
BURKE	>
BUTTS	>
CALHOUN	>
CAMDEN	>
CANDLER	>
CARROLL	>
CATOOSA	>
CHARLTON	>
CHATHAM	>
CHATTAHOOCHEE	>
CHATTOOGA	>
CHEROKEE	>
CLARKE	>
CLAY	>

Previous Contest:
PSC - District 2 - Dem


Next Contest:
PSC - District 3 - Dem

COUNTIES/PRECINCTS REPORTING

Donut

Pie

Bar



COUNTIES COMPLETE 159/159
PRECINCTS COMPLETE 2707/2707

[SEE COUNTIES REPORTING](#)

30 / 159

REPORTS

Summary CSV

Comma separated file showing total votes received.



Detail XLS

County level details for election results. Contains votes received by choice in each contest for all participating precincts.



Detail XML

County level details for election results. Contains votes received by choice in each contest for all participating precincts.



Detail TXT

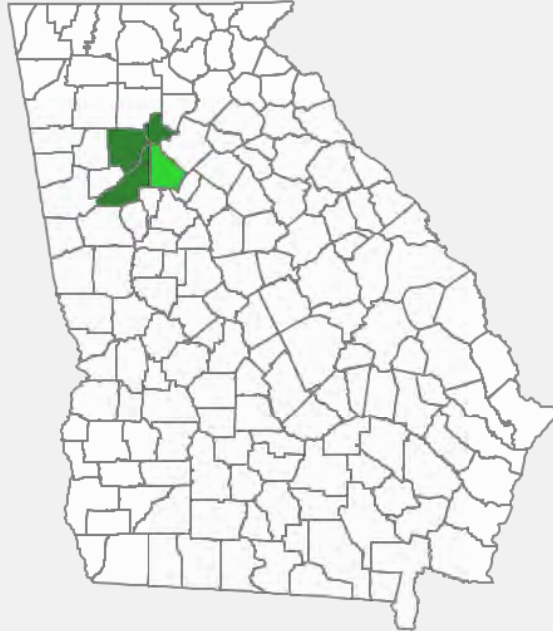
County level details for election results. Contains votes received by choice in each contest for all participating precincts.



EXHIBIT H

GENERAL ELECTION

11/17/2018 4:27:59 PM EST



Google

(https://maps.google.com/maps?ll=32.853749,-83.37085&z=7&t=m&hl=en&gl=US&mapid=INEGp1R3) Report a map error (https://www.google.com/maps/@32.8537493,-83.3708496,7z/data=!0m1!1e1!12b1?source=apiv3&rapsrc=apiv3)

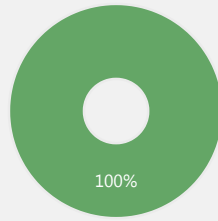
Not Participating
 Not Reporting
 Tie

RESULTS VOTE TYPES

3/3
Counties Complete

Party	Candidate	%	Votes
	KAREN HANDEL (I) (REP)	49.49%	156,875
	LUCY MCBATH (DEM)	50.51%	160,139
			317,014

■ Completely Reported
 ■ Not Reporting



COUNTIES COMPLETE

159/159

PRECINCTS COMPLETE

2634/2634

Voter Turnout

TOTAL

61.44%

Ballots Cast

3,949,905

Registered Voters

6,428,581

EXHIBIT I

John F. King

Georgia Insurance and Safety Fire Commissioner

LEADERSHIP



John F. King was sworn in as Georgia's Insurance and Safety Fire Commissioner by Governor Brian Kemp on July 1, 2019, becoming the first Hispanic statewide official in state history. He was elected to a full four-year term on November 8, 2022.

Before becoming Commissioner, King spent his career in law enforcement, beginning as an Atlanta police officer in 1985 and culminating as Chief of Police for the City of Doraville. While at the Atlanta Police Department, he worked various assignments including Red Dog, Organized Crime/Intelligence, and received the Chief's Blue Star in 1987 for being injured in the line of duty as a result of a criminal attack with a firearm. His career also includes assignments to both FBI and DEA as a Task Force Agent.

A native of Mexico, King made a meaningful impact by building bridges among Doraville's diverse populations and implementing youth education and crime-prevention programs in his role as Chief of Police. Recognizing the international composition of Doraville's community, King made it a priority to hire bilingual police officers, place multiple languages on police cars, and ensure effective

translators and public defenders were employed at the City Courthouse. Commissioner King's initiatives include Anti-Gang education programs for elementary school students and parents. He worked with the Hispanic Chamber of Commerce to establish an education program for prospective small business entrepreneurs and worked with state, county, and local leaders to implement a safety and speed reduction program targeted to Buford Highway to reduce the number of pedestrian fatalities. Commissioner King is also a member of Leadership DeKalb.

In addition to his former roles in the Atlanta and Doraville Police Departments, King retired as a Major General in the U.S. Army following his final assignment to NORAD and U.S. Northern Command. King was the former Commander of the 48th Infantry Brigade Combat Team and has deployed to Bosnia-Herzegovina, Iraq, Afghanistan, and Africa. He served as the Military Advisor to the Deputy Minister of Interior for Security for Afghanistan, who oversaw an agency of over 96,000 police officers.

While serving on Active Duty and the National Guard, King earned numerous awards for his achievements. King received the Combat Action Badge for his service in Iraq and the Combat Infantry Badge for service in Afghanistan. Other awards and decorations include Legion of Merit, Bronze Star (2) Award, Meritorious Service Medal, Joint Meritorious Unit Award, Afghanistan Campaign Medal, Iraq Campaign Medal, El Salvador Gold Medal for Achievement, and the Afghanistan Barial 2nd Degree Medal.

King received his Bachelor's of Arts degree in criminal justice and public administration from Brenau University and a Master's Degree in Strategic Studies from the U.S. Army War College. He graduated from Harvard University Senior Executives in National Security and Syracuse University National Security Decision Making Course. Commissioner King was a graduate of class #229 in the FBI National Academy in Quantico, VA, and also a graduate of the Georgia International Law Enforcement Exchange program to Israel (GILEE).

Commissioner King is also fluent in Spanish.

EXHIBIT J



November 8, 2022
General/Special Election

RESULTS

MY FAVORITE RACES ★(0)

COUNTIES REPORTING

TURNOUT

★

COMMISSIONER OF INSURANCE

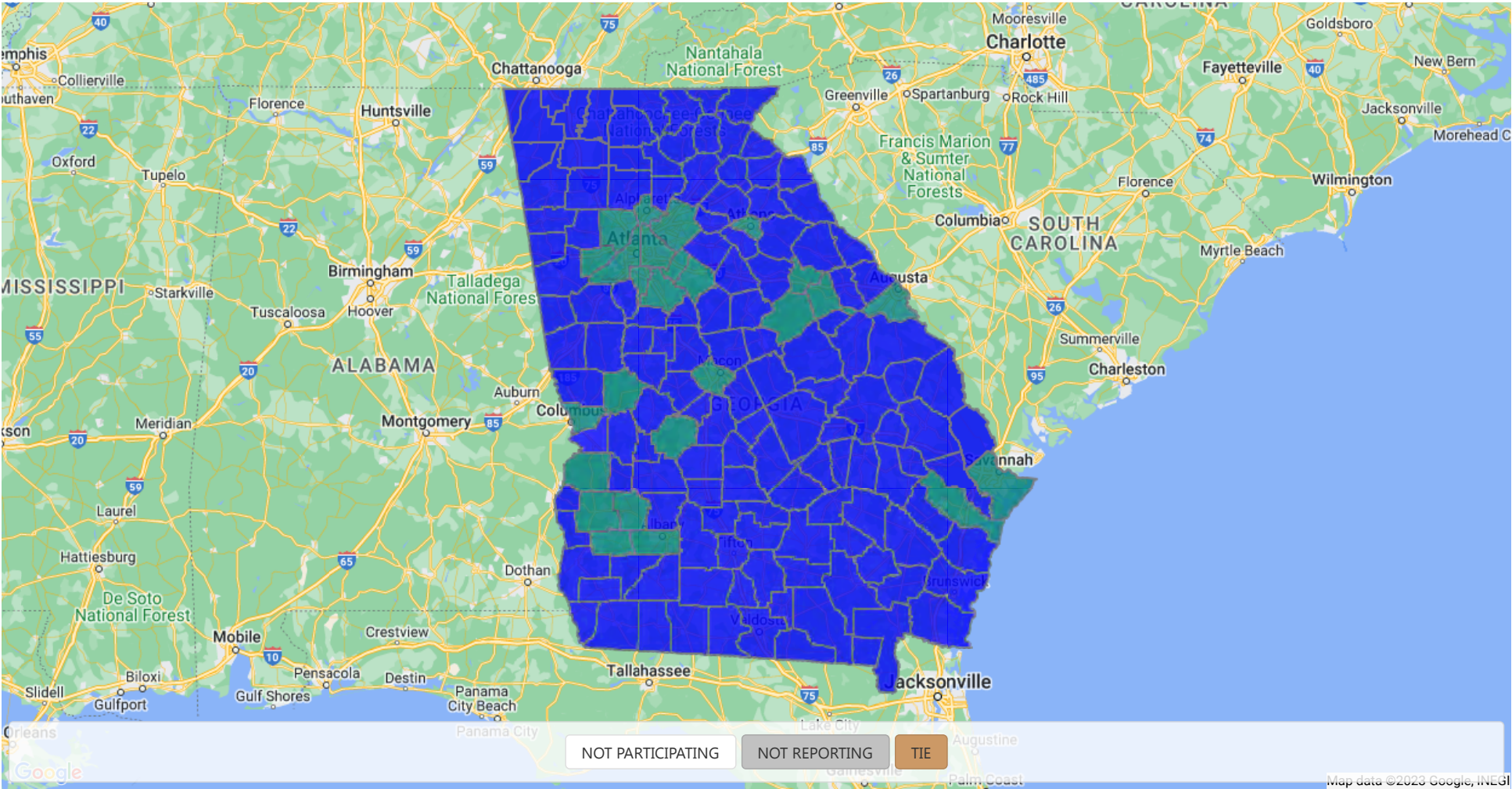
(VOTE FOR: 1)

Last updated

Monday, November 21, 2022, 3:05:01 PM (8 months ago)

★ (0)

Select County ▾



159/159
Precincts Complete

Results

Vote types

Party / Candidate	Votes
<div>John King (I) (Rep)</div>	2,107,388 54.10%
<div>Janice Laws Robinson (Dem)</div>	1,788,136 45.90%

Vote Cast 3,895,524

Previous Contest:
Commissioner of Agriculture

Next Contest:
State School Superintendent

COUNTIES/PRECINCTS REPORTING

Donut

Pie

Bar



COUNTIES COMPLETE 159/159
PRECINCTS COMPLETE
2722/2722

[SEE COUNTIES REPORTING](#) →

VOTER TURNOUT

TOTAL	57.02%
Ballots Cast	3,964,926
Registered Voters	6,953,485

REPORTS

Summary CSV Comma separated file showing total votes received.	Download
Detail XLS County level details for election results. Contains votes received by choice in each contest for all participating precincts.	Download
Detail XML County level details for election results. Contains votes received by choice in each contest for all participating precincts.	Download
Detail TXT County level details for election results. Contains votes received by choice in each contest for all participating precincts.	Download

EXHIBIT K

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SUPREME COURT OF GEORGIA

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[Justice Carla Wong McMillian](#)

Justice Carla Wong McMillian was appointed to the Supreme Court of Georgia by Governor Brian Kemp, taking office on April 10, 2020. Born and raised in Augusta, Georgia, she is the first Asian Pacific American to serve on a state's highest court in the Southern United States.

Prior to joining the Supreme Court, Justice McMillian served on the Court of Appeals, where she was appointed by Governor Nathan Deal and took office in 2013. With her election the following year to that court, Justice McMillian became the first Asian American to be elected to a statewide office in Georgia.

Justice McMillian also has served as the State Court Judge for Fayette County, a position to which she was appointed by Governor Sonny Perdue in 2010. In 2012, the voters of Fayette County overwhelmingly elected her to a full term after a contested election.

Before her appointment to the bench, Justice McMillian was a partner in the litigation group of the national law firm of Sutherland Asbill & Brennan LLP. Her practice centered on



complex business litigation, including a heavy emphasis on appellate matters. In particular, she argued cases before the Georgia Supreme Court, the Georgia Court of Appeals, the Eleventh Circuit Court of Appeals, the Third Circuit Court of Appeals, and the Louisiana Court of Appeals. Before joining Sutherland, Justice McMillian had the privilege of beginning her legal career as a federal law clerk for the Honorable William C. O'Kelley of the United States District Court for the Northern District of Georgia.

Throughout her career, Justice McMillian has demonstrated a commitment to service. She currently serves or has served in leadership roles for the Board of Visitors of the University of Georgia School of Law, the Georgia Asian Pacific American Bar Association, the Fayette County Historical Society, the Partnership Against Domestic Violence, the Real Life Center, the Atlanta Chapter of the Federalist Society for Law and Public Policy Studies, the Georgia Legal History Foundation, and the Board of Trustees of Landmark Christian School. She has also been a member of the Rotary Club of Peachtree City.

Numerous groups have recognized Justice McMillian's work as a lawyer and her service to the community. Her peers in the legal profession twice selected her as a Georgia Super Lawyers "Rising Star." In 2012, the National Asian Pacific American Bar Association tapped her as one of the "Best Lawyers Under 40" in the United States. The National Diversity Council picked her as one of the "2010 Most Powerful and Influential Women of Georgia." The Westminster Schools of Augusta named her as its "2010 Distinguished Alumna," and the Fayette Woman recognized Justice McMillian in its January 2013 issue for "Making a Difference on the Bench and Beyond." Justice McMillian has also been named as a "Notable Woman of History" by the Fayette-Starr's Mill Chapter of the Daughters of the American Revolution, a 2013 "Community Champion" by the Asian American Legal Advocacy Center, and one of the 25 Most Influential Asian Americans of 2014 and 2015 by the Georgia Asian Times. In 2015, she also received the Distinguished Service Award by the Asian American Heritage Foundation, and

8/3/23, 1:25 PM

in 2018, she was honored with the Women's Leadership Award by the Georgia Asian Pacific American Bar Association. In 2019, the Young Lawyers Division of the State Bar of Georgia recognized Justice McMillian for her Distinguished Judicial Service.

Education has played an enormous role in Justice McMillian's life. She attended law school as a Woodruff Scholar at the University of Georgia School of Law, where she served on the Law Review Editorial Board and as President of the Christian Legal Society. She also graduated with high honors from Duke University, earning Bachelor of Arts degrees in both History and Economics. She obtained her high school diploma from the Westminster Schools of Augusta, graduating as valedictorian of her class.

Justice McMillian has been married since 1997 to her husband Lance, a professor at Atlanta's John Marshall Law School. They have two children and live in Fayette County. They are long-time members of Dogwood Church, where Justice McMillian has served as a small group leader for adult, women's, and children's small groups.

LOCATION	QUICK LINKS	ORAL ARGUMENT CALENDAR	NEWS AND REPORTS
<p>Supreme Court of Georgia</p> <p>Nathan Deal Judicial Center</p> <p>330 Capitol Avenue, S.E.</p> <p>1st Floor, Suite 1100</p> <p>Atlanta, Georgia 30334</p> <p>Phone: (404) 656-</p>	<p>Forthcoming Opinions</p> <p>Docket Search</p> <p>Oral Argument Webcasts</p> <p>Media</p> <p>Purchase Rule 3.15 Form</p> <p>Rule 3.15 Search</p>	<p>AUGUST 2023</p> <div> <p>22 AUG ORAL ARGUMENTS</p> <p>23 AUG ORAL ARGUMENTS</p> </div> <p>SEPTEMBER 2023</p>	<p>> 06/27/2023— Supreme Court Adopts Updated Rules Regarding Court Interpreters</p> <hr/> <p>> 03/30/2023— Georgia Lawyer Competency Task Force Submits</p>

8/3/23, 1:25 PM

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ARGUMENTS

Final Report to
Supreme Court

3470

Fax: (404) 656-2253

DIRECTIONS

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> 03/28/2023—
Former Chief
Justice Robert
Benham's Portrait
Unveiled

> 03/20/2023—
Portrait Unveiling
of Former Chief
Justice Robert
Benham

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APA Doc. 284

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

**ALPHA PHI ALPHA FRATERNITY
INC., et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia,
Defendant.**

**COAKLEY PENDERGRASS et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER et al.,
Defendants.**

**ANNIE LOIS GRANT et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER et al.,
Defendants.**

CIVIL ACTION FILE

No. 1:21-CV-5337-SCJ

CIVIL ACTION FILE

No. 1:21-CV-5339-SCJ

CIVIL ACTION FILE

No. 1:22-CV-122-SCJ

ORDER

This matter appears before the Court on Defendants' Motion to Take Judicial Notice of certain adjudicative facts, which was filed in all three cases. Alpha Phi Alpha, Doc. No. [276]¹; Pendergrass Doc. No. [224]; and Grant Doc. No. [238]. The Plaintiffs each responded in opposition. Alpha Phi Alpha, Doc. No. [279]; Pendergrass Doc. No. [228]; and Grant Doc. No. [240]. Defendants replied in support of their Motion. Alpha Phi Alpha, Doc. No. [282]; Pendergrass Doc. No. [233]; and Grant Doc. No. [245]. The Court now rules on the Motion.

"[T]he taking of judicial notice of facts is, as a matter of evidence law, a highly limited process . . . [and] would bypass[] the safeguards which are involved with the usual process of proving facts by competent evidence in district court." Carrizosa v. Chiquita Brands Int'l, Inc., 47 F.4th 1278, 1307 (11th Cir. 2022) (quoting Shahar v. Bowers, 120 F.3d 211, 214 (11th Cir. 1997) (en banc)). Pursuant to Rule 201 of the Federal Rules of Civil Procedure, "[t]he court may judicially notice a fact that is not subject to reasonable dispute because it:

¹ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

(1) is generally known within the trial court's territorial jurisdiction, or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Civ. P. 201(b). "Indisputability is a prerequisite" to judicial notice. Grayson v. Warden, Comm'r, Alabama Doc, 869 F.3d 1204, 1225 (11th Cir. 2017) (quoting United States v. Jones, 29 F.3d 1549, 1553 (11th Cir. 1994)).

Defendants ask the Court to take judicial notice of (1) Census Bureau data on voter turnout and registration from the U.S. Census Current Population Survey in 2018, 2020, and 2022; (2) that in 2011, the United States Department of Justice precleared the 2011 Georgia state Senate, state House, and congressional districts under Section 5 of the Voting Rights Act; (3) the current partisan makeup of the Georgia Legislature; and (4) the results of elections involving certain candidates in Georgia elections, as well as those candidates racial and partisan demographics². Alpha Phi Alpha Doc. No. [276]; Pendergrass Doc. No. [224]; and Grant Doc. No. [238]. The Court will discuss each request in turn.

² Specifically, Defendants seek judicial notice of the candidates and election results from the 2022 Georgia Republican Primary for U.S. Senate, the 2022 Republican Primary Election results for Public Service Commission District 3, the

All Plaintiffs dispute the accuracy of the data in Census Bureau Tables 4b for the 2018, 2020, and 2022 elections. Alpha Phi Alpha Doc. No. [279], 3-7; Pendergrass Doc. No. [228], 3-6; Grant Doc. No. [240], 3-6. The Plaintiffs also argue that the partisan makeup of the Georgia legislature and the facts regarding certain candidates are irrelevant. Alpha Phi Alpha Doc. No. [279], 7-10; Pendergrass Doc. No. [228] 7-8; Grant Doc. No. [240], 7-8. The Alpha Phi Alpha Plaintiffs also argue that the facts regarding Commissioner Johnson's election are inaccurate. Alpha Phi Alpha Doc. No. [279], 9.

1. *Census Data*

The Court declines to take judicial notice of the Census Bureau data found in Table 4b from 2018, 2020, and 2022. Table 4b presents the national and statewide reported voter turnout and registration numbers by sex and race. Alpha Phi Alpha Doc. Nos. [276-1]-[276-3]; Pendergrass Doc. Nos. [224-1]-[224-3]; Grant Doc. Nos. [238-1]-[238-3]. The Census Bureau website states that the

racial makeup of Senator Warnock and Mr. Walker, the election results for Georgia's 2018 Sixth Congressional District race, the Georgia Insurance Commissioner's partisan and racial demographics, the results from the 2022 General Election for Georgia's Insurance Commissioner, and the racial demographics for Justic McMillian. Alpha Phi Alpha Doc. No. [276], 5; Pendergrass Doc. No. [224], 5; and Grant Doc. No. [238], 5.

statistics about voting and registration “are based on replies to survey inquiries about whether individuals were registered and/or voted in specific national elections.” “About Voting and Registration” U.S. Census Bureau, <https://www.census.gov/topics/public-sector/voting/about.html> (last revised Nov. 22, 2021). Meaning that the results are based on self-reported responses to survey questions. Additionally, the methodology for reaching these results “us[es] a probability selected sample of about 60,000 occupied households.” “Methodology,” U.S. Census Bureau, <https://www.census.gov/programs-surveys/cps/technical-documentation/methodology.html> (last revised Nov. 19, 2021). This means the data is based on a sample of voters and not based on the actual number of voters who registered to vote in Georgia and who did, in fact, vote in that election.

The Census Bureau itself acknowledges that its data may differ from other data sets and that errors may exist in its findings. “Differences between the official counts and the CPS may be a combination of an understatement of official numbers and an overstatement in the CPS estimates. “Frequently Asked Questions (FAQs) About Voting and Registration,” U.S. Census Bureau, <https://www.census.gov/topics/public-sector/voting/about/faqs.html> (last

revised Nov. 22, 2021). It also notes that “[s]ome errors in estimating turnout in the CPS might be the result of population controls and survey coverage.” Id.

As relevant to determining whether to take judicial notice of the Census Bureau data, the voter turnout numbers differ between the Census Bureau and the Georgia Secretary of State³. The Court found that the reported voter turnout differed when comparing the Georgia Secretary of State’s Election Hub’s data on the November 2022 General Election and the Census Bureau’s 2022 Data. For example, the Georgia Secretary of State’s website reports that 56.9% of Georgia’s registered voters voted in the November 2022 General Election. Id. In contrast, the Census Bureau reports a voter turnout rate of 81.95% for registered

³ The Georgia Secretary of State’s Office compiles voter turnout data for each election. “Voter History File,” Georgia Online Voter Registration, <https://mvp.sos.ga.gov/s/voter-history-files> (last visited Aug. 23, 2023); “Absentee Files,” Georgia Online Voter Registration, <https://mvp.sos.ga.gov/s/voter-absentee-files> (last visited Aug. 23, 2023). For the most recent elections, the Georgia Secretary of State’s Election Hub compiles this data and shows the total voter turnout as well as the turnout by race, gender, and age group. “Election Data Hub,” Ga. Sec’y of State, <https://sos.ga.gov/election-data-hub> (last visited Aug. 23, 2023).

voters in 2022.^{4, 5} Alpha Phi Alpha Doc. No. [276-3]; Pendergrass Doc. No. [224-3]; Grant Doc. No. [238-3].

Given that the Census Bureau expressly states that its voter turnout and registration data has errors and that it differs from the data provided by the Georgia Secretary of State, the Court finds that judicial notice is improper. The accuracy of the voter turnout data, as provided in the Census Bureau's Table 4b, is questioned by the Census Bureau itself. Additionally, as shown by the data adduced from the Secretary of State's website, the data is not indisputable. Accordingly, the Court declines to take judicial notice of the data from Census Bureau Table 4b for the 2018, 2020, and 2022 elections.

2. *DOJ Preclearance*

The Court will take judicial notice that the DOJ precleared Georgia's 2011 legislative and congressional maps under Section 5 of the Voting Rights Act.

⁴ The Census Bureau data reports that 5,275 people in their survey were [224-3], 4; Grant Doc. No. [238-3], 4. The total number of individuals that reported that they voted in 2022 was 4,323. Id. Meaning, that the 2022 voter turnout rate for citizen registered voters was 81.95%. Id.

⁵ The Georgia Secretary of State data is specific to each election, whereas the Census Bureau data does not state which races it was considering.

registered voters. Alpha Phi Alpha Doc. No. [276-3], 4; Pendergrass Doc. No. Alpha Phi Alpha Doc. No. [276], 4; Pendergrass Doc. No. [224], 4; Grant Doc. No. [238], 4. No Party challenges that the DOJ precleared Georgia's 2011 legislative and congressional maps under Section 5. The Court finds that the preclearance is a fact that can readily be determined by sources whose accuracy cannot reasonably be questioned. Accordingly, the Court takes judicial notice that the DOJ precleared Georgia's 2011 state Senate, state House, and congressional maps under Section 5 of the Voting Rights Act.

3. *Partisan Makeup of the Georgia Legislature*

The Court will take judicial notice of the partisan makeup of the current Georgia Legislature. Alpha Phi Alpha Doc. No. [276], 4; Pendergrass Doc. No. [224], 4; Grant Doc. No. [238], 4. The Alpha Phi Alpha Plaintiffs argue that the current makeup is irrelevant because "[t]he present day partisan composition of the legislature does not affect whether legislative maps signed into law on December 2021 violate the Voting Rights Act." Alpha Phi Alpha Doc. No. [279], 8. Similarly, the Pendergrass and Grant Plaintiffs argue that the "partisan makeup of current Georgia legislature has no bearing on whether disparities exist between the opportunities afforded to Black and White voters in Georgia."

Pendergrass Doc. No. [228], 8; Grant Doc. No. [240], 8.

First, no Party has challenged the accuracy of the partisan makeup of the Georgia legislature. The Court finds that this information is readily determined from sources whose accuracy cannot reasonably be questioned.

Second, the Court disagrees with the Plaintiffs and finds that the current partisan makeup of the Georgia Legislature may be relevant to the overall determination of whether Georgia elections are equally open to Black voters. As the Eleventh Circuit noted, “adjudicative facts are facts that are relevant to a determination of the claims presented in a case.” Dippin’ Dots, Inc. v. Frosty Bites Distrib., LLC, 369 F.3d 1197, 1204 (11th Cir. 2004). As the Court noted in its summary judgment orders, “[t]he Court will [] consider Defendants’ evidence of a non-racial motivation,” i.e., partisanship, “at the totality of the circumstances phase” of the case. Alpha Phi Alpha Doc. No. [215], 54-55; Pendergrass Doc. No. [215], 54-55. Accordingly, the Court finds that evidence regarding the partisan makeup of the Georgia Legislature may be relevant to that inquiry.

Thus, the Court takes judicial notice of the partisan makeup of the Georgia Legislature. The Court notes, however, that taking judicial notice of

these facts is not a determination of the weight it will assign to them at trial.

4. Election Results

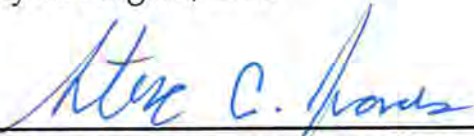
The Court will take judicial notice of the election information provided in Defendant's motion. The Pendergrass and Grant Plaintiffs argue that "[t]he success of non-Black candidates in statewide elections is [] irrelevant because Plaintiffs have not brought coalition claims alleging vote dilution on behalf of multiple minority groups." Pendergrass Doc. No. [228], 8; Grant Doc. No. [240], 8. The Alpha Phi Alpha Plaintiffs argue the same. Alpha Phi Alpha Doc. No. [279], 8-9. They also argue that Lucy McBath's election data is not relevant because it is not clear that voters in her district are the affected voters. Id. at 9. Finally, they argued that the facts regarding Commissioner Johnson are misleading because his candidacy was unopposed. Id.

The Court finds that the listed election results are readily determined from sources whose accuracy cannot reasonably be questioned. See Scott v. Garlock, 2:18-cv-981-WKW-WC, 2019 WL 4200400, at *3 n4 (M.D. Ala. July 31, 2019) (taking judicial notice of the publicly filed election results). Additionally, the Court finds the listed election results are all adjudicative facts because they may be relevant to determining whether Georgia's elections are equally open to

Black voters. As was stated above, taking judicial notice of the facts related to certain candidates and their election results (Alpha Phi Alpha Doc. No. [276], 5; Pendergrass Doc. No. [224], 5; and Grant Doc. No. [238], 5)⁶ is not a determination of the weight that it will assign to these facts.

In conclusion, the Court **DENIES** Defendants' Motion to Take Judicial Notice with regard to the data contained Census Bureau Table 4b for the 2018, 2020, and 2022 elections. The Court **GRANTS** the remainder of the Motion.

IT IS SO ORDERED this 23rd day of August, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

⁶ The Court will also take judicial notice that Commissioner Johnson's 2022 election was unopposed. See Alpha Phi Alpha Doc. No. [279], 9.

APA Doc. 325

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

ALPHA PHI ALPHA FRATERNITY,) DAY 1 - A.M. SESSION
INC., ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-05337-SCJ
BRAD RAFFENSPERGER,)
DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-5339-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:22-CV-00122-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
TUESDAY, SEPTEMBER 5, 2023

VIOLA S. ZBOROWSKI, CRR, CRC, CMR, FAPR
OFFICIAL COURT REPORTER FOR THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA
404-215-1479
VIOLA_ZBOROWSKI@GAND.USCOURTS.GOV

1 metro area splits and others.

2 Mr. Cooper will testify that, along with other
3 traditional redistricting principles, that he took into
4 account numerous communities of interest considerations in
5 shaping his illustrative plans. Those include respecting
6 municipal lines, regional boundaries, historical connections,
7 socioeconomic commonalities, transportation corridors and
8 more.

9 Mr. Cooper balanced all these principles while
10 drawing three additional Black majority State Senate districts
11 and five additional Black majority State House districts.
12 Mr. Cooper will testify that his districts are compact and
13 could be enacted as a remedy for vote dilution.

14 With respect to the second and third Gingles
15 preconditions, we will present the expert testimony of
16 Dr. Lisa Handley, who has 40 years of experience analyzing
17 minority vote dilution. She will testify that voting in the
18 areas of the state where additional Black majority districts
19 can be drawn, starkly polarized by race.

20 This is not contested. In fact, the parties have
21 stipulated that Black voters are cohesive, very cohesive in
22 supporting their preferred candidates in general elections for
23 both statewide office and state legislative offices in the
24 areas of interests in this case. That while white -- that
25 white voters are also very cohesive in supporting their

1 preferred candidates in these elections. And that Black and
2 white voters support different candidates in these elections.

3 And this Court has held that this existence of
4 polarized voting by minority voters and bloc voting by white
5 majority voters, a pattern that is uncontested here, is
6 sufficient for the purposes of the Gingles preconditions.

7 Dr. Handley will further testify that because of the
8 stark racially polarized voting, Black voters in these areas
9 do not have the ability to elect their preferred candidates
10 unless the district boundaries are drawn to provide those
11 voters with opportunities to elect -- opportunities the State
12 could have drawn but did not.

13 The plaintiffs will also demonstrate, pursuant to the
14 totality of the circumstances inquiry, that when considering
15 the broader social and historical context in Georgia, and in
16 these areas of interest in particular, the State's districts
17 result in an unequal opportunity for Black voters to
18 participate in the political process.

19 You will hear from Professor Jason Morgan Ward, a
20 historian at Emory University who has written extensively on
21 the history of racial violence and intimidation in the south.
22 Dr. Ward will testify that Georgia has a long, largely
23 undisputed history of State-sanctioned discrimination against
24 Black voters, discrimination that extends beyond the law to
25 harassment, intimidation and violence. And he will document

1 applied that same expertise and those same criteria in drawing
2 his illustrative congressional plan here.

3 In addition, both Mr. Allen and Mr. Carter will
4 testify as to why illustrative District 6 preserves
5 communities of interest in western Metro Atlanta where
6 residents depend on the same healthcare systems, attend many
7 of the same places of worship, and rely on the same
8 transportation networks for their daily commutes.

9 Now, as far as the defense goes, this Court will find
10 the drum beat to remain the same as it has always been.

11 According to defendants, no matter what illustrative district,
12 no matter what case, plaintiffs can never establish liability
13 under Section 2 for two reasons: Plaintiffs' illustrative
14 maps are always racial gerrymanders according to the
15 defendants because the map drawers considered race in
16 evaluating the first Gingles precondition; and plaintiffs
17 cannot prove that the stark racial polarization observed in
18 these cases is caused by racial animus. Again, according to
19 defendants.

20 These are the same arguments that defendants advanced
21 as a matter of law in their motions for summary judgment and
22 the same arguments that this Court rejected as a matter of law
23 in its summary judgment ruling.

24 Contrary to defendants' familiar contention,
25 consideration of race by plaintiffs' experts does not equate

1 to racial predominance, let alone doom their illustrative
2 maps. Contrary to defendants' contention, the extent to which
3 an illustrative plan combines communities of interest in other
4 districts has no bearing on the Gingles 1 inquiry about
5 whether plaintiffs have identified a large compact minority
6 population that could comprise a majority of eligible voters
7 in a new district.

8 Contrary to defendants' contention, plaintiffs have
9 no burden at any point to prove that either the enacted plan
10 or the Georgia electorate is driven by racial animus.

11 And contrary to the defendants' contention, the U.S.
12 Supreme Court did not secretly and stealthily reimport the
13 City of Mobile intense standard that Congress expressly
14 rejected in 1982.

15 And none of the same experts who tried and failed to
16 poke holes in plaintiffs' Section 2 case at the preliminary
17 injunction hearing has since stumbled upon a silver bullet in
18 the intervening 16 months.

19 In the end, this Court will find at every turn that
20 defendants are arguing a case they have already lost based on
21 binding precedent on the governing legal standard.

22 Defendants are continuing to litigate these cases in
23 the hopes that maybe if they just wish it hard enough, maybe
24 if they just repeat the same arguments often enough, the
25 Supreme Court will change the law, will move the goal posts

APA Doc. 326

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

ALPHA PHI ALPHA FRATERNITY,) DAY 2 - A.M. SESSION
INC., ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO.1:21-CV-05337-SCJ
BRAD RAFFENSPERGER,)
DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-5339-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:22-CV-00122-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
TUESDAY, SEPTEMBER 6, 2023

VIOLA S. ZBOROWSKI, CRR, CRC, CMR, FAPR
OFFICIAL COURT REPORTER FOR THE HONORABLE STEVE C. JONES
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1 work; is that about right?

2 A. My academic research spans American politics. And I use
3 statistical techniques in every one that I do.

4 Q. Sure. So -- but with respect to specifically voting
5 rights laws, election laws and redistricting work, it's about
6 half of your --

7 A. I'm spending about half of my research time on these
8 questions right now.

9 Q. Okay. I want to dive into your methodology.

10 So, first, the methodology that you used to undertake
11 your racial polarization analysis is the same for both cases
12 you provide reports for; is that right?

13 A. Yes.

14 Q. In both cases your entire report is limited to the
15 statistical analysis of voting patterns in the focus areas you
16 examined; right?

17 A. Yes.

18 Q. And you don't look into any explanations for the voting
19 patterns themselves; is that correct?

20 A. That's beyond the scope of this report.

21 Q. Okay. So you're just showing that there is statistical
22 evidence demonstrating that the patterns are occurring?

23 A. Yes. The purpose of the analysis is to measure levels of
24 support and to identify if Black-preferred candidates exist
25 and if polarization exists, not to explain why such

APA Doc. 332

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

ALPHA PHI ALPHA FRATERNITY,) DAY 8 - A.M. SESSION
INC., ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO.1:21-CV-05337-SCJ
BRAD RAFFENSPERGER,)
DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-5339-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:22-CV-00122-SCJ
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
THURSDAY, SEPTEMBER 14, 2023

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1 These tables don't -- don't -- don't address the
2 issue of what the role of race is ultimately in the entire
3 process. But what they show in these tables, for both
4 experts, is not just the party as a bigger factor than race --
5 to the extent we can diagnose the influence of a racial cue
6 here from the candidates, it has no effect. It simply isn't a
7 part of what's generating this partisan polarization.

8 We're a very polarized country right now. And if
9 there were some subtle roots to that in racial sentiment,
10 there may well be. But they are now sufficiently subtle that
11 for those -- even if you say, so this voter became -- so my --
12 my in-laws live in Jackson County. I just had dinner with my
13 mother-in-law last night, steak and gravy, rice. Heavenly.
14 So I'm a little slow this morning, but --

15 MR. JACOUTOT: Dr. Alford, I just want to remind you
16 that the court reporter needs to take down what you're saying,
17 so if you could just slow down your cadence a little bit.

18 THE WITNESS: I'm an excitable guy.

19 THE COURT: Well, when you talk about steak and
20 gravy, you get fired up.

21 THE WITNESS: So, you know, a lot of people in
22 Jackson County, in the area you're talking about, you know,
23 they became Republicans because they were -- you know, they
24 were not interested in voting for Black candidates. Right?
25 And they weren't interested in the Democratic Party, the

1 Q. So in the primaries in Dr. Handley's analysis, so the
2 totality of Appendix C, are there instances where the
3 Black-preferred candidate is different from the
4 white-preferred candidate and the Black-preferred candidate is
5 successful and eventually makes it out to the general
6 election?

7 A. Yes.

8 Q. And when that happens, is there anything in the
9 statistical evidence presented at the general elections
10 provided by Dr. Handley that indicates that those white voters
11 from the Democratic primary are declining to support the
12 Black-preferred candidate in the general election?

13 A. No.

14 Q. Okay. Now I want to turn to your report and analysis of
15 the Herschel Walker primary, which I believe is on -- between
16 pages 8 and 9. And the table is what I'm concerned with, so
17 we can go to page 9.

18 Looking at this table that you've provided -- well,
19 first, you provided this based on data that Dr. Handley
20 provided; correct?

21 A. It's based partly on her data and partly on the election
22 -- precinct election results from the Secretary of State's
23 office.

24 Q. Okay. Thank you.

25 What does this vote distribution indicate to you in terms

1 of the preferences of the majority white Republican
2 electorate?

3 A. In this case, they're voting at over 60 percent for
4 Herschel Walker. So, again, it's a multi-contest election.
5 So it's similar to the multi-contest one we saw in the
6 Democrat primary in the first election in Dr. Handley's table.
7 Here, there are more than a majority, more than 60 percent of
8 the voters are -- both Black voters and white voters are
9 supporting Herschel Walker.

10 Q. And is Herschel Walker the Black-preferred candidate
11 based on Dr. Handley's analysis of the Democratic elections
12 that she analyzed?

13 A. Yes. I'm sorry, in the general election?

14 Q. Well, just based on -- yeah, in the general -- sure, in
15 the general election.

16 A. In the general election, Herschel Walker is the preferred
17 candidate of the white voters, not of Black voters.

18 Q. But is there anything in the data in Dr. Handley's report
19 that indicates that white Republican voters would be unwilling
20 to vote for a Black-preferred candidate if that candidate was
21 Republican?

22 A. No.

23 Q. Just give me one moment, Dr. Alford.

24 MR. JACOUTOT: Those are all of the questions I have
25 for you. I appreciate your time and your thoroughness.

1 then we were sued after the 2020 election by people associated
2 with Republican groups.

3 And so -- and -- I just know generally that those
4 lawsuits kind of continued in other states regarding signature
5 matching. So that was the main issue, that it's -- there is a
6 subjectivity to it. Poll workers -- I'm sorry, election
7 workers are not handwriting experts. And we did try to
8 provide them some training on that, but it really just was
9 kind of something that was constantly sort of under fire,
10 especially in the lead-up to 2020 and following 2020.

11 So we wanted to move to a more objective standard that --
12 and we actually sort of started that that approach with --
13 with the State Election Board emergency rule in 2020, where
14 they created a portal to rely on driver's license numbers to
15 verify a voter, and it worked quite well. And that was
16 really -- sort of the impetus for moving to that type of
17 verification for -- for all absentee ballot applications and
18 absentee ballots as well.

19 Q. Now, I want to turn to automatic voter registration.

20 When you were at the Secretary's office, was automatic
21 voter registration implemented?

22 A. Yes. Georgia implemented automatic voter registration in
23 September of 2016. I should add, too, we were only the second
24 state beyond Oregon to do that.

25 Q. And do you have an understanding of how Georgia compares

1 to other states in registration rates?

2 A. Yes. I think we compare very favorably. I know one
3 study by the Brennan Center I think showed that Georgia's
4 automatic voter registration was the most successful there was
5 in expanding and actually adding voters. And there is another
6 recent study, I think, that looked at the registration rates
7 pre-automatic voter registration.

8 So in 2016 I think we were about 78 percent of voting
9 eligible population was registered to vote. And then by 2020
10 that number was 98 percent. And that was really because of
11 automatic voter registration.

12 Q. One more piece of S.B. 202 that was touched on and I want
13 to ask you some questions about and then we'll wrap up. Two
14 more.

15 First, it should be a quick answer, though.

16 In your time at the Secretary of State's office, did you
17 ever initiate any precinct closures?

18 A. No.

19 Q. I want to switch to the number of early voting days.

20 How has Georgia changed its process of early voting since
21 you arrived at the Secretary's office?

22 A. So the main thing is we moved from -- we already had a
23 very sort of -- so we always called it the gold standards of
24 early voting compared to other states. We had 16 days
25 pre-S.B. 202 and then we moved to 17 mandatory days. So three

APA Doc. 333

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

**ALPHA PHI ALPHA FRATERNITY
INC., et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia,
Defendant.**

CIVIL ACTION FILE

No. 1:21-CV-05337-SCJ

**COAKLEY PENDERGRASS et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER et al.,
Defendants.**

CIVIL ACTION FILE

No. 1:21-CV-05339-SCJ

**ANNIE LOIS GRANT et al.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER et al.,
Defendants.**

CIVIL ACTION FILE

No. 1:22-CV-00122-SCJ

**OPINION AND MEMORANDUM
OF DECISION**

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OPINION AND MEMORANDUM OF DECISION

The right to vote “is regarded as a fundamental political right, because [it is] preservative of all rights.” Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886).

The voting rights act has proven the most successful civil rights statute in the history of the nation because it has reflected the overwhelming consensus in this nation that the most fundamental civil right of all citizens-- the right to vote-- must be preserved at whatever cost and through whatever commitment required of the federal government.

S. REP. 97-417, 111, 1982 U.S.C.C.A.N. 177, 282. This past summer, Chief Justice Roberts confirmed that “the essence of a § 2 claim . . . [is] where an electoral structure operates to minimize or cancel out minority voters’ ability to elect their preferred candidates. Such a risk is greatest where minority and majority voters consistently prefer different candidates and where minority voters are submerged in a majority voting population that regularly defeat[s] their choices.” Allen v. Milligan, 599 U.S. 1, 17-18 (2023) (citing Thornburg v. Gingles, 478 U.S. at 30, 47-49 (1986)) (cleaned up).

In the three cases before the Court,¹ each set of Plaintiffs argues that their voting rights have been violated by the redistricting plans recently adopted by the State of Georgia in the wake of the 2020 Census. The Court thus approaches these cases “with caution, bearing in mind that these circumstances involve ‘one of the most fundamental rights of . . . citizens: the right to vote.’” Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs, 775 F.3d 1336, 1345 (11th Cir. 2015) (citations omitted).

After conducting a thorough and sifting review of the evidence in this case, the Court finds that the State of Georgia violated the Voting Rights Act when it enacted its congressional and legislative maps. The Court commends Georgia for the great strides that it has made to increase the political opportunities of Black voters in the 58 years since the passage of the Voting Rights Act of 1965. Despite these great gains, the Court determines that in certain areas of the State, the political process is not equally open to Black voters. For example, in the past

¹ In the interest of judicial economy, and to avoid confusion, the Court issues a single order that will be filed by the Clerk in each of the above-stated cases. Although the Court issues a single order, the Court has evaluated the merits of each case independently and reached its conclusions as follows.

decade, all of Georgia's population growth was attributable to the minority population, however, the number of majority-Black congressional and legislative districts remained the same.² In light of this fact and in conjunction with all of the evidence and testimony in this case, the Court determines that Georgia's congressional and legislative maps violate Section 2 of the Voting Rights Act and enjoins their use in any future elections.

I. FINDINGS OF FACT

Having considered the evidence at trial, the Parties' presentations (pursuant to Federal Rule of Civil Procedure 52(c)), and closing arguments, this Court makes the following findings of fact.³

² This finding in no way requires that the number of majority-Black congressional or legislative district be proportionate to the Black population.

³ The Court has used the term "findings of fact" for simplicity's sake, but the Court notes that some of the foregoing findings are also conclusions of law. Similarly, the "conclusions of law" section contains some findings of fact.

The Court divides its discussion of the factual findings into four parts. First, the Court explains the procedural history of the three cases and describes the named Parties. Second, the Court considers the history of race and voting in Georgia and its changing demographics. Third, the Court explains its findings of fact about the creation of the 2021 congressional, Senate, and House districting plans based on the testimony and evidence introduced at a coordinated trial of these actions. Fourth, the Court sets forth its findings regarding the Illustrative Plans.

For reference, the following citations are used for support for each of the findings below:

Citation ⁴	Document Type
<u>APA</u> Doc. No. []	Docket entry from <u>Alpha Phi Alpha</u>
<u>Grant</u> Doc. No. []	Docket entry from <u>Grant</u>
<u>Pendergrass</u> Doc. No. []	Docket entry from <u>Pendergrass</u>

⁴ All citations are to the electronic docket unless otherwise noted, and all page numbers are those imprinted by the Court's docketing software.

Tr.	Transcript of the trial hearing held September 5-14, 2023 in all three cases. ⁵
PI Tr.	<u>APA</u> Doc. Nos. [106]-[117]; <u>Pendergrass</u> Doc. Nos. [73]-[85]; <u>Grant</u> Doc. Nos. [68]-[79]
DX	Defendants' Exhibits
APAX	<u>Alpha Phi Alpha</u> Plaintiffs' Exhibits
GX	<u>Grant</u> Plaintiffs' Exhibits
PX	<u>Pendergrass</u> Plaintiffs' Exhibits
JX	Joint Exhibits
Stip.	Stipulations filed at <u>APA</u> Doc. No. [280], Attach. E.; <u>Grant</u> Doc. No. [243], Attach. E.; <u>Pendergrass</u> Doc. No. [231], Attach. E.
Jud. Not.	Court's Order taking judicial notice at <u>APA</u> Doc. No. [284], <u>Grant</u> Doc. No. [246], <u>Pendergrass</u> Doc. No. [234]

⁵ The Court cites to the Official Certified Hearing Transcript for the Trial provided by the court reporter. This transcript has not yet been filed on the docket.

A. Procedural History

1. Initial Filings

On December 30, 2021, Plaintiffs in the Alpha Phi Alpha case filed their Complaint against Brad Raffensperger, in his official capacity as Secretary of State of Georgia. APA Doc. No. [1]. On that same date, Plaintiffs in the Pendergrass case filed their Complaint against Raffensperger and the members of the State Election Board (the “SEB”). Pendergrass Doc. No. [1]. On January 11, 2022, Plaintiffs in the Grant case filed their Complaint against Raffensperger and the SEB. Grant Doc. No. [1]. All three Complaints alleged violations of Section 2 of the Voting Rights Act, as amended 52 U.S.C. § 10301.

On January 7, 2022, Plaintiffs in Alpha Phi Alpha Plaintiffs filed their Motion for a Preliminary Injunction. APA Doc. Nos. [26], [39]. ⁶ Pendergrass Plaintiffs filed their Motion for a Preliminary Injunction on January 12, 2022 (Pendergrass Doc. No. [32]) and the following day, the Grant Plaintiffs filed their Motion for Preliminary Injunction (Grant Doc. No. [19]).

⁶ Alpha Phi Alpha Plaintiffs filed a *renewed* Motion for Preliminary Injunction on January 13, 2023. Doc. No. [39].

On January 14, 2022, Defendant Raffensperger filed his Motion to Dismiss the Alpha Phi Alpha Complaint (APA Doc. No. [43]) and Defendants Raffensperger and the State Election Board members filed their Motions to Dismiss the Pendergrass and Grant Complaints (Pendergrass Doc. No. [38], Grant Doc. No. [23]). Defendants' motions primarily advanced two arguments: (1) Section 2 did not create a private right of action, therefore, Plaintiffs could not bring their claims and (2) 28 U.S.C. § 2284(a) required the Alpha Phi Alpha and Grant Plaintiffs' claims be heard by a three-judge court. Id. The Parties then briefed the Motions to Dismiss and for Preliminary Injunction on an expedited basis (APA Doc. Nos. [45]–[47], [58], [59], Pendergrass Doc. Nos. [39], [40], [44], [45], Grant Doc. Nos. [24]–[25], [35], [37]).

The Court denied Defendants' Motions to Dismiss. APA Doc. No. [65], Pendergrass Doc. No. [50], Grant Doc. No. [43]. The Court concluded that the text of Section 2284 does not require a plaintiff to request a three-judge court for purely statutory challenges to the apportionment of congressional districts and statewide legislative bodies. Id. The Court further concluded that Plaintiffs could assert their claims because, for the past forty-five years, the Supreme Court and

lower courts have allowed private individuals to assert challenges under Section 2 of the Voting Rights Act. Id.

2. Preliminary Injunction

After denying the motions to dismiss, in February 2022, the Court convened a coordinated hearing on the motions for preliminary injunction. APA Doc. No. [127], Pendergrass Doc. No. [90], Grant Doc. No. [84].

On the first day of the preliminary injunction hearing, the United States Supreme Court granted the State of Alabama’s motion to stay a three-judge district court’s order granting a preliminary injunction in favor of a challenge to Alabama’s congressional map under Section 2. Merrill v. Milligan, 142 S. Ct. 879 (2022). The Supreme Court then accepted certiorari and placed the case on its October 2022 term calendar. Id. Justice Kavanaugh, joined by Justice Alito, wrote separately to concur in the stay. See generally id. at 879–82. In his concurrence, Justice Kavanaugh first emphasized that the stay was not a ruling on the merits, but followed Supreme Court election-law precedent that established that federal courts generally “should not enjoin state election laws in the period close to an election.” Id. at 879 (citing Purcell v. Gonzalez, 549 U.S. 1 (2006)) (per curiam)).

The Court allowed the Parties in the cases *sub judice* to submit briefing and oral argument on the effect of the Milligan stay order. APA Doc. Nos. [97], [127]–[131], Pendergrass Doc. Nos. [65], [91]–[95], Grant Doc. Nos. [59], [85]–[89]. The Court thereafter decided to proceed with the preliminary injunction hearing. Over the course of the six-day preliminary injunction hearing—February 7 through February 14, 2022—the Court admitted various pieces of evidence and heard testimony from a variety of expert and fact witnesses. Id.

On February 28, 2022, the Court issued its Preliminary Injunction Order. The Court found a substantial likelihood of success on the merits in that additional majority-Black districts should have been drawn. The General Assembly should have drawn an additional majority-Black congressional district in the west-metro Atlanta (Pendergrass Plaintiffs); two additional majority-Black State Senate districts in south-metro Atlanta (Grant); two additional majority-Black State House districts in the south-metro Atlanta (Grant), and one additional majority-Black State House district in southwestern Georgia (Alpha Phi Alpha). Alpha Phi Alpha Fraternity, Inc. v. Raffensperger, 587 F. Supp. 3d 1222, 1243–320

(N.D. Ga. 2022).⁷ In light of the Supreme Court’s decision to stay the Milligan case, the Court ultimately denied the preliminary injunction finding that the balance of harms and public interest weighed against granting the injunction. Id. at 1321–27. Specifically, the Court found based upon the evidence presented that “the public interest of the State of Georgia would be significantly undermined by altering the election calendar and unwinding the electoral process” as of the date of its ruling. Id. at 1324.

Pursuant to Federal Rule of Civil Procedure 65(a)(2), certain evidence that was received on the preliminary injunction motions (in a format admissible at trial) has become a part of the trial record.

⁷ The Court did not find it necessary to rule on the substantial likelihood of success as to the Alpha Phi Alpha Plaintiffs’ Illustrative Senate Districts 17 and 28 and Illustrative House Districts 73, 110, and 111. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1267–68. The Court also did “not find that the Grant and Alpha Phi Alpha Plaintiffs ha[d] established that they have a substantial likelihood of succeeding on the merits of their claims that a third State Senate District should have been drawn in the Eastern Black Belt or that additional House Districts should have been drawn in the western Atlanta metropolitan area, central Georgia, or in the Eastern Black Belt.” Id. at 1271 n.23.

3. Discovery and Summary Judgment

Following the preliminary injunction hearing, all Plaintiffs amended their complaints and engaged in a nine-month discovery period. APA Doc. Nos. [133], [141], Pendergrass Doc. Nos. [96], [120], Grant Doc. No. [90], [96]. Following discovery, Defendants filed Motions for Summary Judgment in all three cases. APA Doc. No. [230], Pendergrass Doc. No. [175], Grant Doc. No. [190]. The Pendergrass and Grant Plaintiffs also filed Motions for Summary Judgment. Pendergrass Doc. No. [173], Grant Doc. No. [189]. On May 18, 2023, the Court heard argument on the pending motions. APA Doc. No. [260], Pendergrass Doc. No. [209], Grant Doc. No. [224]. At the conclusion of the hearing, the Court informed the Parties that it would not rule on the motions for summary judgment until after the Supreme Court issued its opinion for the Allen case.

On June 8, 2023, the Supreme Court issued a 5-4 decision in Allen, 599 U.S. 1, affirming the three-judge court's Grant of the preliminary injunction.⁸ Chief

⁸ The procedural history for the Allen case shows that the case name changed from Merrill v. Milligan to Allen v. Milligan based upon the expiration of the term of Alabama's Secretary of State and the swearing in of the successor.

Justice Roberts, writing for the majority, upheld the existing three-part framework developed in Gingles, 478 U.S. at 30 and found under a clear error review that the three-judge district court did not err in finding a substantial likelihood of success on a Section 2 violation. Id.⁹

Following the Supreme Court's Allen decision, the Parties provided supplemental briefing. APA Doc. Nos. [263], [264], Pendergrass Doc. Nos. [212], [214], Grant Doc. Nos. [227], [228]. The Court then denied all pending motions for summary judgment. APA Doc. No. [268], Pendergrass Doc. No. [215], Grant Doc. No. [229]. In all three cases, the Court found that issues of fact and credibility remained on all three Gingles preconditions as well as the totality of the circumstances. Id.

4. Trial

The Parties then proceeded to trial on the merits of Plaintiffs' claims and Defendants' affirmative defenses. Although the Court did not consolidate the three cases, at the trial, the Court heard all three cases at once (utilizing

⁹ For a thorough discussion of the Supreme Court's Allen decision, see APA Doc. No. [268].

coordinated hearing procedures). For the sake of clarity, the Court required the Parties to clearly state on the Record which testimony and which pieces of evidence were attributed to which case. APA Doc. No. [286], Pendergrass Doc. No. [236], Grant Doc. No. [248]. Over the course of the eight-day trial – spanning from September 5, 2023 through September 14, 2023 – the Court heard from 20 live witnesses and accepted testimony from 22 witnesses via deposition (APA Doc. No. [292], Pendergrass Doc. No. [243], Grant Doc. No. [254]).

At the conclusion of all three Plaintiffs’ presentations of evidence, Defendants moved for Judgment on Partial Findings of Fact pursuant to Federal Rule of Civil Procedure 52(c). APA Doc. No. [305], Pendergrass Doc. No. [255], Grant Doc. No. [264]. The Court verbally denied the motion. APA Doc. No. [306], Pendergrass Doc. No. [257], Grant Doc. No. [266]. Defendants then proceeded to present their case-in-chief. The Court heard closing arguments and took the matter under advisement. APA Doc. No. [308], Pendergrass Doc. No. [259], Grant Doc. No. [268].

5. Post-Trial Proceedings

Following the trial, all Parties submitted proposed findings of fact and conclusions of law for the Court's consideration. APA Doc. Nos. [317], [318], Pendergrass Doc. Nos. [268], [269], Grant Doc. Nos. [277], [278].¹⁰ The Court has adopted and rejected portions of the Parties' submissions.

B. The Named Parties

1. Alpha Phi Alpha Plaintiffs

a) Alpha Phi Alpha Fraternity, Inc.

Alpha Phi Alpha Fraternity, Inc. is the first intercollegiate Greek-letter fraternity established for Black men. Stip. ¶ 51. Alpha Phi Alpha has programs to raise political awareness, register voters, and empower Black communities. Stip. ¶ 53. Alpha Phi Alpha has thousands of members throughout Georgia. Stip. ¶ 52.

¹⁰ Under the Local Rules, counsel are "directed to submit a statement of proposed Findings of Fact and Conclusions of Law in nonjury cases." LR 16.4(B)(25), NDGa. The Court does not view these proposals as evidence or post-trial briefs. To the extent that any Party raised an argument in their Proposed Findings of Fact and Conclusions of Law that was not raised in the Pretrial Order or at trial, that argument will be disregarded.

Under the Enacted Legislative Plans, Alpha Phi Alpha has members who live in State Senate Districts 16, 17, and 23 and State House Districts 74, 114, 117, 128, 133, 134, 145, 171, and 173. *Id.* Harry Mays is a member of Alpha Phi Alpha Fraternity, Inc. Doc. No. [94], at 2 ¶ 4; Stip. ¶ 54. Mr. Mays resides in House District 117 under the State’s 2021 House Plan, and under Plaintiffs’ illustrative maps would reside in a new majority-Black House District. *Id.* ¶¶ 55–56.

b) Sixth District African Methodist Episcopal Church

The Sixth District of the African Methodist Episcopal Church (“Sixth District AME”) is a nonprofit religious organization. Stip. ¶ 57. The Sixth District AME is one of twenty districts of the AME Church and covers all of Georgia. Stip. ¶ 58. One of its core tenets is encouraging and supporting civic participation among its members through voter registration, transporting churchgoers to the polls, hosting “Get Out the Vote” efforts, and providing food, water and encouragement to people waiting in lines at the polls. Stip. ¶ 62.

Under the Enacted Legislative Plans, member-churches of the Sixth District AME are located in State Senate Districts 16, 17, and 23 and State House Districts 74, 114, 117, 128, 133, 134, 145, 171, and 173. Stip. ¶ 61. Plaintiff Phil S. Brown is a

member of the Lofton Circuit AME Church in Wrens, Georgia, and Plaintiff Janice Stewart is a member of the Saint Peter AME Church in Camilla, Georgia. Stip. ¶¶ 63–64.

c) Individually-named Plaintiffs in the APA case

Eric T. Woods is a Black resident of Tyrone, Georgia. Stip. ¶¶ 65, 66. Under the Enacted Legislative Plans, Mr. Woods is a registered voter in State Senate District 16. Stip. ¶¶ 67, 68. Katie Bailey Glenn is a Black resident of McDonough, Georgia. Stip. ¶¶ 70, 71. Under the Enacted Legislative Plans, Ms. Bailey is a registered voter in State Senate District 17. Stip. ¶¶ 72, 73. Phil S. Brown is a Black resident of Wrens, Georgia. Stip. ¶¶ 75, 76. Under the Enacted Legislative Plans, Mr. Brown is a registered voter in State Senate District 23. Stip. ¶¶ 77, 78. Janice Stewart is a Black resident of Thomasville, Georgia. Stip. ¶¶ 80, 81. Under the Enacted Legislative Plans, Ms. Stewart is a registered voter in State House District 173. Stip. ¶¶ 82, 83.

2. Pendergrass Plaintiffs

Coakley Pendergrass is a Black resident of Cobb County, Georgia. Stip. ¶¶ 1, 2. Under the Enacted Congressional Plan, Mr. Coakley is a registered voter in Congressional District 11. Stip. ¶ 3. Triana Arnold is a Black resident of

Douglas County, Georgia. Stip. ¶¶ 4, 5. Under the Enacted Congressional Plan, Ms. Arnold is a registered voter in Congressional District 3. Stip. ¶ 6. Elliott Hennington is a Black resident of Cobb County, Georgia. Stip. ¶¶ 7, 8. Under the Enacted Congressional Plan, Mr. Hennington is a registered voter in Congressional District 14. Stip. ¶ 9. Robert Richards is a Black resident of Cobb County, Georgia. Stip. ¶¶ 10, 11. Under the Enacted Congressional Plan, he is a registered voter in Congressional District 14. Stip. ¶ 12. Jens Rueckert is a Black resident of Cobb County, Georgia. Stip. ¶¶ 13, 14. Under the Enacted Congressional Plan, Mr. Rueckert is a registered voter in Congressional District 14. Stip. ¶ 15. Ojuan Glaze is a Black resident of Douglas County, Georgia. Stip. ¶¶ 16, 17. Under the Enacted Congressional Plan, Mr. Glaze is a registered voter in Congressional District 13. Stip. ¶ 18.

3. Grant Plaintiffs

Annie Lois Grant is a Black resident of Union Point, Georgia. Stip. ¶¶ 19, 20. Under the Enacted Legislative Plans, Ms. Grant is a registered voter in State Senate District 24 and State House District 124. Stip. ¶ 20. Quentin T. Howell is a Black resident of Milledgeville, Georgia. Stip. ¶¶ 21, 22. Under the Enacted

Legislative Plans, Mr. Howell is a registered voter in State Senate District 25 and State House District 133. Stip. ¶ 23. Elroy Tolbert is a Black resident of Macon, Georgia. Stip. ¶¶ 24, 25. Under the Enacted Legislative Plans, Mr. Tolbert is a registered voter in State Senate District 18 and State House District 144. Stip. ¶ 26. Triana Arnold James is a Black resident of Villa Rica, Georgia. Stip. ¶¶ 27, 28. Under the Enacted Legislative Plans, Ms. James is a registered voter in State Senate District 30 and State House District 64. Stip. ¶ 29. Eunice Sykes is a Black resident of Locust Grove, Georgia. Stip. ¶¶ 30, 31. Under the Enacted Legislative Plans, Ms. Sykes is a registered voter in State Senate District 25 and State House District 117. Stip. ¶ 33. Elbert Solomon is a Black resident of Griffin, Georgia. Stip. ¶¶ 33, 34. Under the Enacted Legislative Plans, Mr. Solomon is a registered voter in State Senate District 16 and State House District 117. Stip. ¶ 35.

Dexter Wimbish is a Black resident of Griffin, Georgia. Stip. ¶¶ 36, 37. Under the Enacted Legislative Plans, Mr. Wimbish is a registered voter in State Senate District 16 and State House District 74. Stip. ¶ 38. Garrett Reynolds is a Black resident of Tyrone, Georgia. Stip. ¶¶ 39, 40. Under the Enacted Legislative Plans, Mr. Reynolds is a registered voter in State Senate District 16 and State

House District 68. Stip. ¶ 41. Jacqueline Faye Arbuthnot is a Black resident of Powder Springs, Georgia. Stip. ¶¶ 42, 43. Under the Enacted Legislative Plans, Ms. Arbuthnot is a registered voter in State Senate District 31 and State House District 64. Stip. ¶ 44. Jacquelyn Bush is a Black resident of Fayetteville, Georgia. Stip. ¶¶ 45, 46. Under the Enacted Legislative Plans, Ms. Bush is a registered voter in State Senate District 16 and State House District 74. Stip. ¶ 47. Mary Nell Conner is a Black resident of Henry County, Georgia. Stip. ¶¶ 48, 49. Under the Enacted Legislative Plans, Ms. Conner is a registered voter in State Senate District 25 and State House District 117. Stip. ¶ 50.

4. *Defendants*

a) Brad Raffensperger

Brad Raffensperger is the Georgia Secretary of State. Stip. ¶ 85. The Secretary of State is a constitutional officer elected by Georgia voters every four years. Ga. Const. Art. 5, § 3, par. 1. Under Georgia law, the Secretary of State is required:

- (1) [t]o determine the forms of nomination petitions, ballots, and other forms;

....

(6) [t]o receive from the superintendent the returns of primaries and elections and to canvass and compute the votes cast for candidates and upon questions;

....

(13) [t]o prepare and furnish information for citizens on voter registration and voting; and

....

(15) [t]o develop, program, building, and review ballots for use by counties and municipalities on voting systems in use in the state.

O.C.G.A. § 21-2-50(a).

b) The State Election Board¹¹

The State Election Board (“SEB”) was created by legislation codified in the Georgia’s Election Code, O.C.G.A. § 21-2-30(a). It consists of five members, including a representative of each of the two major political parties. *Id.* § 21-2-

¹¹ The Court notes for the record that Defendant Raffensperger is sued in his official capacity in all three lawsuits, the members of the SEB are sued in their official capacities in Pendergrass and Grant. As will be discussed below, the Court finds that the Pendergrass and Grant Plaintiffs did not introduce any evidence about the SEB’s ability to redress their injuries or that the injury is traceable to it. Thus, the Court ultimately finds that the Pendergrass and Grant Plaintiffs lack standing to sue the SEB. *See* Section II(A)(1)(b) *infra*. However, throughout this Opinion and Memorandum, the Court will collectively refer to all Defendants, even though the SEB is ultimately dismissed and was not sued by the Alpha Phi Alpha Plaintiffs. However, any relief will be directed to Secretary of State Raffensperger.

30(c). Sarah Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn serve as members of the SEB. Stip. ¶¶ 86–89.¹²

Under Georgia law, moreover, the SEB has a statutory duty to “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. § 21-2-31(2). Georgia law also tasks the SEB with “investigat[ing] or authoriz[ing] the Secretary of State to investigate, when necessary or advisable[,] the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney” *Id.* § 21-2-31(5). Furthermore, the SEB is “vested with the power to issue orders, after the completion of appropriate proceedings, directing compliance with [the Election

¹² Defendants have filed a notice indicating that on September 1, 2023, the Honorable William S. Duffey, Jr., stepped down as a chair of the State Election Board. Pendergrass Doc. No. [270], Grant Doc. No. [279]. Because Duffey was sued in his official capacity, this resignation does not abate the action, but does lead to Duffey being terminated as a named-party under the applicable rules of civil procedure. See Fed. R. Civ. P. 21; 25(d).

Code] or prohibiting the actual or threatened commission of any conduct constituting a violation” Id. § 21-2-33.1(a).

Additionally, Georgia law tasks the SEB with oversight authority over the counties. See O.C.G.A. § 21-2-31(1) (“It shall be the duty of the [SEB] . . . [t]o promulgate rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections[.]”); id. at § 21-2-31(2) (“[t]o formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections”); id. at § 21-2-31(5) (“[t]o investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution.”).

C. History of Race and Voting in Georgia

In 1965, Congress passed the Voting Rights Act (“VRA”). While the VRA has been amended several times, as originally adopted, Section 2 prohibited practices that denied or abridged the right to vote “on account of” race or color. See Allen, 599 U.S. at 11 n.1 (citing 42 U.S.C. § 1973 (1970 ed.)).

The Act was amended in 1982. Id. at 11. Section 4 of the VRA (the “coverage formula”) determined which jurisdictions were “covered” and were required to submit new voting procedures or practices for prior approval (“preclearance”) by the Department of Justice or a district court panel of three judges, pursuant to Section 5. See James D. Wascher, Recognizing the 50th Anniversary of the Voting Rights Act, Fed. Law., May 2015, at 41 (hereinafter, “Wascher”). The VRA thus “employed extraordinary measures to address an extraordinary problem.” Shelby Cnty. v. Holder, 570 U.S. 529, 534 (2013). Georgia was a covered jurisdiction because in the 1960s and early 1970s, the whole state had low voter registration or turnout and maintained tests or devices as prerequisites to voting (i.e., poll taxes, literacy tests, and grandfathering rules). Id. at 536–37 (28 C.F.R. pt. 51, App. (2012)).

During Georgia's last redistricting cycle in 2011, which was subject to preclearance under Section 5 of the Voting Rights Act, the Department of Justice ("DOJ") precleared Georgia's proposed State Senate, State House, and Congressional Plans. See Jud. Not.¹³

Following those determinations, in 2013, the Supreme Court held that the coverage formula was no longer constitutional because it had not been reformulated since 1975. Shelby Cnty., 570 U.S. at 538, 556–57. As a result, the State of Georgia is no longer a covered jurisdiction and is no longer required to send district plans or any proposed voting practices or procedural changes to the DOJ for preclearance. The 2020 redistricting cycle is the first in which Georgia was not required to seek preclearance before adopting its new congressional and legislative plans.

¹³ The precleared plans were utilized in the 2012 election and will hereinafter be referred to as the "2012 Plans."

D. Georgia's Changing Demographics

1. *Georgia's Total Population*

Between 2000 and 2010, Georgia's population increased by a little over 1.5 million people (from 8,186,453 to 9,687,653), which marked a population growth rate of 18.34%. PX 1, fig.3. The growth of the minority population accounted for approximately 14.85% of this growth rate, the Any-Part Black ("AP Black")¹⁴ population alone accounted for 8.07%, and the white population accounted for approximately 3.48% of Georgia's growth rate. *Id.* During this time, the minority population increased by 1,215,941 people and had a growth rate of 34.66%. PX 1, fig.3. The AP Black population increased by 660,673 people and had a growth rate of 27.60%. *Id.* Meanwhile, Georgia's white population grew by 285,259 people and had a growth rate of 5.56%. *Id.* Following the 2010 Census, as a result of population growth, Georgia was apportioned a 14th Congressional

¹⁴ "AP Black" is defined as the combined total of all persons who are single-race Black and persons who are two or more races and one of them is Black. Stip. ¶ 95. "[I]t is proper to look at *all* individuals who identify themselves as [B]lack" in their census responses, even if they "self-identify as both [B]lack and a member of another minority group," because the inquiry involved is "an examination of only one minority group's effective exercise of the electoral franchise." *Georgia v. Ashcroft*, 539 U.S. 461, 473 n.1 (2003).

District. Stip. ¶ 94. During this time, the growth of the minority population outpaced the white population by approximately 6 times and the Black population outpaced the white population by approximately 5 times.

In 2020, the United States Census Bureau conducted the 2020 Census. The Census results were provided to Georgia on August 21, 2021. Stip. ¶ 92. Between 2010 and 2020 Georgia's total population increased by over a million people to 10,711,908, which marked a population growth rate of 10.57%. Id. ¶ 93; PX 1, fig.3; Tr. 718:4-6. The growth of the minority population accounted for approximately 11.11% of this growth rate, the AP Black population alone accounted for 5.00%, and the white population accounted for approximately -0.53% of Georgia's growth rate. Id. Meaning, all of Georgia's population growth during the past decade is attributable to the growth of the minority population. PX 1 ¶ 14, fig.1, Tr. 718:7-15. During this time, the minority population increased by 1,076,019 people and had a growth rate of 25.18%. PX 1, fig.3. The AP Black population increased by 484,048 people and had a growth rate of 15.85%. Id. Meanwhile, Georgia's white population decreased by 51,764 people and had a negative growth rate of -0.9%. Id. Over the past two decades, Georgia's Black and

minority populations continued to have a double-digit rate of growth; whereas, in the last decade, the white population has begun to decline in Georgia.

In total numbers, Georgia's AP Black population increased by 484,048 people since 2010. Stip. ¶ 95; PX 1 ¶ 14, fig.3. Between 2010 and 2020 the AP Black population accounted for 47.26% of Georgia's total population growth. Stip. ¶¶ 96, 102; PX 1 ¶ 14 & fig.1. And the proportion of the AP Black population overall increased from 31.53% to 33.03% over the same period. Stip. ¶ 102; PX 1 ¶ 16. Meanwhile, Georgia's single-race white population decreased by 51,764 people and makes up 50.06% of Georgia's population, which is a razor thin majority of Georgia's population. Stip. ¶¶ 99, 102. Georgia's minority population now totals 49.94%. PX 1 ¶ 14 & fig.1.

2. Metro Atlanta

The Atlanta Metropolitan Statistical Area ("Atlanta MSA")¹⁵ had a population growth of 803,087 persons between 2010 and 2020, which accounts

¹⁵ The Atlanta MSA consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton,

for approximately 78.41% of Georgia's total population growth. Stip. ¶ 107; PX 1 ¶ 14 & fig.1; id. ¶ 30 & fig.5. The AP Black population accounted for 409,927 of those persons, which amounts to 51.04% of the population growth in Atlanta and 40.02% of Georgia's population growth. Id. The AP Black population is 35.91% of the Atlanta MSA, which was an increase from 33.61% in 2010. Stip. ¶ 108. The AP Black population accounts for 34.86% of the Atlanta MSA's total voting age population. Stip. ¶ 110.

According to the 2020 Census, the Atlanta MSA has a total voting-age population of 4,654,322 persons, of whom 1,622,469 (34.86%) are AP Black. Stip. ¶ 110. The non-Hispanic white voting-age population is 4,342,333 (52.1%). PX 1 ¶ 31 & fig.6. And, the 11 ARC counties account for more than half (54.7%) of the statewide Black population. PX 1 ¶ 28.

Based on the 2020 Census, the combined Black population in Cobb, Fulton, Douglas, and Fayette Counties is 807,076 persons, more than necessary to

Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. Stip. ¶ 106. The Atlanta Regional Commission ("ARC") is comprised of 11 core counties within the Atlanta MSA: Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, and Rockdale. Stip. ¶ 111.

constitute an entirely AP Black congressional district¹⁶—or a majority in two congressional districts. PX 1 ¶ 42 & fig.8. The population is 100,000 people more than needed to constitute an entirely AP Black Senate district¹⁷ in this area, and nearly 5 entirely AP Black House Districts.¹⁸ More than half (53.27%) of the total population increase in these four counties since 2010 can be attributed to the increase in the Black population. PX 1 ¶ 43.

The southeastern metro-Atlanta area has experienced similar growth patterns. In 2000, 18.51% of the population in the five-county Fayette-Spalding-Henry-Rockdale-Newton area was Black. Stip. ¶ 114; APAX 1, 25 & fig.7. By 2010, the Black population in that area more than doubled to reach 36.70% of the overall population, then grew to 46.57% in 2020. Id. Between 2000 and 2020, the Black population in this five-county South Metro Atlanta area quadrupled, from 74,249 to 294,914. Stip. ¶ 115. This area is now plurality Black. APAX 1, 25 & fig.7. Fayette and Spalding Counties have seen Black population increases of 54.5%

¹⁶ The ideal population size of a congressional district is 765,136 people. Stip. ¶ 197.

¹⁷ The ideal population size for a Senate district is 191,284 people. Stip. ¶ 277

¹⁸ The ideal population size for a House district is 59,511 people. Stip. ¶ 278.

and 18.7%, respectively, since 2010. APAX 1, at 40 ¶ 97. Henry County's Black population has increased by 39.3% in the last decade, and Henry County is now plurality Black. *Id.* ¶ 102. As Mr. Cooper explained, in the 1990s, Henry County was not even "10 percent Black" but the county has "change[d] over time." Tr. 116:17-18.

Meanwhile, under the 2000 Census, the population in the 29-county Atlanta MSA was 60.42% non-Hispanic white, decreased to 50.78% in 2010, and decreased further to 43.71% in 2020. PX 1 ¶ 25 & fig.4. Between 2010 and 2020, the non-Hispanic white population in the Atlanta MSA decreased by 22,736 persons. Stip. ¶ 112; PX 1 ¶ 25 & fig.4; Tr. 721:19-23.

3. The Black Belt

The Black Belt refers to an area that runs across the southeastern United States. Stip. ¶ 118. The Black Belt, is in part, characterized by significant Black populations and a shared history of antebellum slavery and plantation agriculture. *Id.* Georgia's portion of the Black Belt runs across the middle of the State between Augusta and Southwest Georgia. Stip. ¶ 119. Unlike, the Atlanta MSA, it is not comprised of a specific set of whole counties.

a) Eastern Black Belt Region

The Georgia Department of Community Affairs (“GDCA”) has prepared regional commission maps, including of the Central Savannah River Area region. APAX 1, 13 ¶ 26; id. at 118-119, Ex. F. The Central Savannah River Area Counties include: Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Glascock, Warren, Washington, and Hancock. Ten of these 11 contiguous counties – excluding Glascock – are identified as part of Georgia’s Black Belt by the Georgia Budget and Policy Institute. APAX 1, 13-14 ¶ 27; DX 22, at 20-25; Stip. ¶¶ 120-123. Mr. Cooper defined this set of 11 counties as part of the “Eastern Black Belt.” APAX 1 ¶ 24. These same counties are consistent with Mr. Esselstyn’s understanding of the eastern portion of the Black Belt. GX 1 ¶ 19 & fig.1.

According to Mr. Cooper’s analysis, between 2000 and 2020, the total population in the Eastern Black Belt has remained relatively constant. APAX 1 ¶ 58 & fig.8. And, at least 40% of these eleven counties are AP Black and over the past two decades, their share of the population increased from 50.66% to 54.62%. Stip. ¶¶ 120, 122. Meanwhile, the white population decreased from 45.61% to

38.17% of the population over the same period. Stip. ¶ 123. In other words, the Black population in this area has become more concentrated over time, and now comprises a majority.

b) Metro-Macon Region

Metropolitan Macon is a seven-county region in Middle Georgia defined by the combined Metropolitan Statistical Areas (“MSAs”) of Macon-Bibb and Warner Robins. Stip. ¶ 124; APAX 1, at 15–16 ¶ 33. The Macon-Bibb MSA includes the counties of Twiggs, Macon-Bibb, Jones, Monroe, and Crawford. Stip. ¶ 124; APAX 1, at 16 n.14. The adjacent Warner Robins MSA encompasses Houston and Peach Counties. Stip. ¶ 124; APAX 1, 16 n.14. Three of the Macon-area counties are “identified as part of Georgia’s Black Belt” – Macon, Bibb, Peach, and Twiggs, encompassing about 59% of the Black population (177,269) in the seven-county region. APAX 1, 29; GX 1 ¶ 19 & fig.1. Between 2000 and 2020, the AP Black population increased from 36.89% to 41.67% of the Macon MSA. Stip. ¶ 126. Meanwhile, the white population decreased from 59.40% to 49.10% of the Macon MSA. Stip. ¶ 127.

c) Southwestern Georgia Region

The relevant counties in southwest Georgia include: Sumpter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Baker, and Mitchell. Stip. ¶¶ 128–132. Twelve of the thirteen counties in Senate District 12—all but Miller County—are identified by the Georgia Budget and Policy Institute as Black Belt counties. APAX 1, 15 ¶ 32; DX 22, at 20–25. At least 40% of this region is AP Black, and all but Miller County is at least 40% AP Black. Stip. ¶ 128. Between 2000 and 2020, the population decreased in this area from 214,686 to 190,819 (11.12%). Stip. ¶ 130. While the AP Black and white populations have decreased over the past two decades, the share of the AP Black population increased from 55.33% to 60.6%, and the white population decreased from 42.36% to 33.83%. Stip. ¶¶ 131, 132.

E. Georgia 2021 Enacted Plans

1. *The 2021 Redistricting Process*

a) Legislative activities

In the wake of the COVID-19 pandemic, the Georgia General Assembly underwent the constitutionally required process of redistricting. Article One, Section 2, Clause 3 of the United States Constitution provides:

“Representatives . . . shall be apportioned among the several States which may be included within the Union, according to their respective Numbers The actual Enumeration shall be made . . . every [] Term of ten Years, in such Manner as they shall by Law direct.” U.S. Const. art. I, §2, cl. 3.

In 2021 and prior to the public release of the redistricting plans, the House Legislative and Congressional Reapportionment and Senate Reapportionment and Redistricting Committees adopted guidelines. Stip. ¶¶ 134, 135. The general principles for drafting plans for the House Legislative and Congressional Reapportionment Committee are as follows:

III. REDISTRICTING PLANS

A. GENERAL PRINCIPLES FOR DRAFTING PLANS

1. Each congressional district should be drawn with a total population of plus or minus one person from the ideal district size.
2. Each legislative district of the General Assembly should be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.
3. All plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended.
4. All plans adopted by the Committee will comply with the United States and Georgia Constitutions.
5. Districts shall be composed of contiguous geography. Districts that connect on a single point are not contiguous.
6. No multi-member districts shall be drawn on any legislative redistricting plan.
7. The Committee should consider:
 - a. The boundaries of counties and precincts;
 - b. Compactness; and
 - c. Communities of interest.
8. Efforts should be made to avoid the unnecessary pairing of incumbents.
9. The identifying of these criteria is not intended to limit the consideration of any other principles or factors that the Committee deems appropriate.

Stip. ¶ 134; JX 2, 3. The general principles for drafting plans for the Senate Reapportionment and Redistricting Committee are as follows:

III. REDISTRICTING PLANS

A. GENERAL PRINCIPLES FOR DRAFTING PLANS

1. Each congressional district should be drawn with a total population of plus or minus one person from the ideal district size.
2. Each legislative district of the General Assembly should be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.
3. All plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended.
4. All plans adopted by the Committee will comply with the United States and Georgia Constitutions.
5. Districts shall be composed of contiguous geography. Districts that connect on a single point are not contiguous.
6. No multi-member districts shall be drawn on any legislative redistricting plan.
7. The Committee should consider:
 - a. The boundaries of counties and precincts;
 - b. Compactness; and
 - c. Communities of interest.
8. Efforts should be made to avoid the unnecessary pairing of incumbents.
9. The identifying of these criteria is not intended to limit the consideration of any other principles or factors that the Committee deems appropriate.

Stip. ¶ 135; JX 1, 3.

The redistricting process consisted of the following actions. Beginning on June 15, 2021 and between June and July of 2021, the Georgia General Assembly held nine in-person and two virtual joint public hearing committees on redistricting. Stip. ¶ 136. The joint redistricting committee released educational videos about the redistricting process. Stip. ¶ 137. The Georgia General Assembly created an online portal and received 1,000 comments from voters in 86 counties. Stip. ¶ 138.

On August 21, 2021, the Census Bureau released its detailed population data gathered from its 2020 canvassing efforts. Stip. ¶ 140. On August 30, 2021, the General Assembly's joint redistricting committees held a meeting with interest groups. Stip. ¶ 141. The National Conference of State Legislatures, American Civil Liberties Union of Georgia, Common Cause, Fair Districts GA, the Democratic Party of Georgia, and Asian-Americans Advancing Justice-Atlanta presented at the August 30, 2021 joint meeting. Stip. ¶ 142.

b) Map drawing process

Gina Wright, the Executive Director of the Georgia General Assembly's Office of Legislative and Congressional Reapportionment, testified at trial that

she drew Georgia's redistricting plans for Congress, State Senate, and State House in 2021. Tr. 1605:14–16. As a fact witness, the Court found Ms. Wright to be highly credible in her knowledge about Georgia's map drawing process. The Court also found Ms. Wright's testimony about various areas of the state to be credible and reliable.

Ms. Wright testified that generally she began drafting the new legislative plans by using blank maps, rather than starting from the existing plans. Tr. 1622:11–17; 1642:7–14. She then put the ideal population size, using the Census population, into the blank map. Tr. 1622:11–13. At times, she layered the new maps with the former map to see if she retained core districts. Tr. 1607:8–1621:18–22. Ms. Wright used the eyeball test and did not look at compactness scores when she drew the congressional and legislative districts. Tr. 1610:3–1611:12.

Once she drew the blind map, she gave the map to the chairmen of the House Legislative and Congressional Reapportionment and Senate Reapportionment and Redistricting Committees. Tr. 1623:4–6. Ms. Wright then made adjustments as requested by Senator Kennedy, chairman of the Senate

Reapportionment and Redistricting Committee, Representative Bonnie Rich, a former member of the House Reapportionment and Redistricting Committee, and other members, if requested. Tr. 1626:10–1627:1; 1641: 24–1642:1. Ms. Wright also incorporated the information she received from the public hearings when drawing the plans. Tr. 1627:2–13.

The Congressional map was drawn in a slightly different manner. Instead of starting with a blank map, Ms. Wright testified that the chairman asked her to draw a benchmark map that had a more specific framework than the State legislative plans. Tr. 1666:5–11. There was no testimony or further explanation about the specific framework that was requested to go into the benchmark map.

The Proposed 2021 Senate and House Plans were first released on November 2, 2021. Stip. ¶ 143. Following their release, the joint redistricting committees received public comment on the proposed maps. Stip. ¶ 146. On November 3, 2021, the General Assembly convened a special session, in part, to consider the proposed Senate and House Plans. Stip. ¶ 144. The House and Senate redistricting committees held multiple meetings during the special session. Stip. ¶ 145. During this time, the House and Senate redistricting committees

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

DEFENDANT-APPELLANT'S
APPENDIX VOLUME VI OF VII

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No. 23-13916
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In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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received public comment on the draft plans during their committee meetings. Stip. ¶ 146.

On November 12, 2021, the General Assembly passed the 2021 Senate and House Plans (SB 1EX and HB 1EX, respectively) (collectively, the “Enacted Legislative Plans,” individually, the “Enacted Senate Plan” and “Enacted House Plan”). Stip. ¶ 147. On November 22, 2021, the General Assembly passed the 2021 Congressional Redistricting Plan (the “Enacted Congressional Plan”). Stip. ¶ 148. No Democratic members of the General Assembly or Black representatives voted in favor of the 2021 Enacted Congressional, Enacted Senate, or Enacted House Plans (collectively “the Enacted Plans”). Stip. ¶¶ 150, 151. On December 30, 2021, Governor Kemp signed the Enacted Plans into law. Stip. ¶ 149. The Enacted Plans were used in the 2022 Elections. Stip. ¶ 152.

2. Enacted Plan Statistics

a) Congressional Plan

(1) 2012 Congressional plan

The 2012 Congressional Plan was precleared under Section 5 of the VRA by the DOJ. See Jud. Not.; see also Attorney General Press Release, <https://law.georgia.gov/press-releases/2011-12-23/justice-approves-georgias->

redistricting-plans; Charles Bullock, The History of Redistricting in Georgia, 52 Ga. L. Rev. 1057, 1097–98 (Summer 2018).

Pursuant to the population increase shown in the 2010 Census results, for the first time, Georgia was apportioned an additional seat in the U.S. House of Representatives, making Georgia’s U.S. House of Representative delegation a total of 14 members. See United States Census Bureau, Historical Apportionment Data (1910-2020), <https://www.census.gov/data/tables/time-series/dec/apportionment-data-text.html> (last visited Sept. 15, 2023).¹⁹

The 2012 Congressional Plan contained four districts where the AP Black Voting Age Population (“AP BVAP”) was in the majority. Stip. ¶ 160. Three of those districts were located within the Atlanta MSA. Stip. ¶ 162. The 2012 Congressional Plan split 16 counties. Stip. ¶ 165. The average Reock Score²⁰ for

¹⁹ The Court takes judicial notice of the Decennial Census data. See United States v. Phillips, 287 F.3d 1053, 1055 n.1 (11th Cir. 2002) (citing Hollis v. Davis, 941 F.2d 1471, 1474 (11th Cir. 1991) and Moore v. Comfed Savings Bank, 908 F.2d 834, 841 n.4 (11th Cir. 1990)) (taking judicial notice of the United States Census Bureau’s 1990 census figures); Grant Doc. No. [229], at 9 n.10 (taking judicial notice of 2020 U.S. Census figures).

²⁰ “The Reock test is an area-based measure that compares each district to a circle, which

the 2012 Congressional Plan is 0.45 and the average Polsby-Popper Score²¹ is 0.26.

Stip. ¶ 168; PX 1, Ex. L-2.

District ²²	2012 Congressional Plan Reock Score	2012 Congressional Plan Polsby-Popper Score
1	0.40	0.23
*2	0.44	0.31
3	0.55	0.28
*4	0.54	0.27
*5	0.52	0.37
6	0.49	0.27
7	0.45	0.26
8	0.33	0.16
9	0.36	0.30
10	0.52	0.27
11	0.50	0.28
12	0.41	0.19
*13	0.38	0.16
14	0.45	0.31
Mean	0.45	0.26
Max:	0.55	0.37
Min:	0.33	0.16

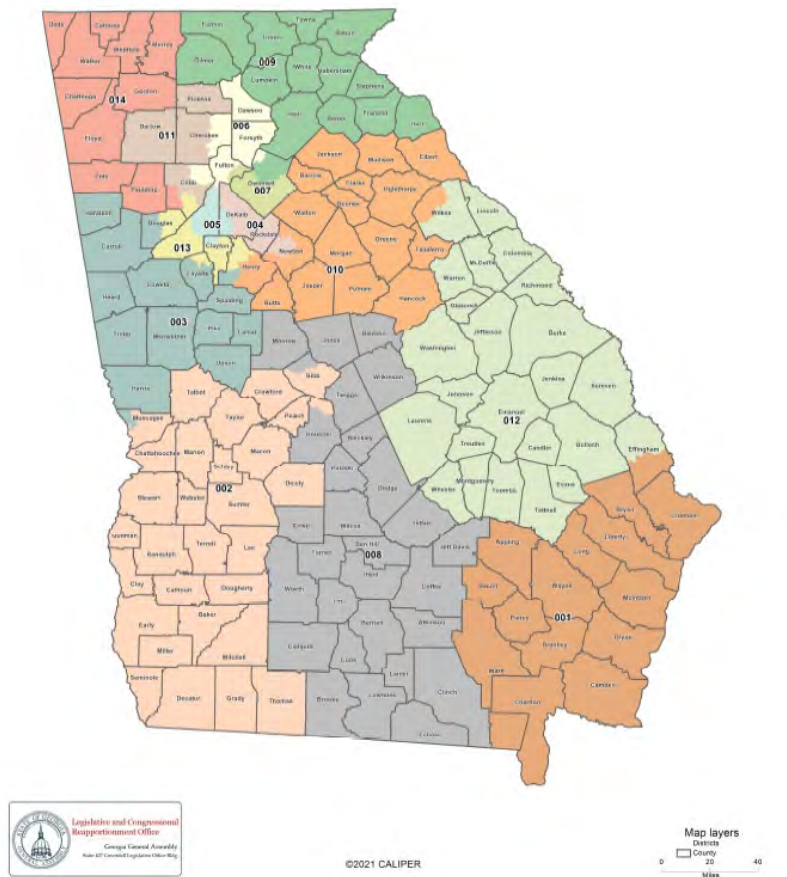
is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact.” Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1275 n.24 (citation omitted).

²¹ “The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi \text{Area} / (\text{Perimeter}^2)$. The measure is always between 0 and 1, with 1 being the most compact.” Id. at 1275 n.26.

²² The asterisk (*) denotes a majority AP Black district. Stip. ¶¶ 166, 167; Pendergrass Doc. Nos. [174-1], 61; [174-2], 25, 69.

(2) *Enacted Congressional Plan*

Pursuant to the 2020 Census, Georgia was apportioned 14 seats in the U.S. House of Representatives. Stip. ¶ 94. A colored version of the Enacted Congressional Plan was introduced into evidence at trial and is below.



PX 1, Ex. G.

The Enacted Congressional Plan contains four districts where the non-Hispanic Department of Justice Black citizen voting age population (“NH DOJ BCVAP”) ²³ is in the majority—CD-2 (50.001%), CD-4 (58.46%), CD-5 (52.35%), and CD-13 (67.05%). Stip. ¶ 161; PX 1 ¶ 53 & fig.11. The AP BVAP, however, only exceeds 50% in 2 districts CD-4 (54.54%) and CD-13 (66.75%). The AP BVAP of CD-2 is 49.29% and CD-5 is 49.60%. PX 1, Ex. K-1. All but one of those districts is contained in the Atlanta MSA. Stip. ¶ 166; PX 1, Ex. J-2. The Enacted Congressional Plan splits 15 counties. Stip. ¶ 164. It also split 46 VTDs.²⁴ PX 1 ¶ 81. The average Reock Score for the 2021 Congressional Plan is 0.44 and the average Polsby-Popper Score is 0.27. Stip. ¶ 168; PX 1, Ex. L-3.

A table that shows the Reock and Polsby score comparisons is as follows:

²³ The “NH DOJ Black CVAP” category includes voting age citizens who are either NH single-race Black or NH Black and White. An “Any Part Black CVAP” category that would include Black Hispanics cannot be calculated from the 5-Year ACS Census Bureau Special Tabulation.” PX 1 ¶ 57 n.10.

²⁴ “‘VTD’ is a Census Bureau term meaning ‘voting tabulation district.’ VTDs generally correspond to precincts.” PX 1 ¶ 11 n.4.

District ²⁵	2021 Congressional Plan Reock Score	2021 Congressional Plan Polsby- Popper Score
1	0.46	0.29
*2	0.46	0.27
3	0.46	0.28
*4	0.31	0.25
*5	0.51	0.32
6	0.42	0.20
7	0.50	0.39
8	0.34	0.21
9	0.38	0.25
10	0.56	0.28
11	0.48	0.21
12	0.50	0.28
*13	0.38	0.16
14	0.43	0.37
Mean	0.44	0.27
Max:	0.56	0.39
Min:	0.31	0.16

PX 1, Ex. L-3.

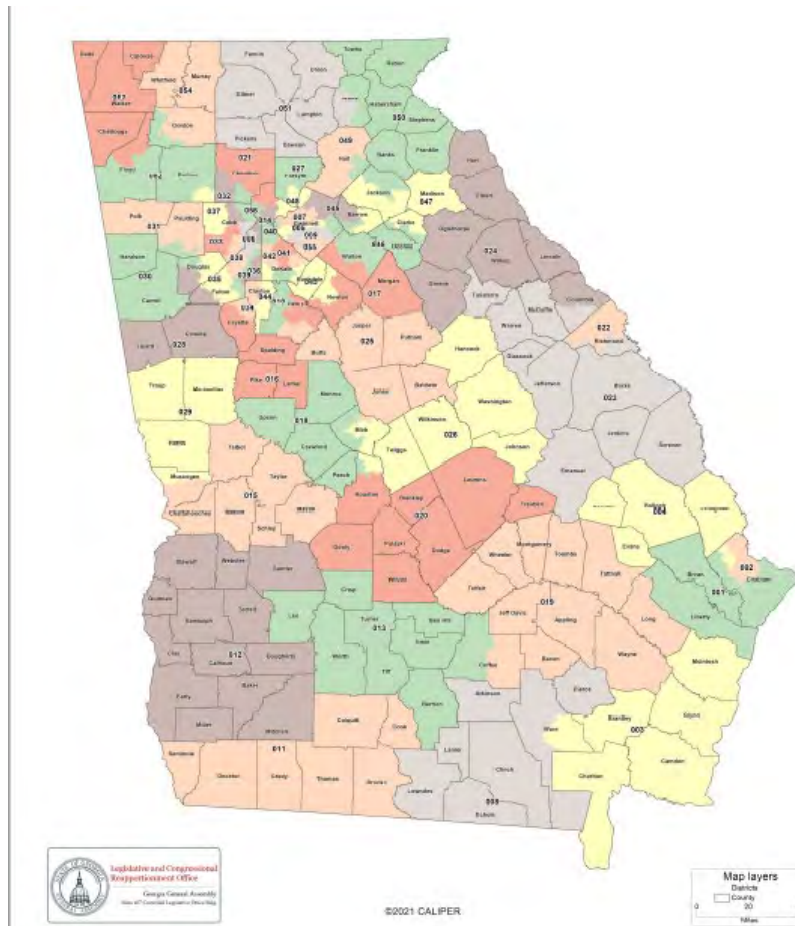
b) State Senate Plan

Under Georgia law, “[t]here shall be 56 members of the Senate. The General Assembly shall by general law divide the state into 56 Senate districts

²⁵ The asterisk (*) denotes a majority AP Black district.

which shall be composed of a portion of a county or counties or a combination thereof and shall be represented by one Senator elected only by the electors of such district.” O.C.G.A. § 28-2-2; see also Ga. Const. art. III, § 2, ¶ I. The ideal population for a Senate district in 191,284 people. Stip. ¶ 277.

Below is the Enacted Senate Plan:



APAX 1, Ex. L.

Under the Enacted Senate Plan, the greatest population deviation is $\pm 1.03\%$. Id. The average population deviation is 0.53% . Id. The Enacted Senate Plan split 29 counties. APAX 1 ¶ 116; fig.21. It also split 40 VTDs. Id. The Enacted Senate Plan did not pair any incumbents who were running for reelection. Stip. ¶ 175.

The Enacted Senate Plan contains 14 Senate districts where the ABVAP is the majority of the population, ten of the districts are fully within the Atlanta MSA. Stip. ¶¶ 176, 186; APAX 1, Ex. M-1. This is a reduction of one majority-Black district in the Senate Plan as a whole. Stip. ¶¶ 173, 177 (indicating that the 2014 Senate Plan contained 15 majority-Black Senate Districts with 10 wholly within the Atlanta MSA). The following is a Table depicting the majority AP Black districts and the percentage of the districts that is AP BVAP.

District	% AP BVAP
10	71.46
12	57.97
15	54.00
22	56.50
26	56.99
34	69.54
35	71.90
36	51.34
38	65.30
39	60.70
41	62.61
43	64.33
44	71.34
55	65.97

APAX 1, M-1.

The Enacted Senate Plan has an average Reock score of 0.43 and Polsby-Popper Score of 0.27. *Stip.* 189; APAX 1, Ex. S-2. The maximum and minimum Reock scores are 0.68 and 0.14. *Id.* The maximum and minimum Polsby-Popper scores are 0.62 and 0.11. *Id.* The compactness scores for the majority-Black districts are as follows:

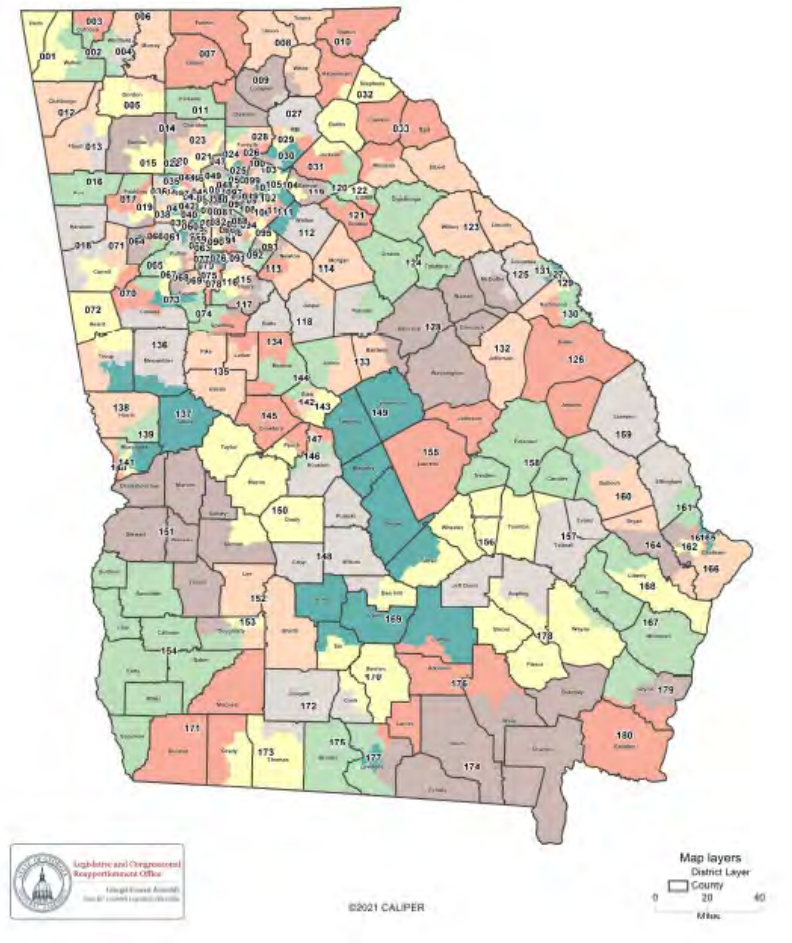
Districts	Reock Score	Polsby-Popper Score
10	0.37	0.27
12	0.53	0.28
15	0.56	0.33
22	0.39	0.34
26	0.47	0.21
34	0.40	0.32
35	0.42	0.18
36	0.25	0.28
38	0.47	0.21
39	0.14	0.11
41	0.31	0.21
43	0.56	0.27
44	0.19	0.18
55	0.25	0.23

APAX 1, S-2.

c) State House Plan

Under Georgia law, “[t]here shall be 180 members of the House of Representatives.” O.C.G.A. § 28-2-1(a)(1); see also Ga. Const. art. III, § 2, ¶ I. The Georgia Code further provides that: “[t]he General Assembly by general law shall divide the state into 180 representative districts which shall consist of either a portion of a county or a county or counties or any combination thereof and shall be represented by one Representative elected only by the electors of such district.” O.C.G.A. § 28-2-1 (a)(1)–(2); Stip. ¶ 179. The ideal population for a House district is 59,511. Stip. ¶ 278.

Below is the Enacted House Plan:



APAX 1, Ex. Y.

Under the Enacted Plan, the greatest population deviation of any district is $\pm 1.40\%$. Stip. ¶ 186; APAX 1, 116. The Enacted House Plan contains 49 House districts where the ABVAP is the majority of the population. Stip. ¶ 186; APAX

1, Ex. Z-1. Thirty-three of these districts are fully within the Atlanta MSA. Stip. ¶ 186; APAX 1, Exs. C,Y. This results in an addition of two majority-Black House districts overall and two in the Atlanta MSA. Stip. ¶¶ 180, 183. The Enacted House Plan split 69 Counties. APAX 1 ¶ 189; fig.37. It also split 179 VTDs. Id. The Enacted House Plan paired four sets of incumbents who ran for reelection in 2022. Stip. ¶ 182.

The following is a Table depicting the majority AP Black districts and the percentage of the districts that is AP BVAP.

District	%AP Black	District	%AP Black
38	54.23	90	58.49
39	55.29	91	70.04
55	55.38	92	68.79
58	63.04	93	65.36
59	70.09	94	69.04
60	63.88	95	67.15
61	74.29	113	59.53
62	72.26	115	52.13
63	69.33	116	58.12
65	61.98	126	54.47
66	53.41	128	50.41
67	58.92	129	54.87
68	55.75	130	59.91
69	63.56	132	52.34
75	74.40	137	52.13
76	67.23	140	57.63
77	76.13	141	57.46
78	71.58	142	59.52
79	71.59	143	60.79
84	73.66	150	53.56
85	62.71	153	67.95
86	75.05	154	54.82
87	73.08	165	50.33
88	63.35	177	53.88
89	62.54		

APAX 1, Z-1.

The Enacted House Plan has an average Reock score of 0.39 and Polsby-Popper Score of 0.28. Stip. ¶ 189; APAX 1, AG-2. The maximum and minimum

Reock scores are 0.66 and 0.12. Id. The maximum and minimum Polsby-Popper scores are 0.59 and 0.10. Id. The compactness scores for the majority-Black districts are as follows:

District	Reock Score	Polsby-Popper Score	District	Reock Score	Polsby-Popper Score
38	0.59	0.58	90	0.36	0.29
39	0.59	0.40	91	0.45	0.20
55	0.18	0.16	92	0.36	0.20
58	0.13	0.13	93	0.26	0.11
59	0.12	0.11	94	0.31	0.15
60	0.19	0.15	95	0.44	0.25
61	0.25	0.20	113	0.50	0.32
62	0.16	0.10	115	0.44	0.23
63	0.16	0.14	116	0.41	0.28
65	0.46	0.17	126	0.52	0.41
66	0.36	0.25	128	0.60	0.32
67	0.36	0.12	129	0.48	0.25
68	0.32	0.17	130	0.51	0.25
69	0.40	0.25	132	0.27	0.30
75	0.42	0.28	137	0.33	0.16
76	0.53	0.51	140	0.29	0.19
77	0.40	0.21	141	0.26	0.20
78	0.21	0.19	142	0.35	0.23
79	0.50	0.21	143	0.50	0.30
84	0.25	0.20	150	0.44	0.28
85	0.36	0.32	153	0.30	0.30
86	0.17	0.17	154	0.41	0.33
87	0.26	0.24	165	0.23	0.16
88	0.26	0.20	177	0.43	0.34
89	0.14	0.10			

Stip. ¶¶ 186, 189; APAX 1, Ex. S-3.

F. Illustrative Plans

1. Credibility Determinations

The Court makes the following credibility determinations as it relates to the Gingles preconditions experts.

a) Mr. William S. Cooper

Both the Alpha Phi Alpha and the Pendergrass Plaintiffs engaged Mr. Cooper as an expert. APAX 1, PX 1. The Court qualified Mr. Cooper as an expert in redistricting demographics and use of Census data. Tr. 65:21–24, 67:10–11; 715:8–10, 717:3–4. Mr. Cooper earned his Bachelor of Arts in economics from Davidson College. APAX 1, Ex. A. Since the late 1980s, Mr. Cooper has testified as an expert trial witness on redistricting and demographics in federal courts in about 55 voting rights cases. Tr. 62:11–14; see also APAX 1, Ex. A. Over 25 of the cases led to changes in local election district plans and five resulted in changes to statewide legislative boundaries. APAX 1, Ex. A; see Rural West Tennessee African-American Affairs Council, Inc. v. McWherter, 877 F. Supp. 1096 (W.D. Tenn. 1995); Old Person v. Brown, 182 F. Supp. 2d 1002 (D. Mont. 2002); Bone Shirt v. Hazeltine, 336 F. Supp. 2d 976 (D.S.D. 2004); Alabama

Legislative Black Caucus v. Alabama, 231 F. Supp. 3d 1026 (M.D. Ala. 2017); and Thomas v. Reeves, 3:18-CV-441-CWR-FKB, 2021 WL 517038 (S.D. Miss. Feb. 11, 2021).

In Georgia alone, Mr. Cooper has testified as an expert on redistricting and demographics in four other federal cases: Cofield v. City of LaGrange, 969 F. Supp. 749 (N.D. Ga. 1997); Love v. Cox, No. CV 679-037, 1992 WL 96307 (S.D. Ga. Apr. 23, 1992); Askew v. City of Rome, 127 F.3d 1355 (11th Cir. 1997); Woodard v. Mayor and City Council of Lumber City, 676 F. Supp. 255 (S.D. Ga. 1987). Mr. Cooper also filed expert declarations or depositions in the following Georgia federal cases: Dwight v. Kemp, No. 1:18-cv-2869 (N.D. Ga. 2018); Georgia State Conference of the NAACP v. Gwinnett County, No. 1:16-cv-02852-AT (N.D. Ga. 2016); Georgia State Conference of the NAACP v. Fayette County, 950 F. Supp. 2d 1294 (N.D. Ga. 2013); Knighton v. Dougherty County, No. 1:02-CV-130-2(WLS) (M.D. Ga. 2002); Johnson v. Miller, 864 F. Supp. 1354 (S.D. Ga. 1994); Jones v. Cook County, 7:94cv73 (M.D. Ga. 1994). APAX 1, Ex. A.

Following the 2020 Decennial Census, three local governments adopted commission level plans that Mr. Cooper drafted. Id. And Jefferson County,

Alabama, adopted his proposed school board plans. Id. Mr. Cooper testified in seven redistricting trials or preliminary injunction hearings in 2022, including in these Actions. Id. In one of those cases, the Supreme Court affirmed the district court's finding that his congressional maps were sufficient to show a substantial likelihood of success on the first Gingles precondition. Allen, 599 U.S. at 12–24.

Finally, Mr. Cooper was qualified as a redistricting and demographics expert at the preliminary injunction hearing. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1244. This Court found that “Mr. Cooper’s testimony [was] highly credible . . . [and] that his methods and conclusions [we]re highly reliable, and ultimately that his work as an expert on the first Gingles precondition [wa]s helpful to the Court.” Id. at 1244–45.

Mr. Cooper spent around six hours on the stand testifying as to his Illustrative Plans, including over three hours of cross-examination. On voir dire, Defense counsel questioned Mr. Cooper about his involvement in a 2012 Alabama redistricting case in which the three-judge court there stated in a 2017 memorandum of opinion and order that “plaintiffs’ mapmakers came dangerously close to admitting that race predominated in at least some of the

districts in their plans.” Ala. Legis. Black Caucus, 231 F. Supp. 3d 1026 at 1046. Nevertheless, the three-judge court also “credit[ed] much of [Mr.] Cooper’s testimony” in an earlier 2013 opinion. Ala. Legis. Black Caucus v. Alabama, 989 F. Supp. 2d 1227, 1271–72 (M.D. Ala. 2013), rev’d on other grounds, Ala. Legis. Black Caucus v. Alabama, 575 U.S. 254 (2015).

During Mr. Cooper’s time on the stand, the Court was able to question and observe Mr. Cooper closely. Throughout his reports and hours of live testimony, his opinions were clear, consistent, and forthright, and he had no difficulty articulating the bases for his districting decisions. He was also forthright with the Court when discussing the characteristics of his illustrative plans and admitted that while the illustrative plans were acceptable for the first Gingles precondition, there would be other ways to draw maps at the remedial stage. E.g., Tr. 235:24–25.

Having reviewed Mr. Cooper’s expert report and evaluating his trial testimony, the Court again finds that Mr. Cooper is highly credible. Mr. Cooper has spent the majority of his career drawing maps for redistricting and demographic purposes, and he has accumulated extensive expertise (more so

than any other expert qualified in redistricting demographics in this case) in redistricting litigation, particularly in Georgia.

b) Mr. Blakeman B. Esselstyn

The Grant Plaintiffs proffered and the Court qualified Mr. Esselstyn as an expert in redistricting, demography, and geographic information systems. Tr. 464:2-5, 466:19-20. Mr. Esselstyn earned his Bachelor's degree in geology & geophysics and international studies from Yale University and a master's degree in computer and information technology from University of Pennsylvania. GX 1 ¶ 5. Mr. Esselstyn is the founder and principal of a consultancy called Mapfigure Consulting, which provides expert services in the areas of redistricting, demographics, and geographic information systems (GIS). Id. ¶ 1. He has served as a consulting expert in four redistricting cases. Id. ¶ 3. Mr. Esselstyn has developed 16 redistricting plans that have been enacted for use in elections by jurisdictions at various levels of government. Id. ¶ 4.

Mr. Esselstyn was a testifying expert witness in the following cases: Jensen v. City of Asheville, (N.C. Super. 2009); Hall v. City of Asheville, (No. 05CV53804, 2007 WL 9210091 (N.C. Super. June 17, 2007); and Arnold v. City of Asheville,

Buncombe Cnty., No. 02CV53945 (N.C. Super. Nov. 20, 2003). GX 1, Attach. A. On *voir dire*, Mr. Esselstyn acknowledged that he has never drawn a statewide map that was used in an election and that he has never drawn a map for any jurisdiction in Georgia. Tr. 465:20–25.

Following the 2020 Decennial Census, Mr. Esselstyn has been consulted as an expert for the plaintiffs in League of United Latin American Citizens v. Abbott, 3:21-CV-00259-DCG-JES-JVB (W.D. Tex. Oct. 18, 2021) and Rivera v. Schwab, 315 Kan. 877, 512 P.3d 168 (2022). GX 1, Attach. A.

Mr. Esselstyn was qualified as a redistricting and demographics expert at the preliminary injunction hearing. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1245-46. This Court found that “Mr. Esselstyn’s testimony [was] highly credible . . . [and] that his methods and conclusions [we]re highly reliable, and ultimately that his work as an expert on the first Gingles precondition [wa]s helpful to the Court.” Id. at 1246.

Having reviewed Mr. Esselstyn’s expert report and evaluating his trial testimony, the Court again finds that Mr. Esselstyn is highly credible. The Court does note that Mr. Esselstyn was less forthcoming on cross-examination in the

trial than he was during the preliminary injunction hearing. However, the Court finds that Mr. Esselstyn's explanations were internally consistent and did not falter. Accordingly, the Court will give great weight to Mr. Esselstyn's testimony.

c) Mr. John B. Morgan

Defendant proffered and the Court qualified Mr. Morgan as its expert in redistricting and the analysis of demographic data in all three cases. Tr. 1748:8-11, 15-16. Mr. Morgan earned his Bachelor of Arts in history from the University of Chicago. DX 1 ¶ 2. Mr. Morgan worked on redistricting plans in the redistricting efforts and testified about demographics and redistricting following the 1990, 2000, 2010, and 2020 Censuses. Id. Over the course of his career, Mr. Morgan worked on statewide congressional and legislative redistrict plans in the following states: Connecticut, Florida, Georgia, Indiana, Iowa, Kansas, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, and Wisconsin. DX 1. His plans have been adopted in whole or in part by various jurisdictions. Id.

Before this case, Mr. Morgan has provided expert reports and/or testified in seven cases. Id. (citing Egolf v. Duran, D-101-CV-2011-02, 2011 WL 12523985

(N.M. Dist. Dec. 28, 2011); Georgia State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs, 952 F. Supp. 2d 1360 (N.D. Ga. 2013); Page v. Va. Bd. of Elections, 3:13CV678, 2015 WL 3604029 (E.D. Va. June 5, 2015); Bethune-Hill v. Va. Bd. of Elections, 114 F. Supp. 3d 323 (E.D. Va. 2015); Vesilind v. Va. Bd. of Elecions, 813 S.E.2d 739 (2018); and Georgia State Conf. of the NAACP v. Gwinnet Cnty. Bd. of Elec.).²⁶

Although Mr. Morgan has an extensive background in redistricting, the Court finds that other courts, including this one, have called Mr. Morgan's credibility into doubt. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1247–48. Although, this Court's ultimate determination as to Mr. Morgan's credibility is not dependent on the determinations made by its sister courts, or by its determinations in the preliminary injunction hearing, the Court gives great weight to the determinations made in those cases.

In 2011, Mr. Morgan assisted Virginia with drawing its House of Delegates maps; and in that case, "[Mr.] Morgan testified . . . that he played a substantial

²⁶ Mr. Morgan's report does not provide a full citation for the NAACP case.

role in constructing the 2011 plan, which role included his use of the Maptitude software to draw district lines.” Bethune-Hill v. Virginia State Bd. of Elections, 326 F. Supp. 3d 128, 151 (E.D. Va. 2018). Ultimately, a three-judge court found that 11 of the House of Delegates districts were racial gerrymanders. Feb. 11, 2022, Afternoon PI Tr. 184:1–6; see also Bethune-Hill, 326 F. Supp. 3d at 137, 181.

Mr. Morgan served as both a fact and expert witness in Bethune-Hill. That court ultimately found that Mr. Morgan’s testimony was not credible. That court found that “Morgan’s testimony was wholly lacking in credibility. Th[is] adverse credibility finding [] [is] not limited to particular assertions of [this] witness [], but instead wholly undermine[s] the content of . . . Morgan’s testimony.” Bethune-Hill, 326 F. Supp. 3d at 174; Tr. 2101:7–2102:10; 2109:17–2110:7. Specifically, “Morgan testified in considerable detail about his reasons for drawing dozens of lines covering all 11 challenged districts, including purportedly race-neutral explanations for several boundaries that appeared facially suspicious.” Bethune-Hill, 326 F. Supp. 3d at 151. That court found: “Morgan’s contention, that the precision with which these splits divided white and black areas was mere happenstance, simply is not credible.” Id. “[W]e

conclude that Morgan did not present credible testimony, and we decline to consider it in our predominance analysis.” Id. at 152.

Mr. Morgan also served as a testifying expert in Page v. Virginia State Bd. of Elections, No. 3:13CV678, 2015 WL 3604029 (E.D. Va. June 5, 2015). Tr. 2108:24–2109:11. That court found “Mr. Morgan, contends that the majority-white populations excluded . . . were predominately Republican The evidence at trial, however, revealed that Mr. Morgan’s analysis was based upon several pieces of mistaken data, a critical error . . . Mr. Morgan’s coding mistakes were significant to the outcome of his analysis[.]” Page, 2015 WL 3604029, at *15 n.25; Tr. 2108:24–2109:11. Mr. Morgan explained that his error was caused because the attorneys asked him to produce an additional exhibit on the day of trial. Tr. 2109:12–16.

Additionally, in Georgia State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs, Mr. Morgan testified as an expert for the defense opposite Mr. Cooper, who testified as an expert for the plaintiffs. 950 F. Supp. 2d 1294, 1310–11 (N.D. Ga. 2013). In granting the motion for summary judgment, that court found that the plaintiffs successfully asserted a vote dilution claim. Id. at 1326.

Finally, Mr. Morgan admitted that he drew some plans for the 2011 North Carolina State Senate Maps. Tr. 2097:3–7. Ultimately, 28 districts in North Carolina’s 2011 State House and Senate redistricting plans were struck down as racial gerrymanders. Feb. 11, 2022, Afternoon PI Tr. 183:14–19; see also Covington v. North Carolina, 316 F.R.D. 117 (M.D.N.C. 2016), aff’d North Carolina v. Covington, 581 U.S.1015, (2017).

At the preliminary injunction hearing in the cases *sub judice*, the Court found that “Mr. Morgan’s testimony lack[ed] credibility, and the Court assign[ed] little weight to his testimony.” Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1247–48. During the course of his testimony, Mr. Morgan was impeached about reading Mr. Cooper’s reports before preparing his expert report and he offered contradictory testimony when he testified that he watched Mr. Cooper testify and then later testified that he was viewing exhibits for the first time, even though they were in Mr. Cooper’s report and they were displayed during Mr. Cooper’s testimony. Tr. 1959:5–1961:8; 2037:2–7.

Having observed Mr. Morgan’s testimony and demeanor during the course of the trial, the Court again assigns less weight to his testimony.

d) Dr. Maxwell Palmer

The Grant and Pendergrass Plaintiffs proffered and the Court qualified Dr. Palmer as an expert in redistricting and data analysis. Tr. 396:11–14, 397:8–9. Dr. Palmer earned his Bachelor of Arts in mathematics and government and legal studies from Bowdoin College. PX 2, 20. Dr. Palmer also earned his master’s and doctorate in political science from Harvard University. Id. Dr. Palmer currently serves as an associate professor at Boston University in the political science department, where he has been teaching since 2014. Id. Dr. Palmer has extensively published academic articles and books on a variety of topics, including gerrymandering and redistricting. Id. at 20–22.

Outside of this case, Dr. Palmer has offered consulting or expert testimony in the following cases: Bethune-Hill v. Virginia, 3:14-cv-00852-REP-AWA-BMK (E.D. Va. 2017); Thomas v. Bryant, 3:18-CV-411-CWR-FKB (S.D. Miss. 2018); Chestnut v. Merrill, 2:18-cv-00907-KOB (N.D. Ala. 2019); Dwight v. Raffensperger, 1:18-cv-2869-RWS (N.D. Ga. 2018); Bruni v. Hughs, 5:20-cv-35 (S.D. Tex. 2020); Caster v. Merrill, 2:21-cv-1536-AMM (N.D. Ala. 2021); Galmon v. Ardoin, 3:22-cv-214-SDD-SDJ (M.D. La. 2022). Id. at 27–28.

In the preliminary injunction hearing, in the cases *sub judice*, Dr. Palmer testified as an expert witness for the Grant and Pendergrass Plaintiffs. The Court “f[ound] that his methods and conclusions [we]re highly reliable, and ultimately that his work as an expert on the second and third Gingles preconditions [wa]s helpful to the Court.” Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1304.

Having reviewed Dr. Palmer’s demeanor and his testimony, Dr. Palmer’s testimony was internally consistent, and he maintained a calm demeanor throughout. The Court deems Dr. Palmer to be highly credible and his testimony is extremely helpful to the Court. Thus, the Court assigns great weight to his testimony.

e) Dr. Lisa Handley

The Alpha Phi Alpha Plaintiffs proffered and the Court qualified Dr. Handley as an expert in racial polarization analysis, minority vote dilution, and redistricting. Tr. 856:16–19, 861:11–12. Dr. Handley earned her doctorate in political science from George Washington University. APAX 5, 47. Dr. Handley serves as the president and co-founder of Frontier International Electoral

Consulting LLC. Id. Dr. Handley has extensively published academic articles and books on a variety of topics, including gerrymandering and redistricting. Id.

Since 2000, Dr. Handley has served as a consultant and expert witness for the following jurisdictions: Alaska, Arizona, Colorado, Connecticut, Florida, Kansas, Louisiana, Massachusetts, Maryland, Michigan, New Mexico, New York, and Rhode Island. Id. She has also served as a redistricting consultant for the ACLU and provided expert testimony in an Ohio partisan gerrymander challenge, Lawyers Committee for Civil Rights under Law in challenges to judicial elections in Texas and Alabama, the Department of Justice in Section 2 and Section 5 cases. Id.

Other than this case, Dr. Handley has been a testifying expert in the following cases: In re: 2011 Redistricting Cases, No.4FA-11-2209CI (Alaska Super. 2013); Texas v. U.S., 11-1303 (TBG-RMC-BAH) (D.D.C. 2011); Jeffers v. Beebe, 2:12CV00016 JLH (E.D. Ark. 2012); Perry v. Perez, SA-11-CV0360 (W.D. Tex. 2011); Lopez v. Abbott, 2:16-CV-303 (S.D. Tex. 2016); Alabama State Conf. of the NAACP v. Alabama, 2:16-CV-731-WKW (M.D. Ala. 2020); U.S. v. Eastpointe, 4:17-cv-10079 (E.D. Mich. 2017); New York v. U.S. Dep't of Commerce, 18-CV-

2921 (JMF), 18-CV-5025 (JMF) (S.D.N.Y. 2018); Ohio Phillip Randolph Inst. v. Householder, 1:18-cv-357 (S.D. Ohio 2018); League of Women Voters of Ohio, 2021-1449 (Ohio 2021); League of Women Voters of Ohio v. Ohio Redistricting Comm’n, 2021-1193 (Ohio 2021); Ark. State Conf. of the NAACP v. Ark. Bd. of Apportionment, 4:21-cv-1239-LPR (E.D. Ark. 2021). Id.

In the preliminary injunction hearing, in the cases *sub judice*, Dr. Handley testified as an expert witness for the Grant and Pendergrass Plaintiffs. The Court found that Dr. Handley’s testimony was truthful and reliable. Alpha Phi Alpha, 597 F. Supp. 3d at 1309.

At the trial, Dr. Handley’s methodology and conclusions about the existence of polarization were relatively unchallenged by Defendant. ²⁷ Accordingly, the Court will rely on the findings in her report.

²⁷ In Alabama State Conference of the NAACP, the court stated that “the parameters for the elections [Dr. Handley] chose — only statewide elections with a black candidate running against a white candidate — exclude other relevant elections, thereby diminishing the credibility of her conclusions.” Ala. State Conf. of Nat’l Ass’n for Advancement of Colored People v. Alabama, 612 F. Supp. 3d 1232, 1274 (M.D. Ala. 2020); Tr. 857:4-859:16. The Court agrees that Dr. Handley’s dataset may limit the applicability and breadth of her conclusions, as Dr. Alford himself indicated. Tr. 2199.

f) **Dr. John Alford**

Defendants proffered and the Court qualified Dr. Alford as an expert on the second and third Gingles preconditions and Senate Factor Two. Tr. 2132:19–21, 2133:1. Dr. Alford earned his Bachelor of Science and Master of Public Administration from the University of Houston. DX 8, App. 1. He also achieved his masters and doctorate in political science from the University of Iowa. Id. Dr. Alford is a professor at Rice University of and has been teaching there since 1985. Id. Dr. Alford was an assistant professor at the University of Georgia between 1981 and 1985. Id. Dr. Alford has published academic articles and books on a variety of topics including voting. Id.

Dr. Alford has worked with local governments on districting plans and on VRA cases. Id. He has provided expert reports and testified as an expert witness in a variety of court cases. Id. Sister courts have found that Dr. Alford's methodology was unreliable. See Lopez v. Abbott, 339 F. Supp. 3d 589, 610 (S.D.

The scope of Dr. Handley's conclusions, however, is a question for the Court's analysis on the Gingles 2 and 3 preconditions and not a question of Dr. Handley's credibility as an expert witness. Accordingly, the Court relies on the findings in her report as they have been largely unchallenged by Defendants.

Tex. 2018) (crediting Dr. Handley’s testimony over Dr. Alford’s because “Dr. Alford’s testimony . . . focused on issues other than the ethnicity of the voters and their preferred candidates—which are the issues relevant to bloc voting”); Texas v. U.S., 887 F. Supp. 2d 133, 146–47 (D.D.C. 2012), vacated on other grounds, 570 U.S. 928 (2013) (critiquing Dr. Alford’s approach because he used an analysis that “lies outside accepted academic norms among redistricting experts[,]” and the Court, instead, relied heavily on Dr. Handley’s testimony), vacated on other grounds, 570 U.S. 928 (2013).

In the preliminary injunction hearing, in the cases *sub judice*, the Court found that Dr. Alford was credible, however “his conclusions were not reached through methodologically sound means and were therefore speculative and unreliable.” Alpha Phi Alpha Fraternity, Inc., 587 F. Supp. 3 at 1305–06.

The Court again finds that Dr. Alford was highly credible. However, Dr. Alford’s testimony primarily relates to partisan polarization and not racial polarization. Accordingly, the Court will give little weight to Dr. Alford’s testimony with respect to the Gingles preconditions because it does not effectively address that inquiry. The Court will give greater weight to

Dr. Alford's testimony with respect to Senate Factor Two, because there it is appropriate to inquire about the non-racial reasons explaining racially polarized voting.

2. *Illustrative Congressional Plan*

a) First Gingles Precondition

Based on Georgia's demographics, Mr. Cooper concluded that "[t]he Black population in metro Atlanta is sufficiently numerous and geographically compact to allow for the creation of an additional majority-Black congressional district anchored in Cobb, Douglas, and Fulton Counties (CD-6 in the illustrative plan) consistent with traditional redistricting principles." PX 1 ¶ 10; see also id. ¶¶ 42, 86. Defendants' mapping expert Mr. Morgan agreed that his report "offers no opinion to dispute" this conclusion. Tr. 1954:1-12. Mr. Cooper drew an illustrative congressional plan (the "Illustrative Congressional Plan") that includes an additional majority-Black congressional district ("Illustrative CD-6") anchored in west-metro Atlanta. Stip. ¶ 190; PX 1 ¶ 55 & fig.12; Tr. 717:14-23.

(1) *Mr. Cooper's process in drawing the maps*

At the preliminary injunction hearing, he testified that he was not asked to either "draw as many majority black districts as possible" or "draw every

conceivable way of drawing an additional majority black district.” Feb. 7, 2022, Morning PI Tr. 98:17–24. And if in his expert opinion an additional majority-Black district could not have been drawn, Mr. Cooper testified that he would have reported that to counsel, as he has “done [] in other cases.” Id. 98:25–99:24.

Mr. Cooper, in his report, declared that he analyzed population and geographic data from the Decennial Census and the American Community Survey (“ACS”). PX 1, Ex. B. He also used the geographic information system software package called Maptitude for Redistricting (“Maptitude”) and the geographic boundary files in Maptitude (created by the U.S. Census). Id. He evaluated incumbent addresses, Georgia’s current and historical legislative plans, Georgia’s 2000 House, Senate, and Congressional Plans. Id. The Court notes that Mr. Cooper was able to review the Enacted Congressional Plan’s compactness scores when he was drawing his Illustrative Congressional Plans. Id.

When he began drawing the Illustrative Congressional Plan, for trial, he testified that he started by using the plan he drew from the preliminary injunction. Tr. 727: 20–23. He then stated that some of the map stayed very similar, but when drawing his proposed Illustrative CD-6 he made specific changes

because “some concerns were raised about going further north into Acworth. And so for that reason, I’m taking local knowledge into account, I changed the district a bit to push the district in Cobb County further south.” Tr. 729: 4–7. He clarified that the local knowledge that he took into account was that of Ms. Wright. Id. at 13–16.

Mr. Cooper also testified that he considers race when creating an illustrative plan that would satisfy the first Gingles precondition because “[t]hat’s part of the inquiry.” Tr. 725:16–25. Specifically, when drawing the Illustrative Congressional Plan, Mr. Cooper displayed dots showing him where precincts with more than 30% Black population were located. Tr. 789:25–790:10, 823:25–824:7. Mr. Cooper explained that he “need[s] to show that the district would be over 50 percent Black voting age population, while adhering to traditional redistricting principles.” Id.; see also Feb. 7, 2022, Morning PI Tr. 48:4–15 (Mr. Cooper testifying at the preliminary injunction hearing that race “is something that one does consider as part of traditional redistricting principles” because “you have to be cognizant of race in order to develop a plan that respects communities of interest, as well as complying with the Voting Rights Act[.]

because one of the key tenets of traditional redistricting principles is the importance of not diluting the minority vote”).

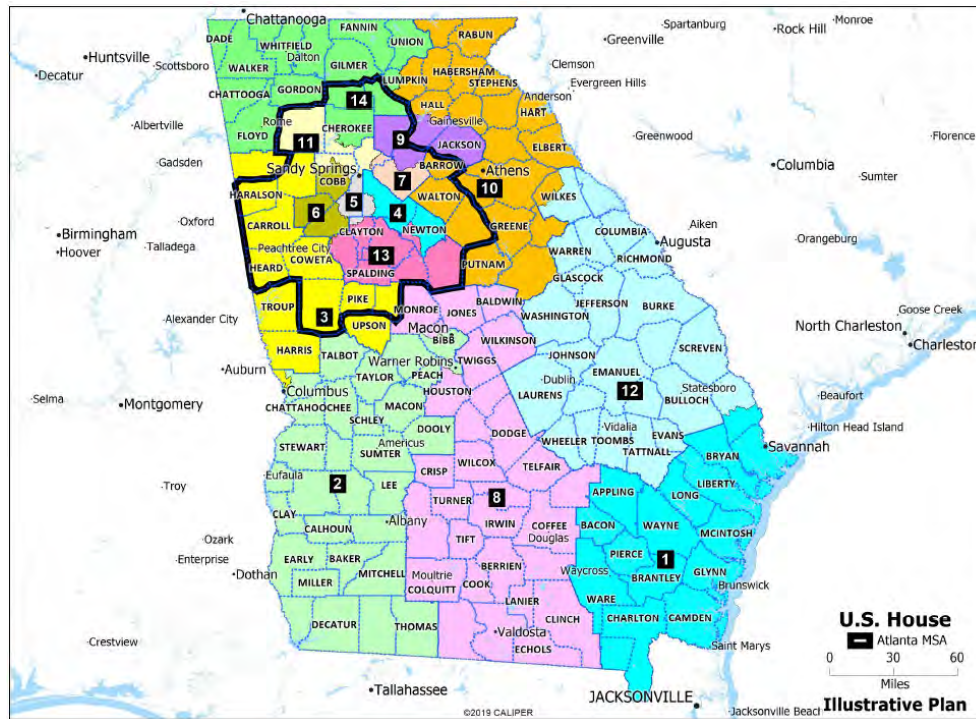
Mr. Cooper testified that race did not predominate in his drawing of the Illustrative Congressional Plan because he merely considered it along with the traditional redistricting principles that he was “constantly balancing.” Tr. 726:11–727:16. Indeed, Mr. Cooper explained that “in drafting this plan, [he] . . . attempted to balance all of the traditional redistricting principles so that no one principle predominates.” Tr. 822:19–24.

Mr. Cooper testified that he did not have election return data available to him when drawing the Illustrative Congressional Plan and that he did not review any public testimony from Georgia voters as part of the process for preparing the Illustrative Congressional Plan. Tr. 524:24–25, 819:13–15.

(2) *Illustrative Congressional Plan*

(a) **Empirical Measures**

The Illustrative Congressional Plan contains an additional majority-Black congressional district in west-metro Atlanta.



PX 1, 82.

i) *numerosity*

Illustrative CD-6 is 50.23% AP BVAP. PX 1 ¶ 73 & fig.14. Under all metrics, the Black voting age population of Illustrative CD-6 exceeded 50%. Id.

Figure 14
BVAP and BCVAP Comparison: Illustrative Plan and 2021 Plan

District#	Illustrative Plan				2021 Plan		
	% BVAP	% NH BCVAP	% NH DOJ BCVAP		% BVAP	% NH BCVAP	% NH DOJ BCVAP
1	28.17%	29.16%	29.67%		28.17%	29.16%	29.67%
2	49.29%	49.55%	50.001%		49.29%	49.55%	50.001%
3	20.47%	19.64%	20.02%		23.32%	22.53%	22.86%
4	52.77%	55.62%	56.37%		54.52%	57.71%	58.46%
5	49.60%	51.64%	52.35%		49.60%	51.64%	52.35%
6	50.23%	50.18%	50.98%		9.91%	9.72%	10.26%
7	29.82%	31.88%	32.44%		29.82%	31.88%	32.44%
8	30.04%	30.46%	30.76%		30.04%	30.46%	30.76%
9	11.66%	11.29%	11.74%		10.42%	10.03%	10.34%
10	14.31%	15.09%	15.39%		22.60%	22.11%	22.56%
11	13.67%	12.91%	13.48%		17.95%	17.57%	18.30%
12	36.72%	36.60%	37.19%		36.72%	36.60%	37.19%
13	51.13%	49.64%	50.34%		66.75%	66.36%	67.05%
14	5.17%	4.80%	5.19%		14.28%	13.19%	13.71%

*Bold font identifies districts that are changed from the 2021 Plan configuration.

PX 1 ¶ 73 & fig.14.

ii) *population equality and contiguity*

It is undisputed that the population in all districts in the Illustrative Congressional Plan is plus-or-minus one person from the ideal district

population of 765,136. Stip. ¶ 197. It is also undisputed that all districts in the Illustrative Congressional Plan are contiguous. Stip. ¶ 198.

iii) Compactness scores

The Illustrative Congressional Plan has comparable, or slightly better, compactness scores as compared to the Enacted Congressional Plan. The mean Reock score for the Illustrative Congressional Plan is 0.43 and is 0.44 on the Enacted Plan. PX 1 ¶ 79 & fig.13. The mean Polsby-Popper scores are identical at 0.27. Id. Mr. Morgan does not dispute that the enacted and the illustrative plans have similar mean Reock scores and identical mean Polsby-Popper scores. Tr. 1948:22–1949:5. Accordingly, the Court finds that the Illustrative Congressional Plan is comparably as compact as the Enacted Congressional Plan.

With respect to the majority-Black districts, the Court finds that the Illustrative Congressional Plan scores generally fared better or were equal to the Enacted Congressional Plan.

PX	Illustrative Plan			Enacted Plan		1, L-1,
	Districts	Reock	Polsby-Popper	Reock	Polsby-Popper	
Exs.	001	0.46	0.29	0.46	0.29	
	002*	0.46	0.27	0.46	0.27	
L-3.	003	0.39	0.24	0.46	0.28	
	004*	0.28	0.22	0.31	0.25	
	005*	0.51	0.32	0.51	0.32	
	006²⁸	0.45	0.27	0.42	0.20	
	007	0.50	0.39	0.50	0.39	
	008	0.34	0.21	0.34	0.21	
	009	0.40	0.32	0.38	0.25	
	010	0.40	0.18	0.56	0.28	
	011	0.40	0.19	0.48	0.21	
	012	0.50	0.28	0.50	0.28	
	013*	0.44	0.29	0.38	0.16	
	014	0.48	0.34	0.43	0.37	
	Mean:	0.43	0.27	0.44	0.27	
	Max:	0.51	0.39	0.51	0.39	
	Min:	0.28	0.18	0.31	0.16	

Mr. Morgan's report's compactness measures are identical to Mr. Cooper's. DX 4

¶ 22, chart 2. The districts that immediately surround Illustrative CD-6 are,

²⁸ The bolded data is for the proposed additional majority-Black district that is not a majority-Black district in the Enacted Congressional Plan. And any district that has an asterisk (*) is a majority-Black district.

Illustrative CD-3, 5, 11, and 13. PX 1, Ex. H-2. Of the surrounding districts Illustrative and Enacted CD-5 have identical compactness scores, Illustrative CD-3 and 11 fare worse on both compactness measures than Enacted CD-3 and 11, and Illustrative CD-13 fares better on both compactness measures than Enacted CD-13. The Court notes that CD-5 and 13 are majority-Black districts on both the Enacted and Illustrative Congressional Plans, whereas CD-3 and CD-11 are majority-white districts. PX 1, Ex. H-2. Thus, the Court finds that Mr. Cooper lowered the compactness scores in neighboring majority-white districts when he drew the Illustrative Congressional Plan.

The Court concludes that the Illustrative Congressional Plan is comparably as compact as the Enacted Congressional Plan. The Illustrative Congressional Plan fares worse on the Reock measure by 0.01 points and had an identical Polsby-Popper score. PX 1, Exs. L-1, L-3. The Court finds that overall, the Plans are equivalently compact. With respect to the majority-Black districts, the Court finds that two of the districts (CD-2, and 5) have identical compactness scores, Illustrative CD-4 fares worse on both compactness scores by 0.03 points, Illustrative CD-13 fares better on the Reock score by 0.06 points and Polsby-

Popper by 0.13 points. Id. Finally, Illustrative CD-6 fares better on Reock by 0.03 points and 0.07 on Polsby-Popper. Id. The Court finds that that, generally, the majority-Black districts are equivalently, if not slightly more compact than the Enacted Congressional majority-Black districts.

iv) political subdivision splits

The Illustrative Congressional Plan splits the same number of counties as the Enacted Plan, but has fewer unique county splits, VTD splits, city and town splits, and unique cities and town splits. PX 1 ¶ 81 & fig.14.

Figure 14
County, VTD, and Municipal Splits: Illustrative Plan, 2012 Benchmark, and 2021 Plan (All Districts)

	Split Counties*	County Splits*	2020 VTD Splits*	Split Cities/ Towns#	City/ Town Splits*
Illustrative Plan	15	18	43	37	78
2012 Benchmark Plan	16	22	43	40	85
2021 Plan	15	21	46	43	91

*Excludes unpopulated areas

#Out of 531 municipalities (calculated by subtracting the number of whole cities in the Maptitude report from 531)

PX 1 ¶ 81 & fig.14.

Neither Defendants nor their experts have meaningfully suggested that the Illustrative Congressional Plan fails to respect city, town, and county lines. The

Court notes that, as with compactness, Mr. Cooper was able to evaluate the Enacted Congressional Plans political subdivision splits when he drew his Illustrative Congressional Plan. PX 1, Ex. B. Accordingly, the Court finds that the Illustrative Congressional Plan respected more political subdivisions than the Enacted Congressional Plan.

v) findings of fact

In sum, the Court finds that the Illustrative Congressional Plan meets or exceeds the Enacted Congressional Plan on compactness scores and political subdivision splits. The Illustrative Congressional Plan and the Enacted Congressional Plan have identical Polsby-Popper scores and the Illustrative Congressional Plan is 0.01 less compact on Reock than the Enacted Plan. PX 1 ¶ 79 & fig.13.

(b) Core retention

The Court also finds that the Illustrative Congressional Plan retained many of the cores of the districts in the Enacted Congressional Plan. The General Assembly did not enumerate core retention as a redistricting principle. JX 2. And Ms. Wright testified that when she draws the new Plans, she starts with a blank map and not from the existing Congressional Plan.

Generally, I like to create the new ideal size with the new census population that we have in the state. I plug that into a blank map. And then I just work with the data to create new districts. I don't usually start from the old and try to change it, I start blank, because that way I feel like it's easier for me to build a map rather than try to just move pieces that are already there.

I do use the existing district layer if I need to as a reference, to see if I'm retaining core districts and things like that. But I build that map out just as a balanced map population-wise first as a draft and a blind map to start with.

Tr. 1622:11-22.

Although not a requirement, the Court finds that the Illustrative Congressional Plan does retain the majority of the core districts of the Enacted Congressional Plan. DX 4, Ex. 7. Pursuant to the data provided by Mr. Morgan, the Court finds that approximately 74.6% of individual's district are unchanged from the Enacted Congressional Plan and the Illustrative Congressional Plan. Id.; Tr. 1944:22-1945:13; PX 1 ¶ 13. In other words, only 25.4% of Georgians would be affected if the General Assembly were to enact the Illustrative Congressional Plan. The following is a table derived from the data in Mr. Morgan's report and that exemplifies the number of individuals who remain in the same district under the

Illustrative Congressional Plan. As an initial note, the population size of each congressional district is either 765,137 or 765,136 persons. Stip. ¶ 197.

District	# of individuals whose district is unchanged
001	765,137
002	765,137
003	528,200
004	736,485
005	765,137
006	19,006
007	765,137
008	765,136
009	403,191
010	488,385
011	372,724
012	765,136
013	374,470
014	475,707

DX 4, Ex. 7.

As the chart shows, in six of the district, no voter is impacted by the Illustrative Congressional Plan's changes (Illustrative CD-1, CD-2, CD-5, CD-7, CD-8, CD-12). And of the remaining eight changed districts, in only three of those districts (Illustrative CD-6, CD-11, and CD-13) does more than half of the population have a changed district. Illustrative CD-6 is the new majority-minority district and CD-11 and CD-13 are two districts that immediately

surround Illustrative CD-6. Accordingly, the Court finds that Illustrative Congressional Plan, does respect district cores from the Enacted Congressional Plan.

(c) Racial predominance

The Court further concludes that Mr. Cooper did not subordinate traditional districting principles in favor of racial considerations. Mr. Cooper was asked “to determine whether the African American population in Georgia is ‘sufficiently large and geographically compact’ to allow for the creation of an additional majority-Black congressional district in the Atlanta metropolitan area.” PX 1 ¶ 8 (footnotes omitted); Tr. 717:14–17. At the preliminary injunction hearing, he testified that he was not asked to either “draw as many majority black districts as possible” or “draw every conceivable way of drawing an additional majority black district.” Feb. 7, 2022, Morning PI Tr. 98:17–24. And if in his expert opinion an additional majority-Black district could not have been drawn, Mr. Cooper testified that he would have reported that to counsel, as he has “done [] in other cases.” Id. 98:25–99:24.

Mr. Cooper testified that he considers race when creating an illustrative plan that would satisfy the first Gingles precondition because “[t]hat’s part of the inquiry.” Tr. 725:16–25. Mr. Cooper explained that he “need[s] to show that the district would be over 50 percent Black voting age population, while adhering to traditional redistricting principles.” Id.; see also Feb. 7, 2022, Morning PI Tr. 48:4–15 (Mr. Cooper testifying at the preliminary injunction hearing that race “is something that one does consider as part of traditional redistricting principles” because “you have to be cognizant of race in order to develop a plan that respects communities of interest, as well as complying with the Voting Rights Act[,] because one of the key tenets of traditional redistricting principles is the importance of not diluting the minority vote”).

Mr. Cooper testified that race did not predominate in his drawing of the Illustrative Congressional Plan because he merely considered it along with the traditional redistricting principles that he was “constantly balancing.” Tr. 726:11–727:16. Indeed, Mr. Cooper explained that “in drafting this plan, [he] . . . attempted to balance all of the traditional redistricting principles so that no one principle predominates.” Tr. 822:19–24. Defendants’ expert does not even

contend that race predominated in the Illustrative Congressional Plan. Tr. 1952:23–1953:17; see generally DX 4.

The Court finds that race did not predominate in the drawing of the Illustrative Congressional Plan.

b) Second and Third Gingles Preconditions

The Court finds that that the minority group within Illustrative CD-6 is politically cohesive. Both Pendergrass Plaintiffs’ expert, Dr. Palmer, and Defendants’ expert, Dr. Alford, testified that ecological inference (“EI”) is a reliable method for conducting the second and third Gingles preconditions analyses. “Q. Dr. Alford, you agree that . . . the method of ecological inference Dr. Palmer applied is the best available method for estimating voting behavior by race; correct? A. Correct.” Tr. 2250:12–16; “Q. Do scholars and experts regularly use EI to examine racially polarized voting? A. Yes?” Tr. 401: 7–9. EI “estimates group-level preferences based on aggregate data.” PX 2 ¶ 13. The data analyzed under EI also includes confidence intervals, which measure the uncertainty of results. Id. at n. 12. “Larger confidence intervals reflect a higher

degree of uncertainty in the estimates, while smaller confidence intervals reflect less uncertainty.” Id.

Dr. Palmer conducted a racially-polarized voting analysis of Enacted CD-3, 6, 11, 13, and 14, both as a region (the “congressional focus area”) and individually. Stip. ¶ 214; PX 2 ¶ 7; Tr. 413:18–414:5.

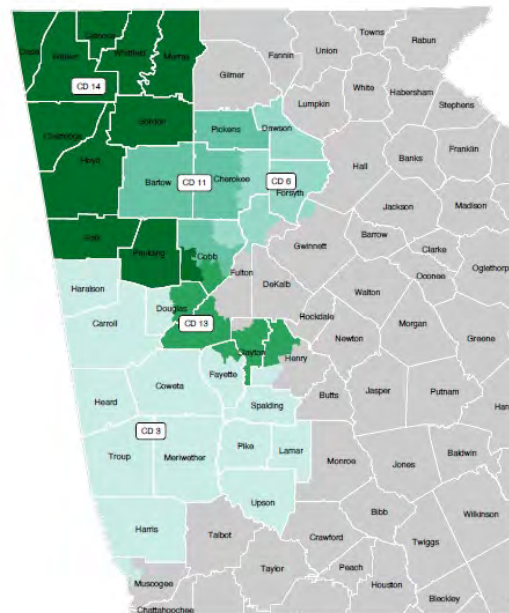


Figure 1: Map of the Focus Area

PX 2 ¶ 11 & fig.1.

Dr. Palmer evaluated Black and white voters’ choices in the congressional focus area for each candidate in 40 statewide elections between 2012 and 2022.

Stip. ¶ 217; PX 2 ¶¶ 13, 15. Dr. Palmer's EI analysis relied on precinct-level election results and voter turnout by race, as compiled by the State of Georgia. PX 2 ¶ 11; Tr. 403:2-13.

Dr. Palmer first examined each racial group's support for each candidate to determine if members of the group voted cohesively in support of a single candidate in each election. PX 2 ¶ 14. If a significant majority of the group supported a single candidate, he then identified that candidate as the group's candidate of choice. Id. Dr. Palmer next compared the preferences of white voters to the preferences of Black voters. Id. He concludes that racially polarized voting existed when he found that Black voters and white voters support different candidates. Id.

3. Cooper Legislative Plans

a) Mr. Cooper's process in drawing the maps

Mr. Cooper submitted an illustrative State Senate plan (the "Cooper Senate Plan") and an illustrative State House plan (the "Cooper House Plan") (collectively, the "Cooper Legislative Plans") as a part of his expert report. APAX 1 ¶ 85 & fig.5; ¶ 151 & fig.27. When Mr. Cooper was retained as an expert, he was asked "to determine whether the African-American population in Georgia is

‘sufficiently large and geographically compact’ to allow for the creation, consistent with traditional redistricting principles, of additional majority-Black Senate and House districts[.]” APAX 1 ¶ 7; Tr. 67:23-68:1. At the preliminary injunction hearing, he testified that he was not asked to either “draw as many majority black districts as possible” or “draw every conceivable way of drawing an additional majority black district.” Feb. 7, 2022, Morning PI Tr. 98:17-24. And if in his expert opinion an additional majority-Black district could not have been drawn, Mr. Cooper testified that he would have reported that to counsel, as he has “done [] in other cases.” Id. 98:25-99:24.

Mr. Cooper, in his report, declared that he analyzed population and geographic data from the Decennial Census and the ACS. APAX 1, Ex. B. He also used Maptitude and its geographic boundary files (created by the U.S. Census). Id. He evaluated incumbent addresses, Georgia’s current and historical legislative plans, Georgia’s 2000s House, Senate, and Congressional Plans. Id. The Court notes that Mr. Cooper was able to review the Enacted Legislative Plan’s compactness scores when he was drawing the Cooper Legislative Plans. APAX 1, Ex. B ¶ 7.

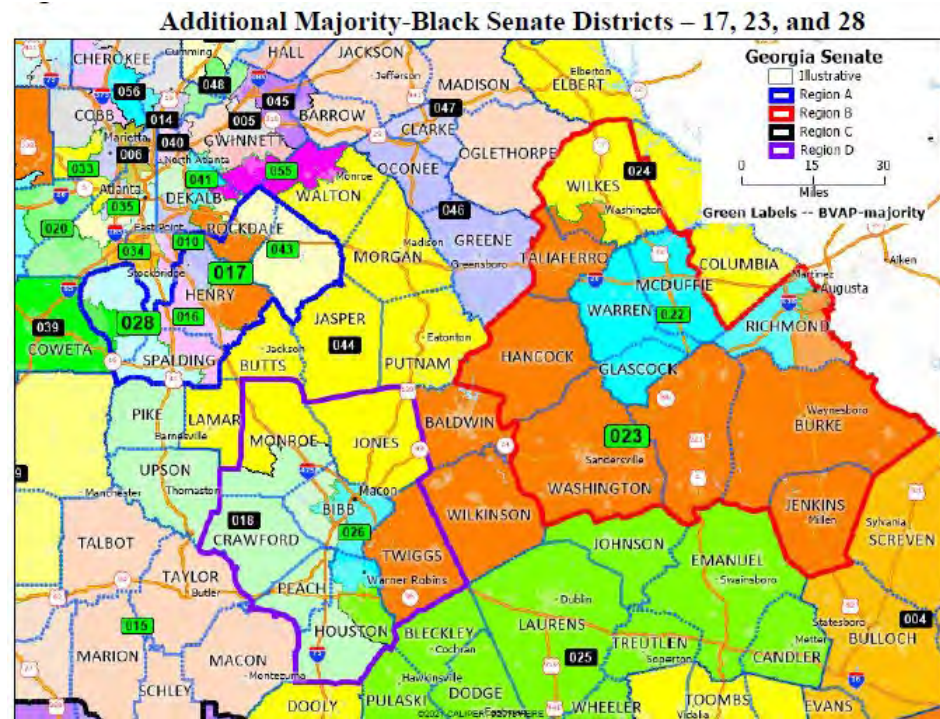
Mr. Cooper specifically testified in detail about how he followed the criteria in Georgia's districting guidelines when drawing the Cooper Legislative Plans. See, e.g., Tr. 89:15-91:9. Mr. Cooper testified that, with respect to Cooper Legislative Plans, he balanced all of the traditional redistricting principles, and that they "all went into the mix as I was drawing the [I]llustrative [P]lan." Tr. 90:16-19. He confirmed that he "balanced the traditional districting principles in drawing [the] illustrative districts," (Id. at 168:19-22), and he testified that none of the factors predominated over any others. Id. at 90:16-19; see also Id. at 107:18-20 ("Q. Mr. Cooper, did any factors get more weight than others when you were drawing your [I]llustrative [P]lans? A. I don't believe so."); Tr. 367:5-7 ("you really do have to balance, balance, balance. That's the name of the game.")).

Traditional redistricting principles, that he considered, include population equality, compactness, contiguity, respect for political subdivision lines like counties and voting tabulation districts ("VTDs," otherwise known as precincts), respect for communities of interest, and non-dilution of minority voting strength. See, e.g., Tr. 90:2-91:9. Mr. Cooper also testified that avoiding pairing incumbents

is a consideration that he takes into account, consistent with Georgia's adopted districting guidelines. See, e.g., Id. 128:5-7, 166:25:167:8, 225:15-24.

b) Cooper Senate Plan

The Cooper Senate Plan contains three additional majority-Black Senate Districts, two in south-metro Atlanta and one in the Eastern Black Belt, anchored in and around Augusta.



APAX 1 ¶ 85 & fig.15.

(1) Empirical measures**(a) numerosity**

The AP BVAP population for the additional districts are as follows: Cooper SD-17 is 62.55%, SD-23 is 50.21%, SD-28 is 51.32%. APAX 1, Ex. O-1. All of Cooper's proposed illustrative Senate districts exceed 50% as do the districts that are majority-Black under the Enacted Senate Plan.

District	AP BVAP	District	AP BVAP
010	69.76%	028*	51.32%
012	57.97%	033	52.60%
015	54.00%	034	77.84%
016	56.52%	035	60.80%
017*	62.55%	036	51.34%
020	60.44%	038	54.25%
022	50.36%	041	64.57%
023*	50.21%	043	57.97%
026	52.81%	055	51.22%

(*) denotes a new majority-Black district

APAX 1, Ex. O-1.

(b) population equality and contiguity

It is undisputed that the population deviation for the Cooper Senate Plan is $\pm 1.00\%$ from the ideal district population size of 191,284 people. Stip. ¶¶ 277, 301. This is lower than the Enacted Senate Plan, which has a deviation range of -1.03% to +0.98%. Stip. ¶ 301. It is also undisputed that all districts in the Cooper Senate Plan are contiguous. Stip. ¶ 300.

(c) compactness

The Court finds that the Cooper Senate Plan and the Enacted Senate Plan, on the whole, are comparable. Mr. Cooper explained, the Cooper Legislative Plans “matched or beat the State’s plans on ... compactness measures[.]” Tr. 109:2-4. Mr. Cooper concluded that “[o]n balance, the Illustrative Senate Plan and 2021 Senate Plan score about the same on the widely referenced Reock and Polsby-Popper measures. If anything, the Illustrative Plan scores better inasmuch as its least compact district by Reock scores [0].22, compared to [0].17 for the 2021 Senate Plan.” APAX 1 ¶ 114.

Mr. Cooper’s expert report provided detailed compactness measures for the Enacted Senate Plan as follows:

Compactness Scores
Illustrative Senate Plan and 2014 Benchmark and 2021 Senate Plans

	Reock			Polsby-Popper	
	Mean	Low		Mean	Low
Illustrative Senate Plan	.43	.22		.28	.14
2014 Benchmark Senate Plan	.43	.14		.27	.11
2021 Senate Plan	.42	.17		.29	.13

APAX 1 ¶ 114 & fig.20.

Dr. Morgan, Defendant's mapping expert, concluded that the Cooper Senate Plan "still has mean compactness scores close to the enacted plan, with the mean compactness score on the Reock test higher and the mean compactness score on the Polsby-Popper test lower." DX 2 ¶ 18.

The Court concludes that the Cooper Senate Plan is more compact than the Enacted Senate Plan on Reock by 0.01 points and less compact by 0.01 on Polsby-Popper. *Id.* Consistent with both Defendants' and the Alpha Phi Alpha Plaintiffs' experts, the Court finds that the compactness scores of the two plans are "similar." Accordingly, the Court finds that the Cooper and Enacted Senate Plans are comparably compact with respect to the average and minimum scores.

With respect to the majority-Black districts, the Court finds that the additional majority-Black districts are all more compact than the least compact

district in the Enacted Senate Plan. The following table is derived from the data contained in Exhibits S-1 and S-3:

Enacted Districts			Illustrative Districts		
Districts	Reock	Polsby-Popper	Districts	Reock	Polsby-Popper
017	0.35	0.17	017	0.37	0.17
023	0.37	0.16	023	0.37	0.16
016 ²⁹	0.37	0.31	028	0.37	0.18

APAX 1, Exs. S-1, S-3.

The Court finds that generally, the majority-Black Senate districts performed identically to their corollary Enacted Senate Plan district, with the exception of Cooper SD-28, which has a lower Polsby-Popper score by 0.13 points. However, none of the compactness measures are below the least compact district's measures on the Enacted Senate Plan, in part because Cooper's Enacted Senate Plan's has a higher minimum compactness score than the Enacted Senate Plan. APAX 1 ¶ 114.

²⁹ Mr. Cooper testified that Cooper SD-28 correlates with Enacted SD-16. APAX 1 ¶ 99.

In sum, the Court finds that on the empirical compactness measures, the majority-Black districts in the Cooper Senate Plan are nearly identical to the compactness scores on the Enacted Senate Plan.

(d) political subdivision splits

The Cooper Senate Plan splits fewer political subdivisions than the Enacted Senate Plan and performs better across all metrics. APAX 1 ¶ 116 & fig.21.

**County and VTD Splits/Whole Municipalities –
Illustrative Plan versus 2014 Benchmark and 2021 Senate Plans**

	Split Counties	Total County Splits*	2020 VTD Splits*	Single- County Whole City/Towns (478)#	Single and Multi County Whole City/ Towns (531#)	Total City/ Town Splits*
Illustrative Senate	28	57	38	437	464	166
2014 Benchmark	38	65	86	422	448	198
2021 Senate	29	60	40	434	463	169

*Populated splits only

Higher is better

Id.

Neither Defendants nor their experts have meaningfully suggested that the Cooper Senate Plan fails to respect city, town, and county lines. Accordingly, the

Court finds that the Cooper Senate Plan respected more political subdivisions than the Enacted Senate Plan.

(e) findings of fact on empirical measures

In sum, the Court finds that the Cooper Senate Plan meets or exceeds the Enacted Senate Plan on population equality, compactness scores, and political subdivision splits. The Cooper Senate Plan's Reock score beats the Enacted Senate Plan's Reock score by 0.01 and the Enacted Senate Plan's Polsby-Popper score beats the Cooper Senate Plan's Polsby-Popper score by the same amount. APAX 1 ¶ 114 & fig.20. The Court thus finds that the compactness scores between the two plans are virtually identical.

(2) *Core retention*

The Court also finds that the Cooper Senate Plan retained many of the cores of the districts in the Enacted Senate Plan. Georgia's Reapportionment Guidelines do not identify preservation of existing district cores as a "General Principles for Drafting Plans." See JX 1, JX2. The Cooper Senate Plan kept 21 Senate districts the same as the Enacted Senate Plan. DX 2 ¶ 17. And, if the General Assembly were to enact the Cooper Senate Plan, 82% of the Georgia

population would remain in the same district in the Enacted Senate Plan. Tr. 88:13-18.

(3) *Incumbent pairing*

Georgia's redistricting guidelines provide that "efforts should be made to avoid unnecessary incumbent pairings." JX 1, 3; JX 2, 2. He testified that also sought to avoid incumbent pairings. Tr. 236:1-2. He used official incumbent address information that defense counsel provided in January 2022 and another potential database of incumbent address information that followed the November 2022 General Election. APAX 1 ¶ 12. Mr. Cooper testified, as he was drawing the Cooper Legislative Plans, "always in the back of my mind [I] was trying to avoid pairing incumbents." Tr. 236:1-2. The Cooper Senate Plan pairs six incumbents. The Enacted Senate Plan pairs four incumbents. DX 2 ¶ 16 & chart 2. The Court finds that two additional pairs of incumbents are paired under the Cooper Senate Plan than in the Enacted Senate Plan.

(4) *Racial considerations*

Georgia's redistricting guidelines provide all plans must "comply with Section 2 of the Voting Rights Act[,] as amended." JX 1, at 3; JX 2, at 3. Mr. Cooper testified that non-dilution of minority voting strength means that "as you're

drawing a plan, you should make a point of not excluding the Black population in some areas where you might be able to draw a minority Black district or split one somehow or another into districts that don't necessarily have sufficient minority population to elect a candidate of choice or to overconcentrate Black voters in a single district when they could have been placed in two districts and perhaps have an opportunity in two districts instead of just one." Tr. 92:14-23.

Mr. Cooper testified that for purposes of non-dilution, "you have to at least be aware of where the minority population lives." Tr. 92:14-15. However, Mr. Cooper testified that while race is "out there and [he's] aware of it, . . . it didn't control how [the Illustrative Plans] were drawn." Tr. 108:7-11. He stated that he did not aim to draw any maximum or minimum number of Black-majority districts. Tr. 112:11-14; see also Tr. 197:23-24 ("My goal was not to draw the maximum number of majority Black districts"). When asked whether he was "trying to maximize the number of Black majority districts when [he] drew the [I]llustrative [P]lans?" Mr. Cooper responded, "Not at all." Tr. 358:9-12.

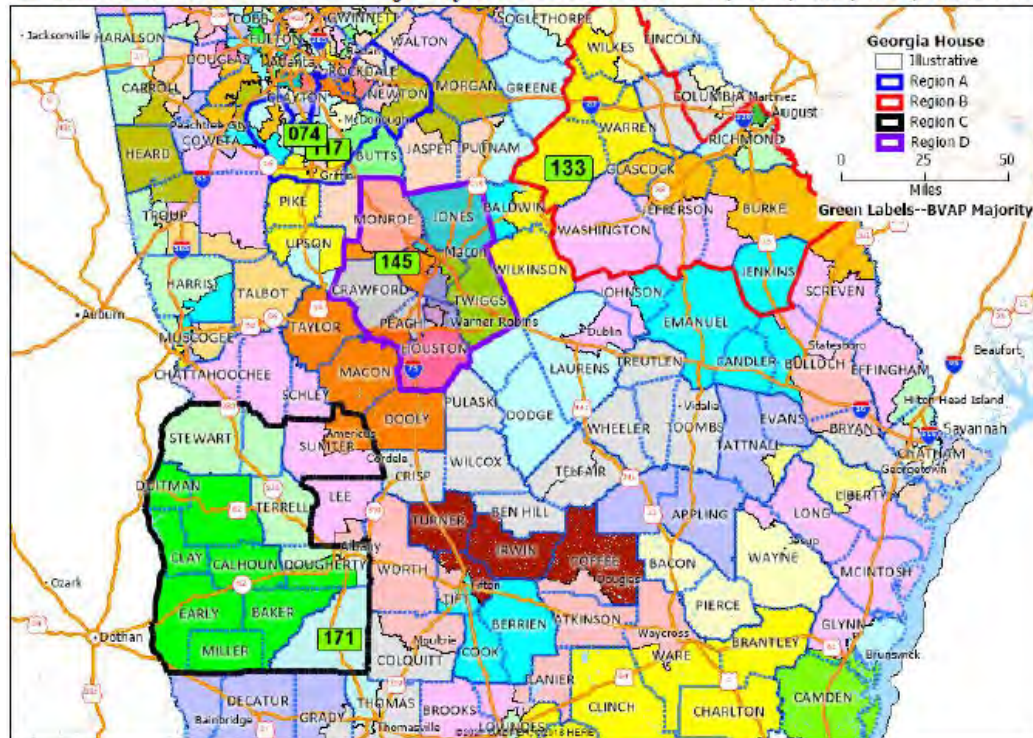
Mr. Cooper testified that when he draws maps, he sometimes uses "a little dot for precincts that are 30 percent or greater Black." Tr. 200:11-15. He testified

that he did not always use that feature. Tr. 93:23-94:2. Mr. Cooper repeatedly testified that “race did not predominate” in his drawing of the Illustrative Plans. Tr. 93:1, 108:4-11, 108:23-109:5, 168:15-18. When asked by the Court if race predominated, Mr. Cooper responded, “No. Because I also had to take into account these other factors, population equality, avoiding county splits, avoiding splitting municipalities. So it’s out there and I’m aware of it, but it didn’t control how these districts were drawn. Id. at 108:4-11.

Particularly in light of Mr. Cooper’s extensive experience and his testimony regarding the process he used in this case and his balancing of the various considerations, the Court finds that race did not predominate over the other traditional redistricting principles when he drew the Cooper Legislative Plans.

c) Cooper House Plan

The Cooper House Plan contains five additional majority-Black House Districts, two in south-metro Atlanta, one in the Eastern Black Belt, anchored in and around Augusta, one in and around Macon-Bibb, and one in southwest Georgia.

Illustrative House – New Majority-Black Districts –74, 117, 133, 145, and 171

APAX 1 ¶ 151 & fig.27.

(1) *Empirical measures*

(a) numerosity

The AP BVAP population for the additional districts are as follows: Cooper HD-74 is 61.49%, HD-117 is 54.64%, HD-133 is 51.97%, HD-145 is 50.20%, and HD-171 is 58.06%. APAX 1, Ex. AA-1. All of the districts in the Cooper House

Plan exceed 50% as do the districts that are majority-Black under the Enacted House Plan. Id.

(b) population equality and contiguity

It is undisputed that the population deviations in all districts in the Cooper House Plan are within $\pm 1.49\%$ of the ideal district population size of 59,511 people. Stip. ¶¶ 278, 302. This is higher than the Enacted House Plan, which has a deviation range of -1.40% to $+1.34\%$. Stip. ¶ 302. It is also undisputed that all districts in the Cooper House Plan are contiguous. Stip. ¶ 300.

(c) compactness

The Court finds that the Cooper House Plan and the Enacted House Plan, on the whole, are comparable. Mr. Cooper explained, the Cooper Legislative Plans “matched or beat the State’s plans on ... compactness measures[.]” Tr. 109:2-4. Mr. Cooper concluded that “[o]n balance, the Illustrative House Plan and 2021 Senate Plan score about the same on the widely referenced Reock and Polsby-Popper measures. If anything, the Illustrative Plan scores better inasmuch as its least compact district by Reock scores [0].16, compared to [0].12 for the 2021 House Plan.” APAX 1 ¶ 187.

Mr. Cooper's expert report provided detailed compactness measures for the Enacted Senate Plan as follows:

**Compactness Scores
Illustrative House Plan versus
2015 Benchmark and 2021 House Plans**

	Reock			Polsby-Popper	
	Mean	Low		Mean	Low
Illustrative House Plan	.39	.16		.27	.11
2015 Benchmark House Plan	.39	.13		.27	.09
2021 House Plan	.39	.12		.28	.10

APAX 1 ¶ 187 & fig.36.

Dr. Morgan, Defendant's mapping expert, concluded that the average compactness scores in the Cooper House Plan and the Enacted House Plan "are similar." DX 2 ¶ 47.

The Court concludes that the Cooper and Enacted House Plans have identical Reock scores, but the Cooper House Plan is less compact by 0.01 on Polsby-Popper. *Id.* Consistent with both Defendants' and the Alpha Phi Alpha Plaintiffs' experts, the Court finds that the compactness scores of the two plans are "similar." Accordingly, the Court finds that the Cooper and Enacted House Plans are comparably compact, with respect to the average and minimum scores.

With respect to the additional majority-Black districts, the Court finds that those districts are all more compact than the least compact district in the Enacted House Plan. The following table is derived from the data contained in Exhibits AG-1 and AG-2:

	Enacted Districts		Illustrative Districts	
Districts	Reock	Polsby-Popper	Reock	Polsby-Popper
074	0.50	0.25	0.63	0.36
117	0.41	0.28	0.41	0.26
133	0.55	0.42	0.26	0.20
145	0.38	0.19	0.25	0.22
171	0.35	0.37	0.28	0.20

APAX 1, Exs. AG-1, AG-2.

The Court finds that in the south metro-Atlanta districts, the majority-Black districts in the Cooper House Plan are comparable. For example, Cooper HD-74 beats Enacted HD-74 by 0.13 on Reock and 0.11 on Polsby-Popper. The Court finds that for the districts outside of Atlanta, the majority-Black districts in the Cooper House Plan generally fared worse than the Enacted House Plan's

majority-Black districts, with the exception of Cooper HD-145's Polsby-Popper score which is 0.03 more compact than Enacted HD-145. However, none of the compactness scores are below the least compact district's scores on the Enacted House Plan. APAX 1 ¶ 187 & fig.36.

(d) political subdivisions

The Cooper House Plan's political splits are comparable to the Enacted House Plan's. APAX 1 ¶ 189 & fig.37. The Cooper House Plan splits one less county. The plans have the same numbers of unique county and VTD splits. Id. The chart below depicts the total findings on political subdivision splits:

**County and VTD splits/Whole Municipalities
Illustrative House Plan versus
2015 Benchmark and 2021 House Plans**

	Split Counties	Total County Splits*	2020 VTD Splits*	Single- County Whole City/Towns (478)#	Single and Multi County Whole City/ Towns (538)#	Total City/ Town Splits*
Illustrative House	68	209	179	393	402	361
2015 Benchmark	73	215	268	381	402	378
2021 House	69	209	179	384	412	344

*Populated splits only

Higher is better

Id.

Neither Defendant, nor his experts have meaningfully suggested that the Cooper House Plan fails to respect city, town, and county lines. Accordingly, the Court finds that the Cooper House Plan has comparable political subdivision splits to the Enacted House Plan.

(e) findings of fact on the empirical measures

In sum, the Court finds that the Cooper House Plan is comparable to the Enacted House Plan on population equality, compactness scores, and political subdivision splits.

(2) *Core retention*

The Court also finds that the Cooper House Plan retained many of the cores of the districts in the Enacted House Plan. Georgia's Reapportionment Guidelines do not identify as a traditional districting principle the goal to preserve existing district cores among "General Principles for Drafting Plans." See JX 1, JX2. The Cooper House Plan kept 87 House districts the same as the Enacted House Plan. DX 2 ¶ 47. If the General Assembly were to enact the Cooper House Plan, 86% of the Georgia population would remain in the same district in the Enacted House Plan. Tr. 88:13-18.

(3) *Incumbent pairings*

Georgia's redistricting guidelines provide that "efforts should be made to avoid unnecessary incumbent pairings." JX 1, at 3; JX 2, at 3. Mr. Cooper testified that he also sought to avoid incumbent pairings. Tr. 236:1-2. Mr. Cooper used official incumbent address information that defense counsel provided in January 2022 and another potential database of incumbent address information that followed the November 2022 General Election. APAX 1 ¶ 12. Mr. Cooper testified that as he was drawing the Illustrative Plans, "always in the back of my mind [I] was trying to avoid pairing incumbents." Tr. 236:1-2. Cooper House Plans pairs 25 incumbents. The Enacted House Plan pairs 20 incumbents. *Id.* at 25. Mr. Cooper paired five more incumbents than the Enacted House Plan.

(4) *Racial considerations*

The evidence regarding Mr. Cooper's racial considerations when drawing the Cooper House Plan is identical to the evidence regarding the drawing of the Cooper Senate Plan. Accordingly, the Court incorporates by reference its analysis of the Mr. Cooper's racial consideration in the Cooper Senate Plan here. *See* Section I(F)(3)(b)(4) *supra*.

4. Esselstyn Legislative Plans

a) Mr. Esselstyn's map drawing process

As a part of his expert report, Mr. Esselstyn submitted an illustrative State Senate Plan ("Esselstyn Senate Plan") and an illustrative State House Plan ("Esselstyn House Plan") (collectively the "Esselstyn Legislative Plans"). Mr. Esselstyn testified that he was asked whether "the Black population in Georgia is sufficiently large and geographically compact to allow for the creation of additional majority Black districts in the legislative maps relative to the enacted maps while adhering to traditional redistricting principles." Tr. 467: 11–15. To accomplish this inquiry, Mr. Esselstyn used data from the Census Bureau's website, the Georgia General Assembly's Legislative Congressional Reapportionment Office's website, and the Georgia General Assembly's Reapportionment Committees Guidelines. *Id.* ¶¶ 1–2. Mr. Esselstyn also drew upon his knowledge as a geologist for determining where "fall line cities" were located in Georgia. Tr. 529:12–530:1. Mr. Esselstyn did not have any political data or election return information available when drawing the illustrative plans. Tr. 524:19–25. He also did not review any public comments provided by Georgians at public hearings until after he drew his preliminary injunction plans,

and the Esselstyn Legislative Plans are very similar to his preliminary injunction plans. Tr. 530:2–8.

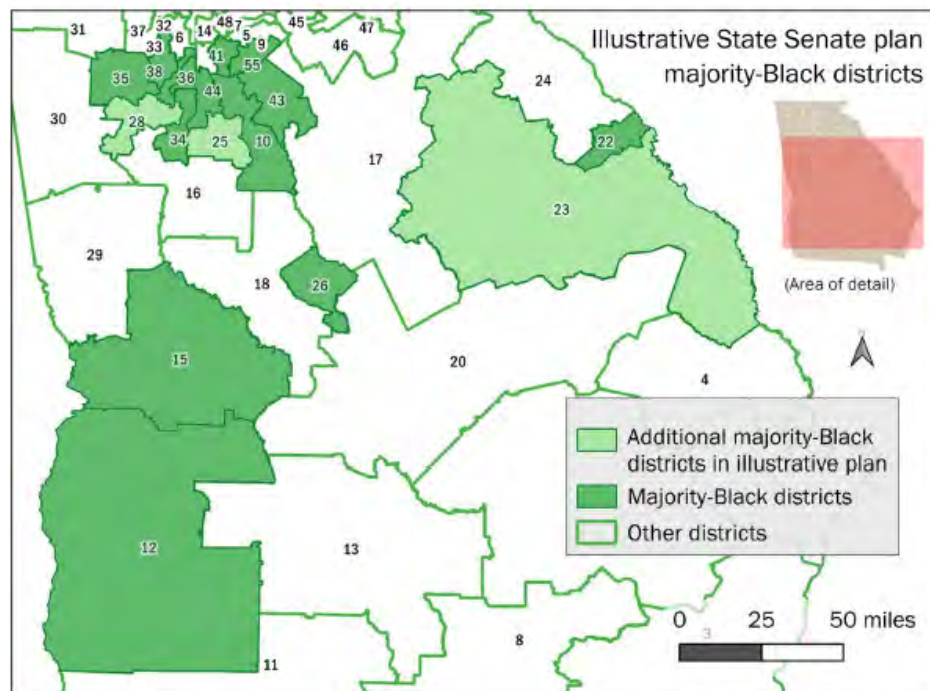
For the physical process of drawing his illustrative plans, Mr. Esselstyn primarily used the mapping software Maptitude, the same software used by the Georgia General Assembly. GX 2, Attach. B ¶ 4. Through Maptitude, he was able to import Census Bureau data files and the Enacted Legislative Plans. Id.

Mapitude shows statistics for the districts, such as compactness and population deviation. Id. Maptitude allows the map drawer to shade the map for racial demographics. Tr. 521:13–19. Mr. Esselstyn testified that “[a]t times” he would use the racial information to “inform decisions that he made about which parts of districts went in and out of a particular district.” Tr. 522:19–25. But, he stated that he did not always have it on when drawing the Esselstyn Legislative Plans. Tr. 587:18–24. He testified that the racial information “would have been one factor that [he] was considering in addition to other factors.” Tr. 522:24–25. Mr. Esselstyn testified that in determining where particular communities were located, he primarily relied on visible features that were displayed in the Maptitude software. Tr. 528:23–529:2.

b) Esselstyn Senate Plan

Analyzing these demographics and the Enacted Senate Plan, Mr. Esselstyn concluded that “[i]t is possible to create three additional majority-Black districts in the State Senate plan . . . in accordance with traditional redistricting principles.” GX 1 ¶ 13; Tr. 468:2–4. Two in south-metro Atlanta and one in the Eastern Black Belt. GX 1 ¶ 13. Meaning, the Esselstyn Senate Plan has 17 majority-Black State Senate districts using the AP BVAP metric. Stip. ¶ 231; GX 1 ¶ 27.

Figure 4: Map of majority-Black districts in the illustrative State Senate plan.



GX 1 ¶ 27 & fig.4.

(1) *Empirical measures*

(a) numerosity

The Esselstyn Senate Plan contains 17 majority-Black districts. GX 1 ¶ 27 & tbl. 1. The AP BVAP in all 17 districts exceed 50 percent. Id. Of the additional

Table 1: Illustrative Senate plan majority-Black districts with BVAP percentages.

District	BVAP%	District	BVAP%	District	BVAP%
10	61.10%	26	52.84%	39	60.21%
12	57.97%	28	57.28%	41	62.61%
15	54.00%	34	58.97%	43	58.52%
22	50.84%	35	54.05%	44	71.52%
23	51.06%	36	51.34%	55	65.97%
25	58.93%	38	66.36%		

majority-Black districts, the majority-Black population is 51.06%, 58.93%, and 57.28% respectively. Id.

(b) population equality and contiguity

It is undisputed that the districts in the Esselstyn Senate Plan are all contiguous. Stip. ¶ 258.

The overall deviation range on the Enacted Senate Plan is higher than the overall deviation range on the Enacted Senate Plan. Tr. 527:11-15; DX 3, Chart 3. However, the Court finds that the Esselstyn Senate Plan complies with the General Assembly's population equality guidelines. Under the General Assembly's redistricting guidelines "[e]ach legislative district of the General Assembly shall be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below." JX 2, 2.

Under the Esselstyn Senate Plan, all districts have a population deviation between ± 1 and 2%, with most within $\pm 1\%$. GX 1 ¶ 34. The district with the greatest deviation is + 1.90% and the district contains 194,919–3,635 persons more than the ideal population. GX 1, Attach. E. The average population deviation in Esselstyn's Senate Plan is $\pm 0.67\%$. Id. The Court finds that on average, Mr. Esselstyn's Senate Plan complies with the General Assembly's guideline on population equality.

(c) Compactness scores

The Court finds that the Esselstyn Senate Plan and the Enacted Senate Plan, on the whole, are comparable. Mr. Esselstyn reported the average compactness scores for both the Enacted and Esselstyn Legislative Plans using five measures — Reock, Schwartzberg³⁰, Polsby-Popper, Area/Convex Hull³¹, and Number of Cut Edges³². GX 1 ¶¶ 36, 57 & tbls.2, 6; see also Tr. 475:18–476:18 (Mr. Esselstyn’s testimony describing common measures of compactness).

³⁰ The Schwartzberg test is a perimeter-based measure that compares a simplified version of each district to a circle, which is considered to be the most compact shape possible. For each district, the Schwartzberg test computes the ratio of the perimeter of the simplified version of the district to the perimeter of a circle with the same area as the original district. This measure is usually greater than or equal to 1, with 1 being the most compact. GX 1, Attach. G.

³¹ The Area/Convex Hull test computes the ratio of the district area to the area of the convex hull of the district (minimum convex polygon which completely contains the district). The measure is always between 0 and 1, with 1 being the most compact. GX 1, Attach. G.

³² The Cut Edges test counts the number of edges removed (“cut”) from the adjacency (dual) graph of the base layer to define the districting plan. The adjacency graph is defined by creating a node for each base layer area. An edge is added between two nodes if the two corresponding base layer areas are adjacent — which is to say, they share a common linear boundary. If such a boundary forms part of the district boundary, then its corresponding edge is cut by the plan. The measure is a single number for the plan. A smaller number implies a more compact plan. GX 1, Attach. G.

Mr. Esselstyn concluded that the average compactness measures for the Enacted and Esselstyn Senate Plans “are almost identical.” GX 1 ¶ 36 & tbl.2; see also Id. at 79–91 (Mr. Esselstyn’s expert report providing detailed compactness measures for Enacted and Esselstyn Senate Plans); Tr. 485:19–21 (Mr. Esselstyn’s testimony describing compliance with compactness principle). Mr. Morgan agreed that the mean compactness scores were “very close.” Tr. 1843:19–1844:2. Mr. Esselstyn reported those measures as follows:

Table 2: Compactness measures for enacted and illustrative State Senate plans.

	Reock (average)	Schwartzberg (average)	Polsby- Popper (average)	Area/Convex Hull (average)	Number of Cut Edges
Enacted	0.42	1.75	0.29	0.76	11,005
Illustrative	0.41	1.76	0.28	0.75	11,003

GX 1 ¶ 36 & tbl. 2.

The Court concludes that the Esselstyn Senate Plan fares worse than the Enacted Senate Plan by 0.01 points on four of the five measures and has 2 fewer cut edges than the Enacted Senate Plan. Id. Consistent with both Defendants’ and the Grant Plaintiffs’ experts, the Court finds that the compactness scores of the

two plans are “very close.” Accordingly, the Court finds that the Esselstyn and Enacted Senate Plans are comparably compact.

The following chart is derived from the data in attachment H to Mr. Esselstyn’s report and depicts the compactness scores for the minority-Black districts in the Enacted and Esselstyn Senate Plans.

District	Enacted Senate Plan		Esselstyn Senate Plan	
	Reock	Polsby-Popper	Reock	Polsby-Popper
010	0.28	0.23	0.25	0.19
012	0.62	0.39	0.62	0.39
015	0.57	0.32	0.57	0.32
022	0.41	0.29	0.33	0.32
023*	0.37	0.16	0.34	0.17
025*	0.39	0.24	0.57	0.34
026	0.47	0.20	0.44	0.25
028*	0.45	0.25	0.38	0.19
034	0.45	0.34	0.31	0.21
035	0.47	0.26	0.59	0.42
036	0.32	0.30	0.32	0.30
038	0.36	0.21	0.37	0.20
039	0.17	0.13	0.18	0.13
041	0.51	0.30	0.51	0.30
043	0.64	0.35	0.49	0.25
044	0.18	0.19	0.33	0.24
045	0.35	0.30	0.35	0.30
Mean:	0.41	0.26	0.41	0.27
Max:	0.64	0.39	0.62	0.42
Min:	0.17	0.13	0.18	0.13

asterisk (*) denotes a new majority-Black district

With respect to the majority-Black districts, the Court finds that the Esselstyn Senate Plan is equivalent if not better than the Enacted Senate Plan. On average, the two plans have identical Reock scores and the Esselstyn Senate Plan fares 0.01 better on the Polsby-Popper measure. GX 1, Attach. H.

With respect to the maximum and minimum scores, the Enacted Senate Plan has a district that is 0.02 better on Reock than the most compact district in the Esselstyn Senate Plan. Id. Conversely, on the Polsby-Popper measure, the Esselstyn Senate Plan's most compact district is 0.03 points more compact than the most compact district in the Enacted Senate Plan. Id. The least compact districts in both plans have identical Polsby-Popper scores and the Esselstyn Senate Plan's least compact district is more compact by 0.01 points. Id.

Finally, on the Reock measure, five of the majority-Black districts have identical scores, five districts are more compact in the Esselstyn Senate Plan, and seven districts are more compact in the Enacted Senate Plan. Id. On the Polsby-Popper measure, six of the majority-Black districts have identical scores, six

districts are more compact in the Esselstyn Senate Plan, and five are more compact on the Enacted Senate Plan.

In sum, the Court finds that on the empirical compactness measures, the majority-Black districts in the Enacted and Esselstyn Senate Plans are comparably compact.

(d) political subdivisions

The Court finds that on the whole, the Esselstyn Senate Plan's political subdivision splits are comparable to the Enacted Senate Plan's. The Esselstyn Senate Plan splits more counties and VTDs than the Enacted Senate Plan. Tr. 528:1-5; DX 3, Chart 3. Mr. Esselstyn noted that he split fewer counties than in the 2014 Georgia Legislative Plans. Tr. 487:15-21; GX 1 ¶ 40 & tbl.4. He reported the splits in the enacted and illustrative State Senate maps as follows:

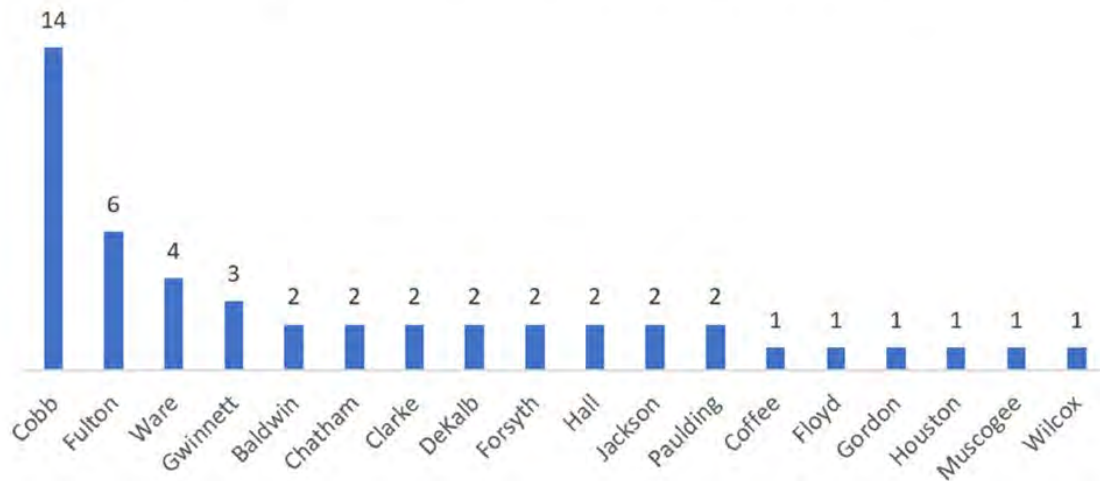
Table 4: Political subdivision splits for enacted and illustrative State Senate plans.

	Intact Counties	Split Counties	Split VTDs
Enacted	130	29	47
Illustrative	125	34	49

GX 1, ¶ 40 & tbl.4.

Mr. Esselstyn concluded that “[w]hile the creation of three additional majority-Black State Senate districts involved the division of additional counties and VTDs, the differences are marginal.” GX 1 ¶ 40 & tbl.4; see also Id. at 92–103 (Mr. Esselstyn’s expert report providing political subdivision splits for enacted and illustrative State Senate maps); Tr. 487:8–14 (Mr. Esselstyn’s testimony that the number of political subdivision splits in the illustrative and enacted Senate plans are “very similar”).

Mr. Morgan’s report confirms that the Esselstyn Senate Plan split the same counties as the Enacted Senate Plan. See DX 3 ¶ 35. Mr. Morgan also conceded that the ways in which the Esselstyn Senate Plan splits counties, at times, affected fewer people because he split smaller counties and united some of the bigger counties. See Tr. 1887:21–1891:1. Out of 2,698 VTDs statewide, only 49 are split in Esselstyn Senate Plan, and in only 18 of Georgia’s 159 counties. Doc. No. GX 1 ¶ 40 & tbl.4; Mr. Esselstyn’s report included a histogram depicting the VTD splits in the Esselstyn Senate Plan by county:

Figure 10: VTD splits in illustrative State Senate plan by county.

GX 1 ¶ 40 & fig.10.

(e) findings of fact on the empirical measures

In sum, the Court finds that the Esselstyn Senate Plan has greater population deviations than the Enacted Senate Plan; however, the Esselstyn Senate Plan has comparable compactness scores and political subdivision splits.

(2) *Core retention*

The General Assembly Guidelines did not include maintaining existing State Senate district cores. JX 1, JX 2. Similarly, Ms. Wright testified that when drafting the Enacted Senate Plan, she starts with a blank map and builds out from

there. Tr. 1622:11–17; 1642:7–14. She does not start by using the most recent State Senate map. Id. Although not an enumerated guideline, the Court finds that the Esselstyn Senate Plan respects the core districts of the Enacted Senate Plan. Mr. Esselstyn used the Enacted Senate Plan as a starting point, and many of the districts are the same. Only 22 districts were modified, leaving the other 34 unchanged. Stip. ¶ 261; GX 1 ¶ 26; Tr. 485:3–5. As Mr. Morgan’s report confirms, nearly 90% of Georgia’s population would remain in their same numbered State Senate district under the Esselstyn Senate Plan. DX 3, Ex. 7. The Court finds that the Esselstyn Senate Plan retained the majority of the core districts from the Enacted Senate Plan.

(3) *Incumbent Pairings*

Based on the record, the Court concludes that the Esselstyn Senate Plan complies with the districting criterion of avoiding unnecessary pairings of incumbents. See JX1, JX2. At the preliminary injunction hearing, Mr. Esselstyn submitted an illustrative State Senate plan that he created without knowledge of incumbent addresses. GX 1 ¶ 42; Tr. 479:23–480:21. That plan paired two incumbents in the State Senate.

The Esselstyn Senate Plan, submitted at trial, pairs fewer incumbents than Mr. Esselstyn's initial plans. Currently, no incumbent State Senators are paired. GX 1 ¶ 42; Tr. 480:18–21.

Accordingly, the Court finds that Esselstyn Senate Plan respects the traditional redistricting principle of avoiding pairing incumbents because it paired no incumbents.

(4) *Racial Considerations*

The Court further concludes that Mr. Esselstyn did not subordinate traditional districting principles in favor of race-conscious considerations. Mr. Esselstyn was asked “to determine whether there are areas in the State of Georgia where the Black population is ‘sufficiently large and geographically compact’ to enable the creation of additional majority-Black legislative districts relative to the number of such districts provided in the enacted State Senate and State House of Representatives redistricting plans from 2021.” GX 1 ¶ 9 (footnote omitted); see also Tr. 467:8–15 (Mr. Esselstyn's testimony confirming what he was asked to do in this case). Mr. Esselstyn testified that he was not asked to

maximize the number of majority-Black districts in the Enacted Legislative Plans.

Feb. 9, 2022, Afternoon PI Tr. 150:23–25.

Mr. Esselstyn testified that it was necessary for him to consider race as part of his analysis because “the Gingles 1 precondition is looking at whether majority Black districts can be created. And in order to understand whether districts are majority Black, one has to be able to look at statistics for those districts.” Tr. 471:9–17. See Feb. 9, 2022, Afternoon PI Tr. 155:15–156:2. (Mr. Esselstyn testifying that, under Section 2, “the key metric is whether a district has a majority of the Any Part Black population. So that means it has to be over 50 percent. And that means looking at a column of numbers in order to determine, to assess whether a district has that characteristic. You have to look at the numbers that measure the percentage of the population is Black.”).

Mr. Esselstyn emphasized that he took other considerations into account as well when drawing his illustrative plans, including population equality, compliance with the federal and Georgia constitutions, contiguity, and other traditional districting principles. Tr. 471:18–472:14.; Id. at 522:5–14 (“I’m constantly looking at the shape of the district, what it does for population

equality, . . . political subdivisions, communities of interest, incumbents, all that. So while yes, at times [race] would have been used to inform a decision, it was one of a number of factors.”).

Mr. Esselstyn confirmed that race did not predominate when he drew the Esselstyn Legislative Plans. Tr. 472:15–20. Although Mr. Morgan concluded that Mr. Esselstyn’s changes from the Enacted Senate Plan indicate that he prioritized race, the Court does not credit Mr. Morgan’s analysis or conclusions for several reasons.

First, Mr. Morgan conceded that he did not examine the extent to which Mr. Esselstyn’s changes were designed to satisfy traditional districting criteria like avoiding the unnecessary pairing of incumbents and preserving communities of interest. Tr. 1897:11–1899:3, 1923:21–1924:16. Mr. Morgan’s overarching conclusion about the prioritization of race over other factors is difficult to square with his failure to actually examine all of the relevant factors Mr. Esselstyn stated he considered in drawing his illustrative plans.

Second, Mr. Morgan’s analysis is methodologically inconsistent. For instance, the text of his expert report, which purports to compare the district in

the Enacted and Esselstyn Senate Plans, contains compactness scores for the enacted districts but makes no mention of the compactness scores for the corresponding illustrative districts. Tr. 1854:5–12.

Third, Mr. Morgan’s analysis of the new majority-Black districts is incomplete. The text of Mr. Morgan’s expert report provides no description or analysis whatsoever of Esselstyn SD-25, SD-28, HD-64, HD-117, HD-145 or HD-149. Tr. 1846:10–1847:6; Tr. 1896:21–23, 1922:22–25, 1923:1–15.

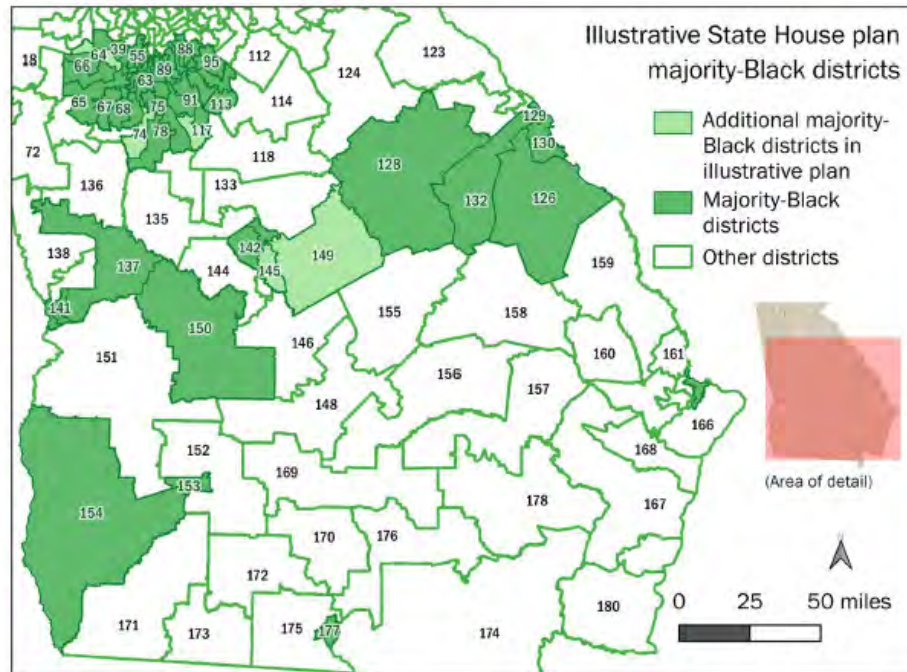
Fourth, Mr. Morgan’s conclusion regarding the role of race seems to fault the Esselstyn Legislative Plans for taking the same approach as the Enacted Legislative Plans. Specifically, Mr. Morgan criticizes Esselstyn Legislative Plans for “elongating” various districts when creating new majority-Black districts, e.g., Tr. 1811:25–1812:18, but conceded that the Enacted Legislative Plans do the same thing. Tr. 1927:4–1928:25. Ms. Wright also agreed that several districts in the Enacted Legislative Plans, including EnactedSD-10, SD-44, HD-36, and HD-60, are “elongated.” Tr. 1702:3–1704:1.

For these reasons, the Court is not persuaded by Mr. Morgan’s testimony and conclusions that race predominated when Mr. Esselstyn drew the Esselstyn

Legislative Plans. The Court finds that Mr. Esselstyn consistently testified that race did not predominate when he drew his plans. Rather, he made efforts to balance traditional redistricting principles when he made districting decisions. Thus, the Court finds that race did not predominate in the drawing of the Esselstyn Legislative Plans.

c) Esselstyn House Plan

Mr. Esselstyn concluded that it was possible to draw five additional majority-Black House districts in accordance with traditional redistricting principles. GX 1 ¶ 13.

Figure 13: Map of majority-Black districts in the illustrative House plan.

GX 1 ¶ 48 & fig.13.

(1) *Empirical measures*

(a) numerosity

Esselstyn's The Esselstyn House Plan contains 54 majority-Black districts.

GX 1 ¶ 48 & tbl. 5. The AP BVAP in all of these districts exceed 50 percent. *Id.*

The majority-Black population in the majority-Black districts is 50.24%, 53.94%, 51.56%, 50.38%, and 51.53% respectively. *Id.*

Table 5: Illustrative House plan majority-Black districts with BVAP percentages.

District	BVAP%	District	BVAP%	District	BVAP%	District	BVAP%
38	54.23%	69	62.73%	91	60.01%	137	52.13%
39	55.29%	74	53.94%	92	68.79%	140	57.63%
55	55.38%	75	66.89%	93	65.36%	141	57.46%
58	63.04%	76	67.23%	94	69.04%	142	50.14%
59	70.09%	77	76.13%	95	67.15%	143	50.64%
60	63.88%	78	51.03%	113	59.53%	145	50.38%
61	53.49%	79	71.59%	115	53.77%	149	51.53%
62	72.26%	84	73.66%	116	51.95%	150	53.56%
63	69.33%	85	62.71%	117	51.56%	153	67.95%
64	50.24%	86	75.05%	126	54.47%	154	54.82%
65	63.34%	87	73.08%	128	50.41%	165	50.33%
66	53.88%	88	63.35%	129	54.87%	177	53.88%
67	58.92%	89	62.54%	130	59.91%		
68	55.75%	90	58.49%	132	52.34%		

GX 1 ¶ 48 & tbl. 5.

(b) population equality and contiguity

It is undisputed that the districts in the Esselstyn House Plan are all contiguous. Stip. ¶ 258.

The Esselstyn House Plan’s overall population deviation is higher than the deviation range in the Enacted House Plan’s. Tr. 527:11–15; DX 3, Chart 3. However, the Court finds that the Esselstyn House Plan complies with the General Assembly’s population equality guidelines. Under the General Assembly’s redistricting guidelines state that “[e]ach legislative district of the

General Assembly shall be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.” JX 2, 2.

Under the Esselstyn House Plan, all districts have a population deviation between -1.94% and +1.91%, with a mean deviation of +0.64%. GX 1, Attach. J. The district with the greatest deviation is +1.91% and the district contains 58,358 people—1,153 persons less than the ideal population. GX 1, Attach. J. Comparatively, the Enacted House Plan has a population deviation range of -1.40 to +1.34%. GX 1, Attach. I. The Court finds that the Esselstyn House Plan has a greater deviation range than the Enacted House Plan, and on average, Mr. Esselstyn’s House Plan complies with the General Assembly’s guideline on population equality.

(c) compactness scores

The Court finds that the Esselstyn House Plan and the Enacted House Plan, on the whole, are comparable. Mr. Esselstyn reported the average compactness scores for both the Enacted and Esselstyn House Plans using five measures—Reock, Schwartzberg, Polsby-Popper, Area/Convex Hull, and Number of Cut

Edges. GX 1 ¶¶ 36, 57 & tbls.2, 6; see also Tr. 475:18–476:18 (Mr. Esselstyn’s testimony describing common measures of compactness).

Mr. Esselstyn further concluded that the average compactness measures for the Enacted and Esselstyn House Plans “are almost identical, if not identical.” GX 1 ¶ 57 & tbl. 6; see also Id. at 135–65 (Mr. Esselstyn’s expert report providing detailed compactness measures for enacted and illustrative House maps); Tr. 492:17–22 (Mr. Esselstyn’s testimony describing compliance with compactness principle). Mr. Esselstyn reported those measures as follows:

Table 6: Compactness measures for enacted and illustrative House plans.

	Reock (average)	Schwartzberg (average)	Polsby- Popper (average)	Area/Convex Hull (average)	Number of Cut Edges
Enacted	0.39	1.80	0.28	0.72	22,020
Illustrative	0.39	1.81	0.28	0.72	22,359

GX 1 ¶ 57 & tbl.6.

Mr. Morgan characterized the overall compactness scores of the Enacted and Esselstyn House Plans as “similar.” DX 3 ¶ 50. The Court concludes that the Esselstyn House Plan is identical on Reock, Polsby-Popper, and Area/Convex

Hull. Id. On the Schwartzberg measure, the Enacted Plan is 0.01 more compact and the Enacted House Plan cut 339 fewer edges. GX 1 ¶ 57 & tbl.6

Consistent with both Defendants’ and the Grant Plaintiffs’ experts, the Court finds that the compactness scores of the two plans are “similar.” Accordingly, the Court finds that the Esselstyn and Enacted House Plans are comparably compact. With respect to the maximum and minimum scores, the most compact district in the Enacted House Plan has a Reock score of 0.66 and the least compact district has a Reock Score of 0.12. GX 1, Attach. L. And on the Polsby-Popper measures, the most compact district has a score of 0.59 and the least compact district has a score of 0.10. The Esselstyn House Plan has the same metrics. Id.

With respect to the additional majority-Black districts, the Court finds that the additional majority-Black districts compactness scores all exceed 0.12 on Reock and 0.10 on Polsby-Popper, which are the lowest compactness scores in the Enacted House Plan. Id.

However, generally, the Court finds that the majority-Black House districts performed worse than the districts in the Enacted House Plan. However, none of

the compactness measures are below the least compact district's measures on the Enacted House Plan. The following table is derived from the data contained in attachment L to GX 1:

Districts	Enacted House Plan		Illustrative House Plan	
	Reock	Polsby-Popper	Reock	Polsby-Popper
064	0.37	0.36	0.22	0.22
074	0.50	0.25	0.30	0.19
117	0.41	0.28	0.40	0.33
145	0.38	0.19	0.34	0.21
149	0.32	0.22	0.46	0.28

In sum, the Court finds that on the empirical compactness measures, the majority-Black districts in the Esselstyn House Plan fall within the compactness score range of the Enacted House Plan.

(d) political subdivisions

The Court finds that on the whole, the Esselstyn House Plan's political subdivision splits are comparable to the Enacted House Plan's. The Enacted House Plan splits more counties and precincts than the Enacted House Plan. Tr. 528:1-5; DX 3, Chart 3.

Mr. Esselstyn concluded that “[w]hile the creation of three additional majority-Black State House districts involved the division of additional counties and VTDs, the differences are marginal.” GX 1 ¶ 39 & tbl.4; see also Id. at 92–103 (Mr. Esselstyn’s expert report providing political subdivision splits for the Enacted and Esselstyn House Plans); Tr. 487:8–14 (Mr. Esselstyn’s testimony that the number of political subdivision splits in the Esselstyn and Enacted House Plans are “very similar”). He reported the splits in the Enacted and Esselstyn House Plans as follows:

Table 8: Political subdivision splits for enacted and illustrative House plans.

	Intact Counties	Split Counties	Split VTDs
Enacted	90	69	185
Illustrative	89	70	186

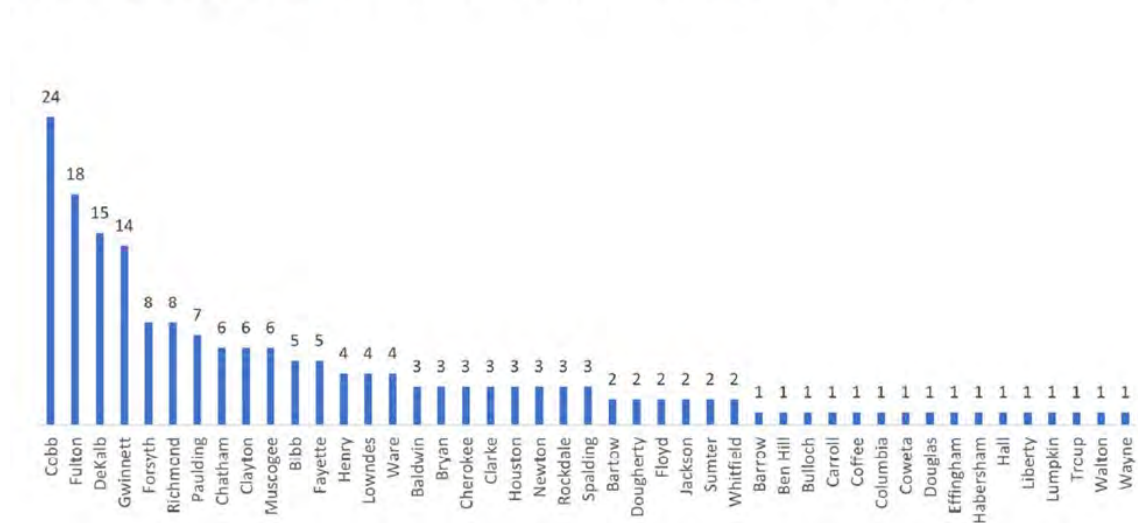
GX 1 ¶ 59 & tbl. 8.

The Esselstyn House Plan splits one more county and VTD than the Enacted House Plan. Notably, out of 2,698 VTDs statewide, only 186 are split in Esselstyn House Plan, and in only 45 of Georgia’s 159 counties. GX 1 ¶ 59 & tbl.8; Tr. 494:16–495:3. Mr. Morgan also found that the ways in which the Esselstyn House Plan splits counties, at times, fewer people are affected because he split

smaller counties and united some of the bigger counties. See Tr. 1887:21–1891:1.

Mr. Esselstyn’s report included a histogram depicting the VTD splits in the Esselstyn House Plan by county:

Figure 18: VTD splits in illustrative State House plan by county.



GX 1 ¶ 59 & fig.18.

(e) findings of fact on the empirical measures

In sum, the Court finds that the Esselstyn House Plan has a greater range of population deviations than the Enacted House Plan; however, the Esselstyn House Plan has comparable compactness scores and political subdivision splits.

(2) Core retention

The General Assembly Guidelines did not include maintaining existing State House district cores. JX 1, JX 2. Similarly, Ms. Wright testified that when drafting the Enacted House Plan, she starts with a blank map and builds out from there. 1622:11-17; 1642:7-14. She does not start by using the most recent State House map. *Id.* Although not an enumerated guideline, the Court finds that the Esselstyn House Plan respects the core districts of the Enacted House Plan. Mr. Esselstyn used the Enacted House Plan as a starting point and many of the districts are the same. Only 25 districts were modified, leaving the other 155 unchanged. Stip. ¶ 261; GX 1 ¶ 47; DX 3, Ex. 14. As Mr. Morgan's report confirms, nearly 94% of Georgia's population would remain in their same numbered State House district under the Esselstyn House Plan. DX 3, Ex. 7. The Court finds that the Esselstyn House Plan retained the majority of the core districts from the Enacted House Plan.

(3) Incumbent Pairings

Based on the record, the Court concludes that the Esselstyn House Plan complies with the districting criterion of avoiding unnecessary pairings of incumbents. *See* JX1, JX2. Mr. Esselstyn's preliminary injunction State House

plan was created without knowledge of incumbent addresses and paired 16 incumbents in the State House. GX 1 ¶ 61; Tr. 479:23–480:21.

The Esselstyn House Plan, submitted in his December 2022 expert report, pairs fewer incumbents than Mr. Esselstyn’s initial plans. The Esselstyn House Plan would pair a total of eight incumbents in the same districts—the same number of incumbents that the Enacted House Plan paired in the same districts. GX 1 ¶ 61; Tr. 480:14–21.

Accordingly, the Court finds that the Esselstyn House Plan pairs the same number of incumbents as the Enacted House Plan; therefore, it complies with the traditional redistricting principle of avoiding pairing incumbents.

(4) *Racial Considerations*

The evidence regarding the Esselstyn Senate and House Plans was identical. Accordingly, the Court incorporates its racial predominance analysis from the Esselstyn Senate Plan Section. See Section I(H)(4)(b)(4) *supra*.

G. Second and Third Gingles Preconditions

1. Pendergrass: Dr. Palmer’s methodology

Dr. Palmer who served as Pendergrass and Grant Plaintiffs’ experts, evaluated the Black population’s cohesion and white voter bloc voting using EI.

PX 2, GX 2. Both Dr. Palmer and Defendants' expert, Dr. Alford, testified that ecological inference ("EI") is a reliable method for conducting the second and third Gingles preconditions analyses. "Q. Dr. Alford, you agree that . . . the method of ecological inference Dr. Palmer applied is the best available method for estimating voting behavior by race; correct? A. Correct." Tr. 2250:12-16; "Q. Do scholars and experts regularly use EI to examine racially polarized voting? A. Yes?" Tr. 401:7-9. EI "estimates group-level preferences based on aggregate data." PX 2 ¶ 13. The data analyzed under EI also includes confidence intervals, which measure the uncertainty of results. Id. at n. 12.

Dr. Palmer conducted a racially polarized voting analysis of Enacted CD-3, 6, 11, 13, and 14, both as a region (the "congressional focus area") and individually. Stip. ¶ 214; PX 2 ¶ 7; Tr. 413:18-414:5.

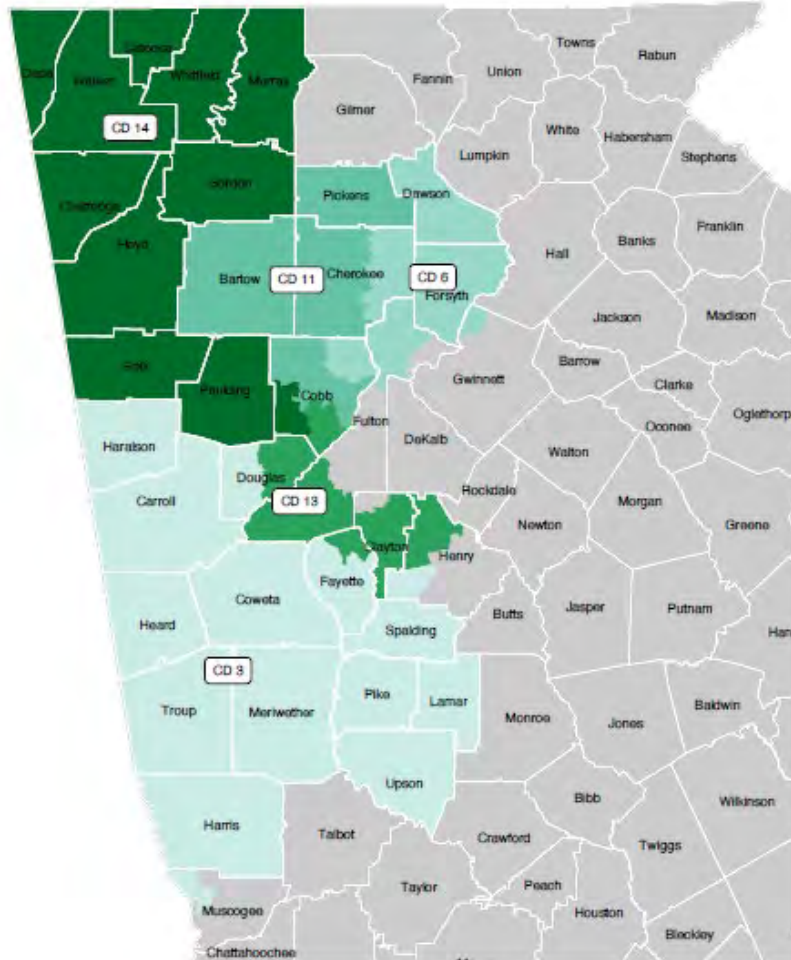


Figure 1: Map of the Focus Area

PX 2 ¶ 11 & fig.1.

Dr. Palmer evaluated Black and white voters' choices in the congressional focus area that voted for each candidate in 40 statewide elections between 2012

and 2022. Stip. ¶ 217; PX 2 ¶¶ 13, 15. Dr. Palmer's EI analysis relied on precinct-level election results and voter turnout by race, as compiled by the State of Georgia. PX 2 ¶ 11; Tr. 403:2-13.

Dr. Palmer first examined each racial group's support for each candidate to determine if members of the group voted cohesively in support of a single candidate in each election. PX 2 ¶ 14. If a significant majority of the group supported a single candidate, he then identified that candidate as the group's candidate of choice. Id. Dr. Palmer next compared the preferences of white voters to the preferences of Black voters. Id. He concluded that evidence of racially polarized voting is found when Black voters and white voters support different candidates. Id.

2. *Alpha Phi Alpha: Dr. Handley's methodology*

Dr. Handley, Alpha Phi Alpha's expert, analyzed voting patterns by race in seven areas of Georgia where the Cooper Legislative Plans created additional majority-Black districts. Tr. 861:21-25; APAX 5, 2; Stip. ¶ 307. As part of that analysis, she considered whether Black voters had the opportunity to elect

candidates of their choice in these areas under the Cooper Legislative Plans as compared to the Enacted Legislative Plans. See Tr. 862:22-863:5; APAX 5, 2, 12.

Dr. Handley stated that these seven areas in Georgia are where “districts that offered Black voters opportunities to elect their candidates of choice could have been drawn and were not drawn when you compare the illustrative to the adopted plan.” Tr. 861:21-25. Dr. Handley named these seven areas the Eastern Atlanta Metro Region, the Southern Atlanta Metro Region, East Central Georgia with Augusta, the Southeastern Atlanta Metro Region, Central Georgia, Southwest Georgia, and the Macon Region. See APAX 5, 8-9; Tr. 869:13-25.

The first area Dr. Handley analyzed—the Eastern Atlanta Metro Region—encompasses Cooper SD-10, SD-17, SD-43 and Enacted SD-10, SD-17, SD-43 (DeKalb, Henry, Morgan, Newton, Rockdale, and Walton Counties). Stip. ¶ 309; APAX 5, 8, 17-18. The second area—the Southern Atlanta Metro Region—encompasses Cooper SD-16, SD-28, SD-34, and SD-39 and Enacted SD-16, SD-28, SD-34, and SD-44 (Clayton, Coweta, Douglas, Fayette, Heard, Henry, Lamar, Pike, and Spalding Counties). Stip. ¶ 310; APAX 5, 8, 19-20.

The third area—the East Central Georgia Region—encompasses Cooper SD-22, SD-23, SD-26, and SD-44 and Enacted SD-22, SD-23, SD-25, and SD-26 (Baldwin, Bibb, Burke, Butts, Columbia, Emanuel, Glascock, Hancock, Henry, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, McDuffie, Monroe, Morgan, Putnam, Richmond, Screven, Taliaferro, Twiggs, Walton, Warren, Washington, Wilkes, and Wilkinson Counties). Stip. ¶ 311; APAX 5, 9, 21-22. The fourth area—Southeastern Atlanta Metro Region—encompasses Cooper HD-74, HD-75, HD-78, HD-115, HD-116, HD-117, HD-118, HD-134, and HD-135 and Enacted HD-74, HD-75, HD-78, HD-115, HD-116, HD-117, HD-118, HD-134, and HD-135 (Butts, Clayton, Fayette, Henry, Jasper, Lamar, Monroe, Pike, Putnam, Spalding, and Upson Counties). Stip. ¶ 312; APAX 5, 9, 23-24. The fifth area—Central Georgia—encompasses Cooper HD-128, HD-133, HD-144, and HD-155 and Enacted HD-128, HD-133, HD-149, and HD-155 (Baldwin, Bibb, Bleckley, Dodge, Glascock, Hancock, Jefferson, Johnson, Jones, Laurens, McDuffie, Taliaferro, Telfair, Twiggs, Warren, Washington, Wilkes, and Wilkinson Counties). Stip. ¶ 313; APAX 5, 9, 26-27.

The sixth area—Southwest Georgia—encompasses Cooper HD-152, HD-153, HD-171, HD-172, and HD-173 and Enacted HD-152, HD-153, HD-171, HD-172, and HD-173 (Colquitt, Cook, Decatur, Dougherty, Grady, Lee, Mitchell, Seminole, Stewart, Terrell, Thomas, Tift, Webster, and Worth Counties). Stip. ¶ 314; APAX 5, 9, 28-29. The seventh area—the Macon Region—encompasses Cooper HD-142, HD-143, and HD-145 and Enacted HD-142, HD-143, and HD-145 (Bibb, Crawford, Houston, Peach, and Twiggs Counties). Stip. ¶ 315; APAX 5, 9, 30-31.

Dr. Handley employed three commonly used, well-accepted statistical methods to conduct her racially polarized voting analysis: homogeneous precinct

analysis,³³ ecological regression³⁴, and EI.³⁵ Tr. 864:17-21, 868:10-12; APAX 5, 3-4; Stip. ¶ 308. With these three statistical methods, she calculated estimates of the percentage of Black and white voters who voted for candidates in recent statewide general elections and State legislative general elections in the seven areas. Tr. 863:21-864:25, 862:22-863:5. Dr. Handley uses homogeneous precinct analysis and ecological regression to check the estimates produced by EI. Tr. 868:7-9. When “they all come up with very similar estimates,” Dr. Handley testified that she can be confident in those estimates. Id.

³³ Homogeneous precinct analysis and ecological regression have been used for approximately 40 years. Tr. 864:17-20. These analytic tools were employed by the plaintiffs’ expert in Gingles and were accepted by the Supreme Court. APAX 5, 4; Gingles, 478 U.S. at 52-53, 80.

³⁴ Ecological regression (ER), uses information from all precincts, not simply the homogeneous ones, to derive estimates of the voting behavior of minorities and whites. If there is a strong linear relationship across precincts between the percentage of minorities and the percentage of votes cast for a given candidate, this relationship can be used to estimate the percentage of minority voters supporting the candidate. APAX 5, 3.

³⁵ Dr. Handley used two forms of EI called “King’s EI” and “EI RxC.” Tr. 873:18-21. APAX 5, 4-5. Defendant’s expert, Dr. John Alford, agrees that EI RxC is “the best of the statistical methods for estimating voting behaviors.” Tr. 2215:23-25.

Dr. Alford has “no concerns with [Dr. Handley’s] use of EI RxC in her most recent [December 23, 2022] report.” Tr. 2216:1-3. He “[does not] question her ability,” and agrees that “her new report, most recent report, relies on methods that . . . are acceptable.” Id. at 2220:21, 2216:13-17. Dr. Alford has “no concerns about the data that went into Dr. Handley’s statistical analysis in this case[.]” Tr. 2221:5-7.

Dr. Handley evaluated 16 recent (2016-2022) general and runoff statewide elections, including for U.S. Senate, Governor, School Superintendent, Public Service Commission, and Commissioners of Agriculture, Insurance, and Labor. APAX 5, 6; Stip. ¶¶ 316-317. She also looked at 54 recent (2016-2022) State legislative elections in the areas of interest, including 16 State Senate contests and 38 State House contests. Tr. 890:2-12; APAX 5, at 7-8; Stip. ¶ 324. All 2022 State legislative contests in the Enacted Legislative Plans identified as districts of interest were analyzed, even if the contest did not include at least one Black candidate. APAX 5, at 7-8. In addition, because there has only been one set of State legislative elections (2022) under the Enacted Plans, Dr. Handley also analyzed biracial State legislative elections conducted between 2016 and 2020 in

the State legislative districts under the previous State House and State Senate plans that are located within the seven areas of interest. Id.

Dr. Handley also examined 11 statewide Democratic primaries. Tr. 879:25-880:2. She examined those because “we have a two-part election system here and you have to make it through the Democratic primary to make it into the general election” and, in some jurisdictions, primaries are the operative barrier for Black-preferred candidates, so Dr. Handley “would always look at both.” Id. at 892:22-893:8. With regard to the areas of interest in this litigation, Dr. Handley concluded that the Democratic primaries were “not a barrier” for Black-preferred candidates to win elections, and Dr. Handley rested her opinions of racially polarized voting in the areas of interest on the general elections. Id. at 894:13-22. Dr. Handley did not evaluate whether Democratic primaries are the barrier to electing Black-preferred candidates outside the areas of interest. Id. at 894:23-895:1.

3. *Grant: Dr. Palmer's methodology*

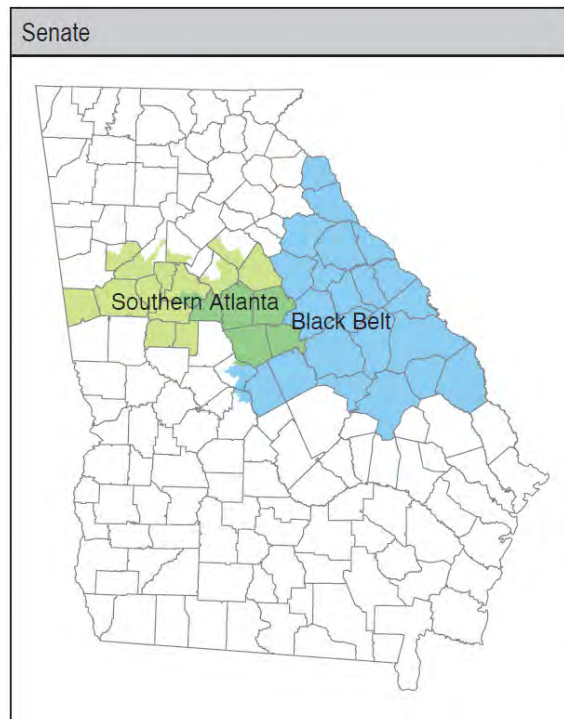
Dr. Palmer, who served as the Pendergrass Plaintiffs’ expert on political cohesion and voter polarization also served as the Grant Plaintiffs’ expert.

Dr. Palmer used the same EI method as that used in Pendergrass. Tr. 418:21–25. Dr. Palmer conducted a racially polarized voting analysis of five different legislative focus areas. Stip. ¶ 262; GX 2 ¶ 10; Tr. 403:21–404:5. His EI analysis relied on precinct-level election results and voter turnout by race, as compiled by the State of Georgia. GX 2 ¶ 13; Tr. 403:2–13. Dr. Palmer analyzed two focus areas for the Enacted Senate Plan.

In the Black Belt, Dr. Palmer evaluated Enacted SD-22, SD-23, SD-24, SD-25, and SD-26 (“Palmer’s senate Black Belt focus area”). These districts include Baldwin, Burke, Butts, Columbia, Elbert, Emanuel, Glascock, Greene, Hancock, Hart, Jasper, Jefferson, Jenkins, Johnson, Jones, Lincoln, Mcduffie, Oglethorpe, Putnam, Richmond, Screven, Taliaferro, Twiggs, Warren, Washington, Wilkes, and Wilkinson Counties and parts of Bibb, Henry, and Houston Counties. Tr. 403:21–404:5; GX 2 ¶ 12; Stip. ¶ 265. In south-metro Atlanta Dr. Palmer evaluated Enacted SD-10, SD-16, SD-17, SD-25, SD-28, SD-34, SD-35, SD-39, and SD-44. These districts include Baldwin, Butts, Clayton, Coweta, Fayette, Heard, Jasper, Jones, Lamar, Morgan, Pike, Putnam, and Spalding Counties and parts of

Bibb, DeKalb, Douglas, Fulton, Henry, Newton, and Walton Counties.

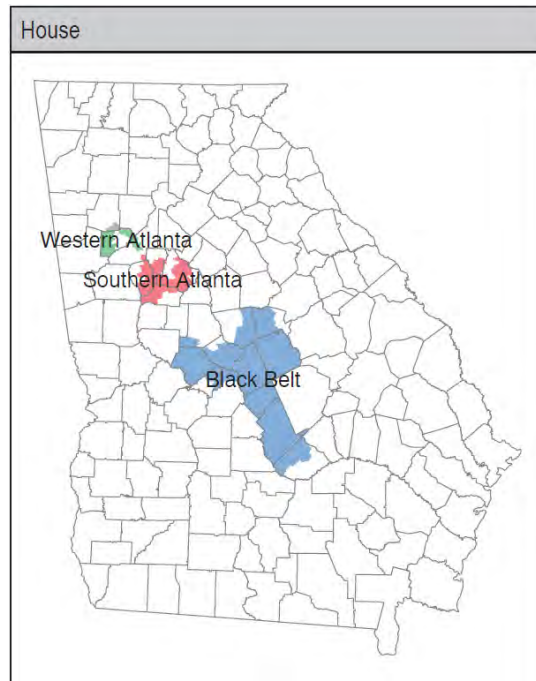
Tr. 403:21-404:5; GX 2 ¶ 12; Stip. ¶ 265.



GX 2 ¶ 12 & fig.1.

Dr. Palmer analyzed three focus areas for the State House Plan. In the Black Belt, Dr. Palmer evaluated Enacted HD-133, HD-142, HD-143, HD-145, HD-147, and HD-149. These districts include Bleckley, Crawford, Dodge, Twiggs, and Wilkinson Counties and parts of Baldwin, Bibb, Houston, Jones, Monroe, Peach, and Telfair Counties. Tr. 403:21-404:5; GX 2 ¶ 11; Stip. ¶ 264. In south-metro

Atlanta, Dr. Palmer evaluated Enacted HD-69, HD-74, HD-75, HD-78, HD-115, and HD-117. These districts include parts of Clayton, Fayette, Fulton, Henry, and Spalding Counties. Tr. 403:21–404:5; GX 2 ¶ 11; Stip. ¶ 264. Finally, in west-metro Atlanta, Dr. Palmer evaluated Enacted HD-61 and HD-64. These districts include parts of Douglas, Fulton, and Paulding Counties. Tr. 403:21–404:5; GX 2 ¶ 11; Stip. ¶ 264.



GX 2 ¶ 12 & fig.1.

Dr. Palmer first examined each racial group's support for each candidate to determine if members of the group voted cohesively in support of a single candidate in each election. GX 2 ¶ 16. If a significant majority of the group supported a single candidate, he then identified that candidate as the group's candidate of choice. Id. Dr. Palmer next compared the preferences of white voters to the preferences of Black voters. Id. He concluded that there was evidence of racially polarized voting when he found that Black voters and white voters support different candidates. Id. Defendants' expert, Dr. Alford, did not contest Dr. Palmer's methodology. Tr. 2145:23–2146:1, 2215:17–25.

H. Georgia's History of Voting and Recent Electoral Developments

1. Credibility Determinations

The Court makes the following credibility determinations as it relates to the experts on the Senate Factors.

a) **Dr. Orville Vernon Burton**

The Grant and Pendergrass Plaintiffs³⁶ proffered and the Court qualified Dr. Burton as an expert on history of race discrimination and voting. Tr. 1419:14–17, 1424:8–9. Dr. Burton earned his undergraduate degree from Furman University in 1969 and his doctorate in American history from Princeton University in 1976. PX 4, 5. Dr. Burton has taught American history at various universities since 1971. Id. Currently, he serves as the Judge Matthew J. Perry Distinguished Professor of History and Professor of Global Black Studies, Sociology and Anthropology, and Computer Science at Clemson University. Id. at 6. Dr. Burton is the author or editor of more than 20 books and 300 articles. Id. Dr. Burton has received numerous awards based on his research. Id.

Dr. Burton also has connections to the state of Georgia. He was born in Madison County, Georgia and is a recognized authority on Morehouse College's

³⁶ The Parties consented to allow Dr. Burton's trial testimony, the portions of his report that were directly referenced in the trial, and PX 14, GX 15, DX 107 to apply across all three cases. Tr. 1464:10–23, 1505:11–1506:1.

former President Dr. Benjamin E. Mays. He has also written a book about an area in South Carolina that has strong ties to the city of Augusta, Georgia. Id. 6.

Dr. Burton has been retained as an expert witness and consultant in numerous voting rights case over the past forty years. Id. 7. Specifically, he was qualified as an expert on social and economic status, discrimination, historical intent in voting rights cases, and group voting behavior. Id. His testimony has been accepted and relied upon by various federal courts. Id. 7-8.

At the preliminary injunction, the Court found “Dr. Burton to be highly credible. His historical analysis was thorough and methodologically sound” and his “conclusions [were found] to be reliable.” Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1315. Having observed Dr. Burton’s demeanor and testimony, the Court finds that Dr. Burton’s testimony is highly credible. Dr. Burton answered all questions on direct-examination and cross-examination thoroughly. Dr. Burton engaged in an extensive colloquy with the Court on the history of voting and race that expounded upon information that was in his report. Accordingly, the Court finds that his testimony is highly credible and extremely

helpful to the Court. Thus, the Court will assign great weight to Dr. Burton's testimony.

b) Dr. Loren Collingwood

The Grant and Pendergrass Plaintiffs proffered and the Court qualified Dr. Collingwood as an expert in political science, applied statistics, and demography. Tr. 671:18-21, 673:5-7. Dr. Collingwood received his Bachelor of Arts from California State University, Chico in 2002 and his Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012. PX 5, 2. Currently, he serves as an associate professor of political science at the University of New Mexico. Id. Previously, he was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. Id. He has published two books, 39 articles, and nearly a dozen book chapters on sanctuary cities, race/ethnic politics, election administration, and racially polarized voting. Id. Dr. Collingwood has served as an expert witness in seven redistricting cases. Id. He has also served as an expert witness in three other voting related cases. Id.

In the preliminary injunction order, the Court found that Dr. Collingwood was “qualified to opine as an expert on demographics and political science. The Court f[ound] Dr. Collingwood to be credible, his analysis methodologically sound, and his conclusions reliable.” Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1318.

Having observed Dr. Collingwood’s demeanor and testimony, the Court finds that his testimony was internally consistent and he was able to thoroughly answer questions on direct and cross examination. Thus, the Court finds Dr. Collingwood to be highly credible and will assign great weight to his testimony.

c) Dr. Adrienne Jones

The Alpha Phi Alpha Plaintiffs³⁷ proffered and the Court qualified Dr. Jones as an expert in history of voting rights, voting-related discrimination, race and politics, and Black political development, but not various sections of the

³⁷ The Parties consented to allow Dr. Jones’s trial testimony, the portions of her report that were directly referenced in the trial, and APAX 31, 266, DX 59 to apply across all three cases. Tr. 1244:10–1245:8, 1504:18–1505:10.

Civil Rights Act. Tr. 1149:8–11, 1158:2–5. Dr. Adrienne Jones received her Bachelor of Arts in Modern Culture and Media (Semiotics) from Brown University, her Juris Doctor from the University of California at Berkley, her Masters and Ph.D. in political science from City University of New York Graduate Center. APAX 2, 4. Currently, Dr. Jones is an assistant professor of political science at Morehouse College in Atlanta, Georgia where she teaches political science and also serves as the Pre-Law Director. Id. at 4. Dr. Jones has written a doctoral dissertation and two peer-reviewed articles on the Voting Rights Act. Id. She is currently writing a book on the VRA. Id.

In addition to this case, Dr. Jones served as an expert witness in Fair Fight Action v. Raffensperger, 634 F. Supp. 3d. 1128 (N.D. Ga. 2022), which was decided by this Court. In Fair Fight, the Court credited Dr. Jones’s testimony as it related to the historical backdrop pertinent to Section 2 of the VRA. Id. at 1171. The Court gave less weight to the testimony regarding matters that occurred after 1990 and present voting practices. Id.

Having observed Dr. Jones’s demeanor and testimony, the Court finds that her testimony was internally consistent and she was able to thoroughly answer

questions on direct and cross examination that relate to the topics that she was qualified. The Court notes that on *voir dire*, Dr. Jones's testimony regarding various aspects of the Civil Rights Act were inconsistent with current law. Accordingly, the Court assigns little to no weight to testimony about the legal requirements under the Civil Right Act, to which Dr. Jones was not qualified as an expert. As to the portions of Dr. Jones's testimony for which she was qualified to testify, the Court finds it highly credible and will assign great weight to that testimony.

d) Dr. Traci Burch

The Alpha Phi Alpha Plaintiffs proffered and the Court qualified Dr. Burch as an expert on in political science, political participation and barriers to voting. Tr. 1041:25-1042:2, 1046:9-13. Dr. Burch has been an associate professor of political science at Northwestern University and a research professor at the American Bar Foundation since 2007. Tr. 1035:4-9. Dr. Burch received her Ph.D. in government and social policy from Harvard University, and her undergraduate degree in politics from Princeton University. Tr. 1034:19-1035:3.

Dr. Burch has published numerous peer-reviewed publications and a book on political participation, including publications focusing on Georgia, and she teaches several courses related to voting and political participation. Tr. 1036:12-18, 1037:15-1038:2. Dr. Burch has received several prizes and awards, including national prizes, for her book and her dissertation. Tr. 1037:2-14. She has served as a peer reviewer for flagship scholarly journals in her field of political science. Tr. 1036:19-24. Dr. Burch's research and writing involves conducting data analysis on voter registration files and voter turnout data. Tr. 1038:8-1039:1.

Dr. Burch has previously testified as an expert in six other cases, including voting rights cases where she offered expert testimony relating to a Senate Factor or the Arlington Heights framework. Tr. 1039:4-1040:23. Dr. Burch was qualified to serve as an expert in all of the cases in which she has testified. Tr. 1040:24-1041:1.

In preparing her report, Dr. Burch relied on sources and methodologies that are consistent with her work as a political scientist. Tr. 1047:23-1048:9; APAX 6, at 4. The Court finds Dr. Burch credible, her methodology sound, and her

conclusions reliable. Accordingly, the Court credits Dr. Burch's testimony and conclusions.

e) Dr. Jason Morgan Ward

The Alpha Phi Alpha Plaintiffs proffered and the Court qualified Dr. Ward as an expert in the history of Georgia and the history of racial politics in Georgia. Tr. 1333:17-19, 1335: 3-7. Dr. Ward has been a professor of history and at Emory University since 2018. Tr. 1331:1-4. He received his Ph.D., M.Phil, and M.A. in history from Yale University, and his undergraduate degree in history with honors from Duke University. Tr. 1330:17-19. Dr. Ward wrote his dissertation on civil rights and racial politics during the mid-20th century. Tr. 1330:20-24.

Dr. Ward has published numerous peer-reviewed publications and two books about the history of racial politics and violence in the South, including Georgia. Tr. 1332:17-1333:10; APAX 4, at 28-29. Dr. Ward has taught courses on the history of the modern United States, civil rights, race and politics, political violence and extremism, including courses that cover the history of racial politics in Georgia. Tr. 1331:2 – 1332:16.

In preparing his report, Dr. Ward relied on sources and methodologies that he would typically employ as a historian undertaking a historical analysis. Tr. 1335:17-1336:3. The Court finds Dr. Ward credible, his methodology for historical analysis sound, and his conclusions reliable. Accordingly, the Court credits Dr. Ward's testimony and conclusions.

2. Analysis

Given the widely overlapping nature of the evidence adduced in the three different cases and to avoid confusion about what evidence applies to which case, the Court will address its factual findings as they relate to the Senate Factors and the totality of the circumstances below in the conclusion of law section.

II. CONCLUSIONS OF LAW

A. Jurisdictional Considerations

In the Pretrial Order, Defendants raised affirmative defenses regarding constitutional and statutory standing. APA Doc. No. [280] at 23; Grant Doc. No. [243], 26; Pendergrass Doc. No. [231], 28. The Court now addresses these affirmative defenses and determines that, with the exception of claims against the SEB, Plaintiffs in all three cases have standing to bring these suits.

1. *Constitutional Standing*

Article III of the United States Constitution limits the courts to hearing actual “Cases” and “Controversies.” U.S. Const. art. III, § 2; see also Lujan v. Defenders of Wildlife, 504 U.S. 555, 559–60 (1992). Overall, the standing requirement arising out of Article III seeks to uphold separation-of-powers principles and “to prevent the judicial process from being used to usurp the powers of the political branches.” Clapper v. Amnesty Int’l USA, 568 U.S. 398, 408 (2013) (citations omitted).

To establish standing, a plaintiff must show three things:

First, the plaintiff must have suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Lujan, 504 U.S. at 560–61 (internal quotations, citations, and alterations omitted).

The standing challenges specifically identified by Defendant are as to (1) claims

by Plaintiff Sixth District AME (in Alpha Phi Alpha), and (2) claims against Defendant SEB (in Grant and Pendergrass).

a) Claims by the Sixth District AME

An organization may establish injury by invoking “associational standing,” which is established by proof that the organization’s members “would otherwise have standing to sue in their own right[.]” Friends of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc., 528 U.S. 167, 181 (2000). The Parties stipulate that the Sixth District AME has more than 500 member-churches in Georgia and that the member-churches of the Sixth District AME have tens of thousands of members across Georgia. Stip. ¶¶ 59–60. Sixth District AME specifically has churches located in Enacted SD- 16, SD-17, and SD-23 as well as in Enacted HD-74, HD-114, HD-117, HD-128, HD-1h33, HD-134, HD-145, HD-171, and HD-173. Stip. ¶¶ 61.

While the Defendant presented no argument on the associational standing issue by motion or at trial, it did propose the following conclusion of law after conclusion of the trial:

This Court determines that Plaintiff Sixth District of the African Methodist Episcopal Church does not have

associational standing because it has not established that it has individual members who are voters impacted by the enacted redistricting plans, but rather its membership consists of member churches. Churches do not vote and thus cannot have an injury for the district in which the churches reside.

APA Doc. No. [317] ¶ 147. However, in that same filing, Defendant conceded that Alpha Phi Alpha (as a named Plaintiff) has associational standing and that the individual plaintiffs have standing as to the districts in which they reside. Id. ¶ 145. Therefore, as a jurisdictional matter, it is unnecessary for the court to determine whether Sixth District AME h has standing. See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 264 n.9 (1977) (“Because of the presence of this plaintiff [who has demonstrated standing], we need not consider whether the other individual and corporate plaintiffs have standing to maintain the suit.”); Am. Civil Liberties Union of Ga. v. Rabun Cnty. Chamber of Comm., Inc., 698 F.2d 1098, 1108–09 (11th Cir. 1983) (“Because we have determined that at least these two individuals have met the requirements of Article III, it is unnecessary for us to consider the standing of the other plaintiffs in this action.”); see also Town of Chester v. Laroe Estates, Inc., 581 U.S. 433, 439 (2017) (“At least

one plaintiff must have standing to seek each form of relief requested in the complaint.”).

Here, it is unchallenged that the individual plaintiffs and Alpha Phi Alpha have constitutional standing to challenge the districts at issue in this suit. Alpha Phi Alpha Defendant’s single proposed conclusion of law regarding applicability of associational standing to the final plaintiff, Sixth District AME, thereby is insufficient for the Court to further consider Defendant’s affirmative defense as to this one plaintiff.

b) Claims against the SEB

In moving for summary judgment, the Grant and Pendergrass Defendants argued that the Grant and Pendergrass Plaintiffs’ injuries are not fairly traceable to or redressable by the SEB. Grant Doc. No. [190-1], 17-19; Pendergrass Doc. No. [175-1], 12-14. In denying the Motions for Summary Judgment, the Court acknowledged that Pendergrass and Grants Plaintiffs failed to adduce facts to support a finding of traceability of their injuries to the SEB. Nevertheless, when taking all inferences in the light most favorable to the Pendergrass and Grant Plaintiffs as nonmovants, the Court found that the broad language of the Georgia

statutes delineating the SEB's duties and roles in elections was sufficient to allow them to proceed to trial against the SEB. Grant Doc. No. [229], 28; Pendergrass Doc. No. [215], 26.

At trial, despite bearing the burden of proof and the Court's prompting in the summary judgement orders, Pendergrass and Grant Plaintiffs presented no evidence from which the Court could conclude that their injuries are traceable to the SEB.³⁸ Therefore, the Court concludes that the Grant and Pendergrass Plaintiffs lack standing to raise their claims against the SEB.³⁹

³⁸ Unlike reliance on the standing of at least one other plaintiff to find that all named Plaintiffs in Alpha Phi Alpha have standing, there is no authority to support reliance on standing against one named defendant to support standing as to other defendants. Therefore, the Court's reasoning with regarding to claims by Sixth District AME in Alpha Phi Alpha does not apply to claims brought against SEB in Grant and Pendergrass.

³⁹ Because the Secretary of State is a named defendant in both Grant and Pendergrass, the absence of standing with regard to claims against the SEB does not alter the relief available to Plaintiffs. The Secretary of State is responsible for administering the elections, therefore, the Court can "enjoin the holding of elections pursuant to the [Enacted] plan . . . and subsequently require elections to be conducted pursuant to a [legal] apportionment system" Larios v. Perdue, 306 F. Supp. 2d 1190, 1199 (N.D. Ga. 2003).

2. *Statutory Standing*

The question of statutory standing turns on whether the “statutory provision on which the claim rests properly can be understood as granting persons in the plaintiff’s position a right to judicial relief.” Warth v. Seldin, 422 U.S. 490, 500 (1975). The Supreme Court has clarified that the term “statutory standing” is “misleading, since the absence of a valid . . . cause of action does not implicate subject-matter jurisdiction, i.e., the court’s statutory or constitutional power to adjudicate the case.” Lexmark Int’l, Inc. v. Static Control Components, Inc., 572 U.S. 118, 128 n.4 (2014) (cleaned up). Under Lexmark, the question is whether the plaintiff “has a cause of action under the statute.” Id. at 128. The Court went on to explain that “a statutory cause of action extends only to plaintiffs whose interests fall within the zone of interests protected by the law invoked.” Id. at 129 (cleaned up).

In the cases before the Court, Defendants have done nothing more than assert an affirmative defense that Plaintiffs’ lack statutory standing. Because the question of statutory standing is not jurisdictional, the Court has no obligation to

delve into the issue without benefit of argument or evidence from Defendants. Moreover, the Court has already determined that a private right of action under Section 2 exists. See APA Doc. No. [65], 31–34; Grant Doc. No. [43], 30–33; Pendergrass Doc. No. [50], 17–20; see also Allen, 599 U.S. Ct. at 41 (affirming a preliminary injunction order, Singleton v. Merrill, 582 F. Supp. 3d 924, 1031–32 (N.D. Ala. 2022), which analyzed whether Section 2 provided a private right of action). Therefore, the Court has no difficulty concluding that Defendants have failed to carry their burden of establishing their affirmative defense based on statutory standing and rejects this affirmative defense.

B. Legal Standards

1. First Gingles Precondition

Under the first Gingles precondition, Plaintiffs must prove that the minority group exceeds 50% in the challenged area and that the minority group is sufficiently compact to draw a reasonably configured district. Wisc. Legis. v. Wisc. Elections Comm’n, 595 U.S. 398, 400, (2022). Ct. “A district will be reasonably configured . . . if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 599 U.S. at 18 (citing Ala. Legis. Black Caucus, 575 U.S. at 272). To determine whether Plaintiffs have met

the numerosity and compactness requirements, the Court must evaluate the specific challenged district and not the state as a whole. Cf. Ala. Legis. Black Caucus, 575 U.S. at 268 (“[T]he District Court’s analysis of racial gerrymandering of the State, [under [the Equal Protection Clause], ‘as a whole’ was legally erroneous.”).⁴⁰

2. *Second and Third Gingles Precondition*

The second Gingles precondition requires the Plaintiffs to show that “the minority group . . . is politically cohesive.” Gingles, 478 U.S. at 51. The third Gingles precondition requires the Plaintiffs to show that “the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances . . . usually to defeat the minority’s preferred candidate.” Id.

3. *Totality of the Circumstances: Senate Factors*

In a Section 2 case, after evaluating the Gingles preconditions, the final assessment to determine whether vote dilution has actually occurred requires

⁴⁰ Although Alabama Legislative Black Caucus concerned constitutional redistricting challenges, the Supreme Court applied its analysis to a Section 2 challenge in Allen. Allen, 143 S. Ct. at 1503, 1519.

“assess[ing] the impact of the contested structure or practice on minority electoral opportunities on the basis of objective factors.” Gingles, 478 U.S. at 44 (citations omitted). To do so, the Court looks at the VRA’s 1982 Amendments’ Senate Report, which specifies the factors relevant for a Section 2 analysis. “The totality of circumstances inquiry recognizes that application of the Gingles factors is ‘peculiarly dependent upon the facts of each case.’” Allen, 599 U.S. at 19 (quoting Gingles, 478 U.S. at 79). The totality of the circumstances’ inquiry is fact intensive and requires weighing and balancing various facts and factors, which is generally inappropriate on summary judgment. See Rose v. Raffensperger, 1:20-cv-2921-SDG, 2022 WL 670080, at *2 (N.D. Ga. Mar. 7, 2022) (“[T]he Court . . . cannot appropriately evaluate the totality of the circumstances before trial.”).

C. Congressional District

The Court finds that Pendergrass Plaintiffs successfully carried their burden in establishing that an additional majority-minority congressional district could be drawn in the west-metro Atlanta.

1. *First Gingles Precondition*

Pendergrass Plaintiffs have proven that they meet the first Gingles precondition. The first Gingles precondition requires plaintiffs to prove that the

“minority group [is] sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district.” Wisc. Legis., 595 U.S. at 402 (per curiam) (citing Gingles, 478 U.S. at 50–51). “A district will be reasonably configured . . . if it comports with traditional districting criteria, such as being contiguous and reasonably compact.” Allen, 599 U.S. at 18 (citing Ala. Legis. Black Caucus v. Alabama, 575 U.S., 254, 272 (2015)). The first Gingles precondition focuses on the “need[] to establish that the minority [group] has the potential to elect a representative of [their] own choice in some single-member district. Grove v. Emison, 507 U.S. 25, 40 (1993).

a) Numerosity

First, Pendergrass Plaintiffs have shown, both at the preliminary injunction and trial that Georgia’s Black population is sufficiently large to constitute a majority in an additional congressional district in west-metro Atlanta. “[A] party asserting § 2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” Bartlett v. Strickland, 556 U.S. 1, 20 (2009).

Mr. Cooper drew an illustrative plan that contains an additional majority-Black congressional district in west-metro Atlanta that balanced traditional redistricting criteria. Mr. Cooper submitted a similarly configured district at the preliminary injunction. DX 154. The Court instantly discusses both configurations for the purpose of showing that the population in this area of the State is sufficiently numerous because a majority-Black congressional district can be drawn in more than one way, contrary to Defendants submissions. See Feb. 7, 2022, Morning PI Tr. 21:5:8 (“[W]hile these are illustrative plans, the way they are configured are so tight in terms of population, there’s not really a whole lot of different ways to configure[.]”); Tr. 1806:2–19 (Mr. Morgan discussing that various districts in the Illustrative Plans are barely over 50% and took population from existing majority-Black districts to achieve the numerosity requirement). Illustrative CD-6 submitted both at the preliminary injunction hearing and at the trial (which was configured in Mr. Cooper’s December 5, 2022 Report) have an AP BVAP of 50.23%. Stip. ¶ 192; DX 20, 51 fig.9; PX 1, 73, fig.14.

Figure 9
BVAP and BCVAP Comparison in the Eight Modified Districts:
Illustrative Plan and 2021 Plan

District	Illustrative Plan			2021 Plan	
	% BVAP	% NH BCVAP		% BVAP	% NH BCVAP
03	20.92%	20.40%		23.32%	22.82%
04	52.40%	55.48%		54.52%	58.04%
06	50.23%	50.69%		9.91%	10.00%
09	11.66%	11.66%		10.42%	10.38%
10	14.31%	15.38%		22.60%	22.56%
11	13.27%	13.30%		17.95%	18.09%
13	51.40%	50.05%		66.75%	66.88%
14	5.17%	5.14%		14.28%	13.38%

DX 154 ¶ 51 fig.9 (preliminary injunction).

Figure 14
BVAP and BCVAP Comparison: Illustrative Plan and 2021 Plan

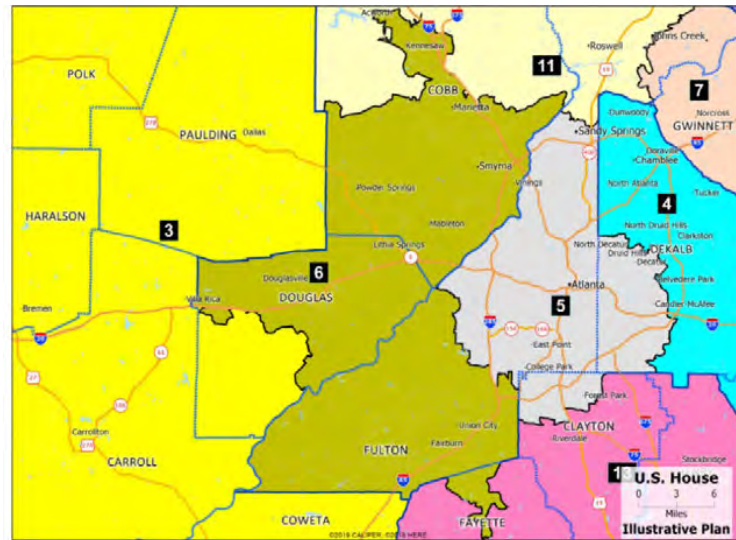
District*	Illustrative Plan				2021 Plan		
	% BVAP	% NH BCVAP	% NH DOJ BCVAP		% BVAP	% NH BCVAP	% NH DOJ BCVAP
1	28.17%	29.16%	29.67%		28.17%	29.16%	29.67%
2	49.29%	49.55%	50.001%		49.29%	49.55%	50.001%
3	20.47%	19.64%	20.02%		23.32%	22.53%	22.86%
4	52.77%	55.62%	56.37%		54.52%	57.71%	58.46%
5	49.60%	51.64%	52.35%		49.60%	51.64%	52.35%
6	50.23%	50.18%	50.98%		9.91%	9.72%	10.26%
7	29.82%	31.88%	32.44%		29.82%	31.88%	32.44%
8	30.04%	30.46%	30.76%		30.04%	30.46%	30.76%
9	11.66%	11.29%	11.74%		10.42%	10.03%	10.34%
10	14.31%	15.09%	15.39%		22.60%	22.11%	22.56%
11	13.67%	12.91%	13.48%		17.95%	17.57%	18.30%
12	36.72%	36.60%	37.19%		36.72%	36.60%	37.19%
13	51.13%	49.64%	50.34%		66.75%	66.36%	67.05%
14	5.17%	4.80%	5.19%		14.28%	13.19%	13.71%

*Bold font identifies districts that are changed from the 2021 Plan configuration.

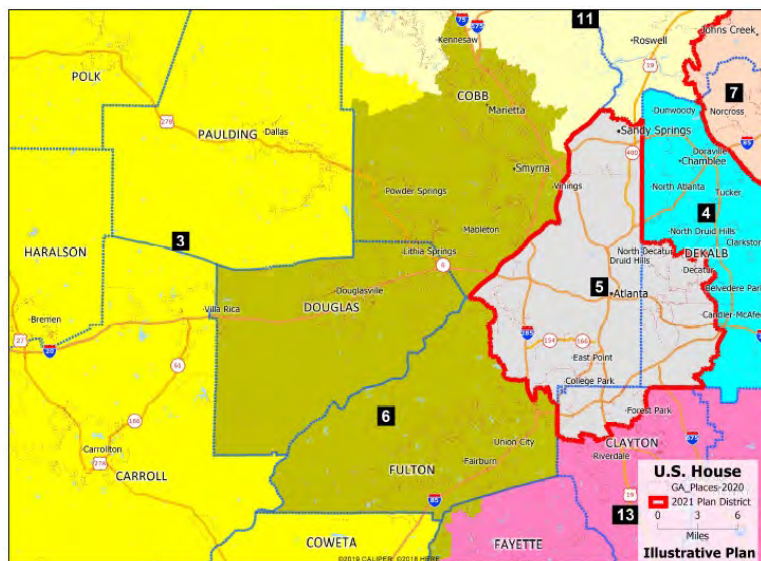
PX 1 ¶ 73 fig, 14 (trial plan).

The fact that Mr. Cooper has now successfully created two districts in this area exceeding 50% BVAP (one for the preliminary injunction hearing and one for the trial) despite changing the boundaries of the illustrative district,⁴¹ supports that the Black voting age population is sufficiently numerous in this area. Compare DX 20 ¶ 51, fig.9 (BVAP is 50.23%), with PX 1 ¶ 73, fig.14 (BVAP is 50.23%).

⁴¹ Although both maps are similar, the primary differences between the two configurations of Illustrative CD-6 are that in the preliminary injunction map, (1) Illustrative CD-6 did not keep Douglas County whole and (2) the southeastern part of the district reached into Fayetteville. Compare DX 154, Ex. K, with PX 1, Ex. I-2.



DX 154, Ex. K (preliminary injunction).



PX 1, I-2 (trial).

Accordingly, the Court concludes that Plaintiffs have shown that Georgia's Black population is large enough to constitute a majority in an additional congressional district in west-metro Atlanta.

b) Compactness

The Court further concludes that Pendergrass Plaintiffs have shown that Georgia's Black population in west-metro Atlanta is geographically compact to comprise a majority of the voting age population in an additional congressional district. Under the compactness requirement of the first Gingles precondition, plaintiffs must show that it is "possible to design an electoral district[] consistent with traditional redistricting principles[.]" Davis v. Chiles, 139 F.3d 1414, 1425 (11th Cir. 1998). The compactness inquiry "refers to the compactness of the minority population, not . . . the compactness of the contested district." League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 433 (2006) (hereinafter "LULAC") (citing Bush v. Vera, 517 U.S. 952, 997 (1996)).

"A district that reaches out to grab small and apparently isolated minority communities' is not reasonably compact." Id. (citing Vera, 517 U.S. at 979). The relevant factors for compactness under the first Gingles precondition include:

population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respect for political subdivisions, and uniting communities of interest. See Wesberry v. Sanders, 376 U.S. 1, 18 (1964) (population equality); LULAC, 548 U.S. at 433 (communities of interest); Vera, 517 U.S. at 959-60 (contiguity, eyeball test); Cooper v. Harris, 581 U.S. 285, 291, 312 (2017) (political subdivisions, partisan advantage, empirical compactness measures).

(1) *Empirical measures*

(a) **population equality**

Article I § 2 of the Constitution “requires congressional districts to achieve population equality ‘as nearly as is practicable.’” Abrams v. Johnson, 521 U.S. 74, 98 (1997) (quoting Wesberry, 376 U.S. at 7-8). This standard requires a mapmaker to “make a good-faith effort to achieve precise mathematical equality.” Karcher v. Daggett, 462 U.S. 725, 730 (1983) (internal quotation marks omitted) (quoting Kirkpatrick v. Preisler, 394 U.S. 526, 530-31 (1969)). A congressional plan achieves population equality when its districts are plus or minus one person. See Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1258 (finding that “Mr. Cooper’s Illustrative Congressional Map complies with the one-person, one-vote principle”

where he testified that “the districts are plus or minus one person” (internal quotation marks omitted)). It is undisputed that Mr. Cooper’s Illustrative Plan meets the population equality requirement and that the population deviations are limited to plus or minus one person from the ideal district population of 765,136. Stip. ¶ 197. Accordingly, the Court concludes that the Illustrative Congressional Plan achieves population equality.

(b) contiguity

Similarly, an illustrative district should not disregard traditional redistricting principles, such as contiguity. Allen, 599 U.S. at 18. A district is contiguous when it consists of “a single connected piece.” Lopez, 339 F. Supp. 3d at 607. As it is undisputed (Stip. ¶ 198), the Court concludes that all the districts in the Illustrative Congressional Plan are contiguous.

(c) compactness scores

The Court also finds that the Illustrative CD-6 is sufficiently compact using empirical measures. One way in which courts assess the compactness of the districts in an illustrative plan is by relying on “widely acceptable tests to determine compactness scores,” including “the Polsby-Popper measure and the Reock indicator,” Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections,

835 F. Supp. 2d 563, 570 (N.D. Ill. 2011). Mr. Cooper's Illustrative Congressional plan compares favorably on the empirical compactness scores to the Enacted Congressional Plan. The mean Reock score for the Illustrative Congressional Plan is 0.43 and is 0.44 on the Enacted Congressional Plan. PX 1, ¶ 79, fig.13. The mean Polsby-Popper score for the Illustrative Congressional Plan is 0.27 and the Enacted Congressional Plan is 0.27. Id. The Illustrative and Enacted Congressional Plans have identical Polsby-Popper scores and the Enacted Congressional Plan is 0.01 more compact using the Reock metric. Defendants' rebuttal mapping expert, Mr. Morgan, does not dispute that the Enacted and the Illustrative Congressional Plans have similar mean Reock scores and identical mean Polsby-Popper scores. Tr. 1948:22-1949:5. Accordingly, the Court finds that the Illustrative Congressional Plan is comparably as compact as the Enacted Congressional Plan.

With respect to the majority-Black districts, the Court finds that the Illustrative Congressional Plan compactness scores generally fared better or were equal to the Enacted Congressional Plan.

Districts	Illustrative Plan		Enacted Plan	
	Reock	Polsby-Popper	Reock	Polsby-Popper
004	0.28	0.22	0.31	0.25
005	0.51	0.32	0.51	0.32
006*	0.45	0.27	0.42	0.20
013	0.44	0.29	0.38	0.16

The asterisk (*) denotes the additional majority-Black district.

PX 1, Exs. L-1, L-3. Mr. Morgan's report's compactness measures are identical to Mr. Coopers. DX 4 ¶ 22 & chart 2.

The Court finds that Illustrative CD-6, the challenged district, is 0.03 more compact on Reock and 0.07 more compact on Polsby-Popper. The Court finds that Plaintiffs have sufficiently shown that the Illustrative CD-6 is slightly more compact, on empirical measures than the Enacted CD-6.⁴²

⁴² Additionally, the Court finds that Illustrative CD-13 is 0.06 more compact on Reock and 0.13 more compact on Polsby-Popper than Enacted CD-13. Illustrative CD-5 and Enacted CD-5 have identical compactness scores and Enacted CD-4 is 0.03 more compact than Illustrative CD-4 on both compactness measures. Thus, the challenged

(d) political subdivisions

The Court also finds that Illustrative CD-6 “respected existing political subdivisions, such as counties, cities, and towns.” Allen, 599 U.S. at 20. Illustrative CD-6 splits the same number of counties as the Enacted Plan, but has fewer county, VTD, and city and town split. PX 1 ¶ 81 & fig.14.

Figure 14
County, VTD, and Municipal Splits: Illustrative Plan, 2012 Benchmark, and 2021 Plan (All Districts)

	Split Counties*	County Splits*	2020 VTD Splits*	Split Cities/ Towns#	City/ Town Splits*
Illustrative Plan	15	18	43	37	78
2012 Benchmark Plan	16	22	43	40	85
2021 Plan	15	21	46	43	91

*Excludes unpopulated areas

*Out of 531 municipalities (calculated by subtracting the number of whole cities in the Maptitude report from 531)

PX 1 ¶ 81, fig.14.

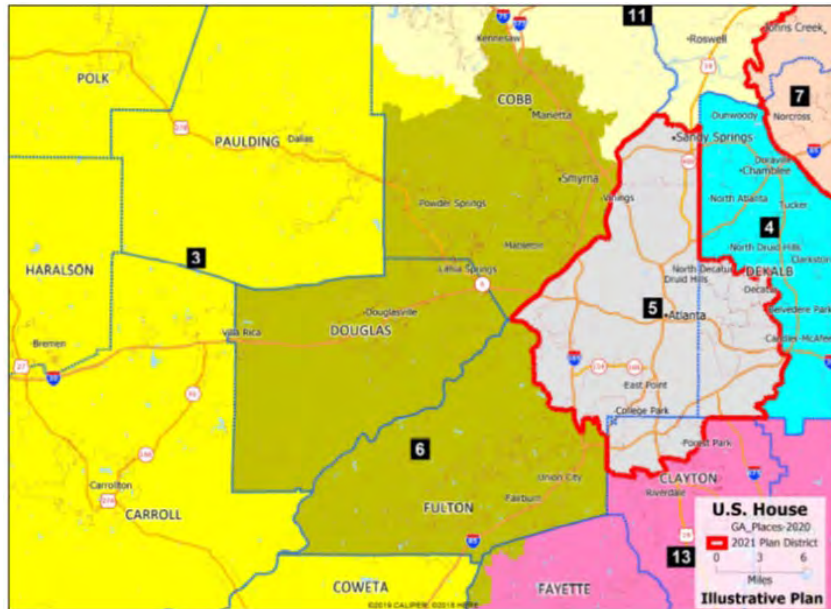
district, and the other majority-Black districts are comparably compact if not more compact than the Enacted majority-Black congressional districts.

Neither Defendants nor their experts have meaningfully suggested that the Illustrative Congressional Plan fails to respect city, town, and county lines. Accordingly, the Court finds that the Illustrative Congressional Plan respected more political subdivisions than the Enacted Congressional Plan.

(2) *Eyeball test*

The Court finds that Illustrative CD-6 is also visually compact. The eyeball test is commonly utilized to determine if a district is compact or not. See Allen, 599 U.S. at 60 n.10 (quoting Singleton, 582 F. Supp. 3d at 1011) (crediting the district court's findings that the illustrative maps were compact because they did not contain "tentacles, appendages, bizarre shapes or any other obvious irregularities"); Vera, 517 U.S. at 960 (crediting the district court's finding that the challenged district passed the eyeball test and was visually compact); Ala. State Conf. of NAACP v. Alabama, 612 F.Supp.3d at 1265 ("District 1 is contiguous and also passes the eyeball test for geographical compactness."); Comm. for a Fair & Balanced Map, 835 F. Supp. 2d at 571 (three-judge court) (stating that the district "passe[d] muster under the 'eyeball' test for compactness").

The Court finds that Illustrative CD-6 passes the eyeball test.



PX 1, Ex. I-2 (trial).

The district includes all of Douglas County, and portions of southern Fulton and southern Cobb Counties. Defendants' mapping expert, Mr. Morgan, does not dispute the visual compactness of Illustrative CD-6, nor did he testify about the district's visual compactness. DX 4. Unlike at the preliminary injunction, where there was questioning regarding the "fingers" into Fayetteville and Kennesaw to "pick-up" Black population, Illustrative CD-6 no longer reaches into Fayetteville. Doc. No. [73] 82:21-83:1, 86:6-12. At the trial, Defendants

elicited no testimony or questions about “fingers” branching off of Illustrative CD-6.

The Court finds that the district does not have any tentacles or appendages. Illustrative CD-6 is about 40 miles from top to bottom (Tr. 835:19–20), is contained in a relatively small area of the state and is completely within the metro-Atlanta counties. Accordingly, it lacks any similarities to the map in Miller, which spanned from metro Atlanta to Augusta, or LULAC, which stretched 300 miles along the southern border of Texas. Miller v. Johnson, 515 U.S. 900, 909 (1995); LULAC, 548 U.S. at 424. Thus, the Court finds that Illustrative CD-6 is visually compact.

(3) *Communities of interest*

The Court also concludes Illustrative CD-6 respects communities of interest. A district that “reaches out to grab small and apparently isolated minority communities” is not reasonably compact. Vera, 517 U.S. at 979. Plaintiffs “may not ‘assum[e] from a group of voters’ race that they think alike, share the same political interests, and will prefer the same candidates at the polls.’” LULAC, 548 U.S. at 433 (quoting Miller, 515 U.S. at 920; Shaw v. Reno, 509 U.S.

630, 647 (1993)). LULAC instructs district courts to account for “the characteristics, needs, and interests” of the minority community in the contested area. Id. at 434.

There is no bright line test for determining whether a district combines communities with common interests or disparate communities. Ms. Wright, the General Assembly’s map drawer testified that “[c]ommunities of interest are very hard to measure.” Tr. 1617:8. They could include, “a school attendance zone, . . . an incorporated city or town, . . . share[d] resources[,] . . . the same water authority[,] . . . a religious community that attends one facility.” Id. at 1617:12–1618:22. LULAC provides some guidance on what courts should consider. “[R]ural and urban communities[] could share similar interests and therefore form a compact district if the areas are in reasonably close proximity.” 548 U.S. at 435. However, when “the only common index is race” this is not a Section 2 remedy. Id. In LULAC, the Supreme Court held that the challenged district did not contain a community of interest because the district court found an enormous geographical distance separated one portion of the district from the other and the minority communities in the district had disparate needs and interests. Id.

In this case, the Court finds that there is sufficient evidence that Illustrative CD-6 is made up of communities of interest and does not combine disparate minority communities. Mr. Cooper testified that when he draws districts he “ha[s] to look at communities of interest.” Tr. 726:19. He stated that he respects communities of interest because he “look[s] at political subdivisions, particularly towns and cities, and tr[ies] to keep those areas all together in one--in one district.” Tr. 740:13–15. Specifically for Illustrative CD-6, he looked at the federally described 29-county Atlanta MSA and the Georgia defined 11-county core Atlanta area. Tr. 741:18–742:1. He further concluded that Illustrative CD-6 is a community of interest because it is wholly contained in suburban Atlanta. Tr. 799:2–7.

Pendergrass Plaintiffs also submitted the testimonial evidence of former General Assembly members Mr. Allen and Mr. Carter. The Court credits this testimony with respect to communities of interest. Both witnesses have served as representatives of metro Atlanta communities and Mr. Allen’s former district is within Illustrative CD-6.

Mr. Allen, a former member of the Georgia House of Representatives and a Smyrna resident, agreed that his neighbors, the Black residents of Illustrative CD-6, face the same transportation-related challenges, specifically involving “access, congestion, [and] infrastructure.” Tr. 1009:9–13. He testified that “[a]s a resident of this area,” he knows that these communities rely on the same interstates. Id. at 1009:4–8. Residents of these areas attend some of the same places of worship. Id. at 1009:17–22. Mr. Allen also explained that the residents of Illustrative CD-6 share an interest in receiving services from Grady Hospital, the only Level One Trauma Center in Metro Atlanta. Id. at 1019:24–1020:3.

Former Georgia State Senator and candidate for Governor Jason Carter also testified that Illustrative CD-6 constitutes a community of interest. He stated that all areas of the district can be described as suburbs of Atlanta. Tr. 966:11–19. He testified that all parts of the district are within a 20-to-40-minute drive of downtown Atlanta, without traffic. Tr. 967:22–968:5. It is an area that is growing and increasingly diversifying. Tr. 967:13–17. The individuals in the area use similar roadways and are impacted by Atlanta traffic patterns. Tr. 966:22–967:10.

Finally, he testified that the Chattahoochee river runs through the middle of the district.

Neither Defendants' experts nor Ms. Wright provided testimony disputing that Illustrative CD-6 unites communities of interest. The Court finds that Illustrative CD-6 combines areas of suburban metro Atlanta. The communities are relatively close in proximity. They share traffic concerns and have a common waterway. The Court finds that Illustrative CD-6 does not combine disparate minority communities, like the challenged district in LULAC (which stretched across 300 miles on the Texas border) or in Miller (which spanned from Augusta to Atlanta). Accordingly, the Court finds that Illustrative CD-6 respects the traditional districting principles of maintaining communities of interest.

(4) Core retention

Although not a typical traditional redistricting principle, the Court also finds that the Illustrative Congressional Plan retained many of the cores of the districts in the Enacted Congressional Plan. The Supreme Court recently called into question the importance of core retention for Section 2 Plaintiffs. "[T]his Court has never held that a State's adherence to a previously used districting plan

can defeat a § 2 claim. If that were the rule, a State could immunize from challenge a new racially discriminatory redistricting plan simply by claiming that it resembled an old racially discriminatory plan.” Allen, 599 U.S. at 22. Additionally, Ms. Wright testified that when she draws the new Plans, she starts with a blank map and not from the existing congressional plan, and then “work[s] with the data to create new districts.” Tr. 1622:11–17. Ms. Wright admitted to using the existing district “as a reference” for other measures, such as retaining core districts. Tr. 1622:18–20.

To the extent that core retention is relevant as a traditional redistricting principle, the Court finds that the Illustrative Congressional Plan retains a majority of the population’s districts. See generally DX 4. Pursuant to the data provided by Mr. Morgan, the Court finds that approximately 74.6% of voters would have the same congressional district as they do under the Enacted Congressional Plan. Id. In other words, only 25.4% of Georgians would be affected if Illustrative CD-6 were enacted into law. The following is a table is derived from the data in Mr. Morgan’s Report and that exemplifies the number

of individuals who remain in the same district under the Illustrative Congressional Plan.

**District # of individuals whose
district is unchanged**

001	765,137*
002	765,137*
003	528,200
004	736,485
005	765,137*
006	19,006
007	765,137*
008	765,136*
009	403,191
010	488,385
011	372,724
012	765,136*
013	374,470
014	475,707

The asterisk (*) denotes a district unchanged
on the illustrative map

DX 4, Ex. 7.

The ideal population size of a congressional district is 765,136 (plus or minus one person). As the chart above shows, six of the districts remain unchanged (Illustrative CD-1, CD-2, CD-5, CD-7, CD-8, CD-12). In the eight

changed districts, only three districts (Illustrative CD-6, CD-11, and CD-13) change more than half of the population's congressional district. These changes logically follow from the fact that Illustrative CD-6 is the new majority-minority district and CD-11 and CD-13 are two districts immediately surrounding it. Accordingly, the Court finds that the Illustrative Congressional Plan substantially retains the Enacted Congressional Plan's district cores.

(5) *Racial considerations*

Finally, the Court concludes that race did not predominate in the drawing of the Illustrative Congressional Plan. Allen recognized that “[t]he question whether additional majority-*minority* districts can be drawn . . . involves a ‘quintessentially race-conscious calculus.’” 599 U.S. at 31 (plurality opinion) (quoting Johnson v. De Grandy, 512 U.S. 997, 1020 (1994)). Consequently, “[t]he contention that mapmakers must be entirely ‘blind’ to race has no footing in our § 2 case law. The line that we have long since drawn is between consciousness and predominance.” Id. at 33 (plurality opinion). Race does not predominate when a mapmaker “adhere[s] . . . to traditional redistricting criteria,” testifies that “race was not the predominant factor motivating his design process,” and

explains that he never sought to “maximize the number of majority-minority” districts. Davis, 139 F.3d at 1426; see also id. at 1425–26 (finding clear error with the district court’s finding of racial predominance based on an expert’s testimony that he was asked to draw additional majority-minority districts in an area with a high concentration of Black citizens).

During Defendants’ cross-examination of Mr. Cooper, questions were asked about whether race predominated when drawing the Illustrative Congressional Districts. Tr. 786:23–787:6. Mr. Cooper testified that he considered race among other traditional redistricting principles, balancing all considerations and did not allow any of them to predominate or subordinate the others. On this point, Mr. Cooper’s testimony is well summarized by the following:

I’m constantly balancing the traditional redistricting principles, which would include population equality, which must be plus or minus one or so in most states. I’m looking at the compactness of the district. The district has to be contiguous, it has to be connected with all parts. I have to look at communities of interest. I have to look at political subdivisions and try to keep those whole. And that’s sort of subsumed under communities of interest. And, finally, also I have to be cognizant of avoiding the dilution of the minority voting source.

Tr. 726:14–23.

As the Court noted above, Mr. Cooper's testimony was highly credible. Mr. Cooper expressly disclaimed that race predominated the drawing of any district, let alone Illustrative CD-6. Tr. 1744–2129; PX 1. It does not appear from the face of the Illustrative Congressional Plan that race predominated its creation. Compare PX 1, Ex. I-2 (creating an additional majority-minority district that is wholly contained within four counties), with Miller, 512 U.S. at 108–09 (a district that stretched from Augusta, Georgia to Atlanta, Georgia). The Court finds that the evidence shows that Mr. Cooper was aware of race when he drew the Illustrative Congressional Plan, but that race did not predominate the configuration of its districts. Accordingly, the Court finds that the Pendergrass Plaintiffs have sufficiently proven that race did not predominate over the drawing of the Illustrative Congressional Plan, or Illustrative CD-6.

(6) *Possible remedy*

In Nipper, the Eleventh Circuit held that “the first threshold factor of Gingles [] require[s] that there must be a remedy within the confines of the state’s judicial model that does not undermine the administration of justice.” Nipper v. Smith, 39 F.3d 1494, 1531 (11th Cir. 1994). The Eleventh Circuit later clarified that

“[t]his requirement simply serves ‘to establish that the minority has the potential to elect a representative of its own choice from some single-member district.’” Burton v. City of Belle Glade, 178 F.3d 1175, 1199 (11th Cir. 1999) (quoting Nipper, 39 F.3d at 1530). Additionally, “[i]f a minority cannot establish that an alternate election scheme exists that would provide better access to the political process, then the challenged voting practice is not responsible for the claimed injury.” Id.; see also Brooks v. Miller, 158 F.3d 1230, 1239 (11th Cir. 1998) (holding that “[i]f the plaintiffs in a § 2 case cannot show the existence of an adequate alternative electoral system under which the minority group’s rights will be protected, then the case ends on the first prerequisite”).

Under Nipper, the question of remedy depends on whether the alternate scheme is a “workable remedy within the confines of the state’s system of government.” Nipper, 39 F.3d at 1533. For example, in Wright v. Sumter Cnty. Bd. of Elections and Registration, 979 F.3d 1282, 1304 (11th Cir. 2020), the Eleventh Circuit found that the first Gingles precondition had been met because the special master’s maps showed that at least three majority-Black districts could have been drawn in that area, meaning “that a meaningful remedy was available.”

The Court has already determined that there is Record evidence that the minority population in Illustrative CD-6 is sufficiently compact. As is stated above, the Court finds that Mr. Cooper's Illustrative Congressional Plans, both from the preliminary injunction hearing and the trial, prove it is possible to draw an additional majority-Black congressional district in west-metro Atlanta. PX 1, I-2, DX 154, Ex. K. The Illustrative Congressional Plan achieves population equality and each district is plus or minus one person. PX 1 ¶ 48. All of the districts are contiguous. Stip. ¶ 198. The Illustrative Congressional Plan is comparably as compact as the Enacted Plan. PX 1 ¶ 81 & fig.14. Visually speaking, Illustrative CD-6 is compact and does not contain any tentacles or appendages. See Section II(D)(2)(b)(3) *supra*. The Illustrative Congressional Plan unites communities of interest. See Section II(D)(2)(b)(4) *supra*. The Illustrative Congressional Plan leaves approximately 75% of the Enacted Plan intact. DX 4 at 48-50; Tr. 1945:10-13. And there is substantial, un rebutted, evidence and testimony that race did not predominate the creation of the Illustrative Congressional Plan. Tr. 726:14-23.

Furthermore, Mr. Cooper testified that he used the General Assembly's guidelines to inform his decisions when drawing the Illustrative Congressional Plan. Tr. 818:18–20. Thus, the Court finds that the General Assembly could implement the Illustrative Congressional Plan, because Mr. Cooper used the legislative guidelines.

To the extent, that Defendants have argued that the General Assembly would have been barred from implementing this map because it impermissibly took race into consideration, the Supreme Court recently rejected this proposition. Allen, 599 U.S. at 1512 (plurality opinion), 1518. The Eleventh Circuit, moreover, has long held that the first Gingles precondition specifically requires that Plaintiffs' proposed maps consider race.⁴³ Davis, 139 F.3d at 1425–26.

⁴³ Additionally, the Supreme Court has stated that upon showing of racial predominance, the state must "satisfy strict scrutiny" by demonstrating that the race-based plan "is narrowly tailored to achieve a compelling interest"). In this context, narrow tailoring does not "require an exact connection between the means and ends of redistricting," but rather just "'good reasons' to draft a district in which race predominated over traditional districting criteria." Ala. Legis. Black Caucus, 231 F. Supp. 3d at 1064 (quoting Ala. Legis. Black Caucus, 575 U.S. at 278). Miller, 515 U.S. at 920. The U.S. Supreme Court has "assume[d], without deciding, that . . . complying with the Voting Rights Act was compelling." Bethune-Hill v. Va. State Bd. of Elections, 580

Here, the Court found that race did not predominate the drawing of the Illustrative Congressional Plan and therefore, the State could implement it without violating the Constitution. Accordingly, the Court finds that the Illustrative Congressional Plan satisfies Nipper's remedial requirement.

(7) *Conclusions of law*

In sum, the Court concludes that the Illustrative Congressional Plan meets or exceeds the Enacted Congressional Plan on all empirical measures. Accordingly, the Court finds that on the objective comparable measures, the Illustrative Congressional Plan is as compact as the Enacted Congressional Plan. The Court also finds that the Illustrative Congressional Plan is compact on the eyeball test, respects communities of interest, and retains the majority of the cores from the Enacted Congressional Plan. Finally, the Court finds that the Enacted Congressional Plan could be enacted as a possible remedy because it complies with traditional redistricting principles and race did not predominate in its

U.S. 178, 193 (2017). Indeed, the redistricting guidelines adopted by the General Assembly confirm that Georgia understands compliance with the Voting Rights Act to be a compelling state interest. See JX1-2.

creation. Accordingly, the Pendergrass Plaintiffs carried their burden in showing that the minority community in west-metro Atlanta is sufficiently large and compact to warrant drawing an additional majority-Black district. Accordingly, the Court finds that Pendergrass Plaintiffs have successfully proven the first Gingles precondition.

2. *Second Gingles Precondition*

The Court turns to the second and third Gingles preconditions. As the Court examined more thoroughly in its Order on the Pendergrass Motions for Summary Judgment (Pendergrass, Doc. No. [215], 48–65), to satisfy the second and third Gingles preconditions, plaintiffs must show (1) the existence of minority voter political cohesion and (2) that the majority votes as a bloc, usually to defeat the minority voter’s candidate of choice. As a part of these preconditions, plaintiffs do not have to prove that race is the sole or predominant cause of the voting difference between the minority and majority voting blocs, nor must plaintiffs disprove that other race-neutral reasons, such as partisanship, are causing the racial bloc voting.

The second Gingles precondition requires plaintiffs to show that “the minority group . . . is politically cohesive.” Gingles, 478 U.S. at 51. “The second [precondition], concern[s] the political cohesiveness of the minority group [and] shows that a representative of its choice would in fact be elected.” Allen, 599 U.S. at 19. Plaintiffs can establish minority cohesiveness by showing that “a significant number of minority group members usually vote for the same candidates.” Solomon v. Liberty Cnty., 899 F.2d 1012, 1019 (11th Cir. 1990) (Kravitch, J., specially concurring); see also Gingles, 478 U.S. at 56 (“A showing that a significant number of minority group members usually vote for the same candidates is one way of proving the political cohesiveness necessary to a vote dilution claim, and, consequently, establishes minority bloc voting within the context of § 2.” (internal citations omitted)). The Court finds that Pendergrass Plaintiffs have successfully proven that the minority group in the challenged area is politically cohesive.

Courts generally rely on statistical analyses to estimate the proportion of each racial group that voted for each candidate. See, e.g., Gingles, 478 U.S. at 52–54; Nipper, 39 F.3d at 1505 n.20. Courts have recognized ecological inference

(“EI”) as an appropriate analysis for determining whether a plaintiff has satisfied the second and third Gingles preconditions. *See, e.g., Rose v. Raffensperger*, 584 F. Supp. 3d 1278, 1294 (N.D. Ga. 2022); *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 691 (S.D. Tex. 2017); *Benavidez v. City of Irving*, 638 F. Supp. 2d 709, 723–24 (N.D. Tex. 2009); *Bone Shirt*, 336 F. Supp. 2d at 1003, *aff’d* 461 F.3d 1011 (8th Cir. 2006). Both Drs. Palmer and Alford testified that EI is a reliable method for conducting the second and third Gingles’ preconditions analyses. Tr. 2250:12–16; 401: 7–9.

Pendergrass Plaintiffs polarization expert, Dr. Palmer, concluded that in the 40 statewide general elections examined, in both the congressional focus area (i.e., Enacted CD-3, 6, 11, 13, and 14) and each congressional district, Black voters had clearly identifiable candidates of choice. Stip. ¶¶ 218, 220–21; PX 2 ¶ 16, tbl.1 & figs.2–3, 5; Tr. 414:25–416:13, 417:16–418:4. On average, Black voters supported their candidates of choice with 98.4% of the vote. Stip. ¶ 219; PX 2 ¶¶ 7,16. Defendants’ rebuttal expert on racially polarized voting, Dr. John Alford, does not dispute Dr. Palmer’s conclusions as to the second Gingles precondition. DX 8, 3; Tr. 2250:12–2251:9. Additionally, the Parties stipulated that “Black voters in

Georgia are extremely cohesive, with a clear candidate of choice in all 40 general elections Dr. Palmer examined.” Stip. ¶ 218.

The Court finds that the second Gingles precondition is satisfied here because Black voters in Georgia are extremely politically cohesive. See 478 U.S. at 49. “Bloc voting by blacks tends to prove that the [B]lack community is politically cohesive, that is, it shows that [B]lacks prefer certain candidates whom they could elect in a single-member, [B]lack majority district.” Id. at 68. Dr. Palmer’s analysis clearly demonstrates high levels of cohesiveness among Black Georgians in supporting their preferred candidates, both across the congressional focus area and in the individual districts that comprise it. In Allen, the Supreme Court credited the lower court’s finding of “very strong” Black voter cohesion in Alabama, with an average of 92.3%. 599 U.S. at 22. Here in Georgia, Black voter cohesion is even stronger, with an average of 98.4%.⁴⁴ Stip. ¶¶ 218–19.

⁴⁴ The record evidence does not dispute, and even reiterates, conclusions made in prior cases about political cohesion among Black Georgians. See, e.g., Wright, 301 F. Supp. 3d at 1313 (noting that, in ten elections for Sumter County Board of Education with Black candidates, “the overwhelming majority of African Americans voted for the same

Accordingly, the Court finds that Pendergrass Plaintiffs have successfully carried their burden and proven that Black voters in the challenged area are politically cohesive.

3. *Third Gingles Precondition*

The third Gingles precondition requires plaintiffs demonstrate that “the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” Gingles, 478 U.S. at 51. “[A] white bloc vote that normally will defeat the combined strength of minority support plus white ‘crossover’ votes rises to the level of legally significant white bloc voting.” Id. at 56. This precondition “establishes that the challenged districting thwarts a distinctive minority vote at least plausibly on account of race.” Allen, 599 U.S. at 19 (cleaned up) (quoting Grove, 507 U.S. at 40). No specific threshold percentage is required to demonstrate bloc voting. Gingles, 478 U.S. at 56 (“The amount of white bloc voting that can generally ‘minimize or cancel’ black voters’ ability to

candidate”); Lowery v. Deal, 850 F. Supp. 2d 1326, 1329 (N.D. Ga. 2012) (“Black voters in Fulton and DeKalb counties have demonstrated a cohesive political identity by consistently supporting [B]lack candidates.”).

elect representatives of their choice . . . will vary from district to district.” (citation omitted)).

Pendergrass Plaintiffs’ polarization expert, Dr. Palmer, demonstrated (and the Parties have stipulated) that white voters in the congressional focus area usually vote as a bloc to defeat Black-preferred candidates. Stip. ¶¶ 222–227. In each congressional district examined and in the focus area as a whole, white voters had clearly identifiable candidates of choice for every election examined. Id. ¶ 223; PX 2 ¶ 17 & figs.2–4; Tr. 414:25–416:13, 417:16–418:4. In the 40 statewide general elections examined, white voters were highly cohesive in voting in opposition to the Black candidate of choice. Stip. ¶ 222. On average, Dr. Palmer found that white voters supported Black-preferred candidates with an average of just 12.4% of the vote. Id. ¶ 223. In other words, white voters on average supported their preferred candidates with an estimated vote share of 87.6%.⁴⁵

⁴⁵ The Court notes that the Black preferred candidate in all of the examined races was the Democrat candidate and the white -preferred candidate was a Republican. Stip. ¶¶ 194, 215–16. The Court finds that the inquiry into whether partisanship is the motivating factor behind the polarization is not relevant to the Gingles precondition inquiry, but may be relevant to the overall totality of the circumstances. See Section II(D)(4)(b), *infra*.

Overall, Dr. Palmer found “strong evidence of racially polarized voting across the focus area” as a whole and in each individual congressional district he examined. PX 2 ¶¶ 7, 19; Tr. 398:17–21, 418:5–8. As a result of this racially polarized voting, candidates preferred by Black voters in the focus area have generally been unable to win elections outside of majority-Black districts. Tr. 419:11–420:2. Excluding the majority-Black Congressional District 13, white bloc voting defeated Black-preferred candidates in all 40 elections in the focus area that Dr. Palmer examined. Stip. ¶¶ 225, 227; PX 2 ¶ 22. Defendants have offered no evidence suggesting that this is no longer the case. To the contrary, just as with the second Gingles precondition, the parties have stipulated to satisfaction of the third Gingles precondition. Stip. ¶ 225.

The Court concludes that Dr. Palmer’s analysis demonstrates high levels of white bloc voting in the congressional focus area and in the individual districts that comprise it. The Court also finds that candidates preferred by Black voters are almost always defeated by white bloc voting except in those areas where they form a majority. The evidence of polarization is stronger in this case than it was in Allen: in Georgia, only 12.4% of white voters support Black-preferred

candidates, whereas in Alabama 15.4% of white voters supported Black-preferred candidates. Allen, 599 U.S. at 22. There the Supreme Court affirmed that there was “very clear” evidence of racially polarized voting. Id. Thus, this Court likewise finds “very clear” evidence of racially polarized voting in the challenged district. ⁴⁶ Accordingly, the Court concludes that Pendergrass Plaintiffs’ evidence demonstrates that white voters vote in opposition to and typically defeat Black preferred candidates and thus Pendergrass Plaintiffs have carried their burden as to the third Gingles precondition.

* * * *

⁴⁶ Again, the evidence in this case does not dispute, and even reiterates, conclusions made in prior cases about racially polarized voting. See, e.g., Fair Fight Action, 634 F. Supp. 3d at 1247 (finding racial polarization in Georgia voting); Whitest v. Crisp Cnty. Bd. of Educ., No. 1:17-CV-109 LAG, 2021 WL 4483802, at *3 (M.D. Ga. Aug. 20, 2021) (“African Americans in Crisp County are politically cohesive in elections for members of the Board of Education, but the white majority votes sufficiently as a bloc to enable it to defeat the candidates preferred by Black voters in elections for members of the Board of Education.”); Wright, 301 F. Supp. 3d at 1317 (finding that “[t]he third Gingles factor is satisfied” after concluding that “there can be no doubt black and white voters consistently prefer different candidates” and that “white voters are usually able to the defeat the candidate preferred by African Americans”).

The Court concludes that the Pendergrass Plaintiffs have carried their burden in proving the three Gingles preconditions. Accordingly, the Court now turns to the totality of the circumstances inquiry.

4. *Totality of the Circumstances*

The Court must determine whether Georgia's political process is equally open to the affected Black voters. Wright, 979 F.3d at 1288 ("[I]n the words of the Supreme Court, the district court is required to determine, after reviewing the 'totality of the circumstances' and, 'based upon a searching practical evaluation of the past and present reality, whether the political process is equally open to minority voters.'" (quoting Gingles, 478 U.S. at 79)); Solomon v. Liberty Cnty. Com'rs, 166 F.3d 1135, 1148 (11th Cir. 1999), vacated 206 F.3d 1054 (acknowledging that the Third, Fifth, and Tenth Circuits have found it to be "unusual" or "rare" if a plaintiff can establish the Gingles preconditions, but fail to establish a Section 2 violation on the totality of the circumstances (quoting Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ., 4 F.3d 1103, 1135 (3d Cir. 1993); Sanchez v. Colorado, 97 F.3d 1303, 1322 (10th Cir. 1996)) (citing Clark v. Calhoun Cnty., 21 F.3d 92, 97 (5th Cir. 1994)).

a) **Totality of circumstances inquiry: purpose and framework**

For a Section 2 violation to be found, the Court must conduct “an intensely local appraisal” of the electoral mechanism at issue, as well as a “searching practical evaluation of the ‘past and present reality.’” Allen, 599 U.S. at 19 (citing Gingles, 478 U.S. at 79). The purpose of this appraisal is to determine the “essential inquiry” of a Section 2 case, which is “whether the political process is *equally open* to minority voters.” Ga. State Conf. of the NAACP, 775 F.3d at 1342 (emphasis added) (quoting Gingles, 478 U.S. at 79). Put differently, the totality of the circumstances inquiry ensures that violations of Section 2 may only be found when “members of the protected class have *less opportunity* to participate in the political process.” Chisom v. Roemer, 501 U.S. 380, 397 (1991) (emphasis added).

Over the last fifty years Georgia has become increasingly more politically open to Black voters and in recent elections Black candidates have enjoyed success—five of Georgia’s representatives to the United States House of Representatives and one of its Senators are Black. Although the Court commends the progress that Georgia has made since 1965, when weighing the Senate Factors, the Court finds that the Enacted Congressional Plan dilutes Black voting power

in west-metro Atlanta. The Enacted Congressional Plan in west metro-Atlanta has resulted in Black voters having less of an opportunity to participate equally in the political process than white voters. Gingles, 478 U.S. at 79; Chisom, 501 U.S. at 397. The whole of the evidence shows that the political process is not currently *equally* to Black Georgians in west-metro Atlanta – Black voters still suffer from *less* opportunity to partake in the political process in the area than white voters. Thus, given the consideration of the factors named *infra*, the Court determines that the totality of the circumstances inquiry supports finding a Section 2 violation in this case and that an additional majority-minority congressional district must be drawn in the western-metro Atlanta area.

Turning to the legal framework guiding the totality of the circumstances inquiry: the totality inquiry focuses on a number of non-comprehensive and non-exclusive Senate Factors. Ga. State Conf. of the NAACP, 775 F.3d at 1342. The Senate Factors include: (1) “the history of voting-related discrimination in the State or political subdivision”; (2) “the extent to which voting in the elections of the State or political subdivision is racially polarized”; (3) “the extent to which the State or political subdivision has used voting practices or procedures that

tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting”; (4) “the exclusion of members of the minority group from the candidate slating processes”; (5) “the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process”; (6) “the use of overt or subtle racial appeals in political campaigns”; and (7) “the extent to which members of the minority group have been elected to public office in the jurisdiction.” Gingles, 478 U.S. at 44–45. Furthermore, “[t]he [Senate] Report notes also that evidence demonstrating [8] that elected officials are unresponsive to the particularized needs of the members of the minority group and [9] that the policy underlying the State’s . . . use of the contested practice or structure is tenuous may have probative value.” Gingles, 478 U.S. at 45.

The Court now will consider and weigh each of these factors in addition to the proportionality of Black citizens to majority-Black districts and the State’s changing demographics. Again, the Court ultimately concludes that the totality

of the circumstances’ inquiry weighs in favor of finding a Section 2 violation in the Pendergrass Plaintiffs’ case.⁴⁷

b) Senate Factor One and Three: historical evidence of discrimination and State’s use of voting procedures enhancing opportunity to discriminate

The Court first turns to Georgia electoral practices, both past and present, that bear on discrimination against Black voters under Senate Factors One and Three.⁴⁸ Senate Factor One focuses on “the extent of any history of official discrimination in the state . . . that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process[.]” Gingles, 478 U.S. at 36-37. Senate Factor Three “considers ‘the extent to which the State or political subdivision has used voting practices or procedures

⁴⁷ Although Dr. Jones was solely retained as an expert in the Alpha Phi Alpha case, the Court notes that at the trial, the Parties consented to adopt the testimony of Dr. Jones into the Pendergrass Plaintiffs’ case-in-chief. Tr. 1244:10–1245:8, 1589:3–1591:21. Thus, the Court may rely on Dr. Jones’s trial testimony any portions of her report that were directly referenced at trial.

⁴⁸ The Court considers both Senate Factors One and Three together because there is significant overlap in the trial evidence for the two factors. Cf., e.g., Singleton, 582 F. Supp. 3d at 1020, aff’d sub nom. Allen, 599 U.S. 1 (considering Senate Factors One, Three, and Five together).

that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting.’’ Wright, 979 F.3d at 1295 (quoting Gingles, 478 U.S. at 44–45).

The Court finds that Pendergrass Plaintiffs have shown evidence of both past and present history in Georgia that the State’s voting practices disproportionately affect Black voters. Per guidance from binding authorities, the Court is careful in this analysis to assess both past *and present* efforts that have caused a disproportionate impact on Black voters. Indeed, “past discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful.” Greater Birmingham Ministries v. Sec’y of State for Ala., 992 F.3d 1299, 1325 (11th Cir. 2021) (quoting Mobile v. Bolden, 446 U.S. 55, 74 (1980)); see also Abbott v. Perez, 585 U.S. ----, 138 S. Ct. 2305, 2324 (2018) (explaining that “the presumption of legislative good faith [is] not changed by a finding of past discrimination”).

While present evidence of disproportionate impact is necessary, the Court’s reading of recent decisions is that past discrimination and

disproportionate effects cannot be overlooked. To be sure, the Supreme Court recently opined that Section 2 looks at both the *past* and present realities of Georgia's electoral mechanism by recounting Alabama's history of past discrimination from the Reconstruction Era. Allen, 599 U.S. at 19; see also id. at 14 ("For the first 115 years following Reconstruction, the State of Alabama elected no [B]lack Representatives to Congress."). In the wake of the Allen decision, Chief Judge Pryor recently clarified that "[p]ast discrimination *is relevant*" even if it is "one evidentiary source" that is "not to be outweighed." League of Women Voters of Fla. Inc. v. Fla. Sec'y of State, 81 F.4th 1328, 1332 (11th Cir. 2023) (Pryor, C.J., concurring in denial of rehearing en banc) (emphasis added) (quoting Abbott, 138 S. Ct. at 2325); see also id. ("Allen cited the 'extensive history of repugnant racial and voting-related discrimination' in Alabama as relevant to whether the political process today is 'equally open' to minority voters." (quoting Allen, 599 U.S. at 22)). Accordingly, the Court takes these cues from both recent Supreme Court and Eleventh Circuit jurisprudence and evaluates Georgia's practices of discrimination *past and present* as relevant evidence in the totality of the circumstances inquiry.

(1) *Historical evidence of discrimination broadly*

“Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” Wright, 301 F. Supp. 3d at 1310 (citation omitted). “African-Americans have in the past been subject to legal and cultural segregation in Georgia[.]” Cofield, 969 F. Supp. at 767. “Black residents did not enjoy the right to vote until Reconstruction. Moreover, early in this century, Georgia passed a constitutional amendment establishing a literacy test, poll tax, property ownership requirement, and a good-character test for voting. This act was accurately called the ‘Disfranchisement Act.’ Such devices that limited black participation in elections continued into the 1950s.” Id.

In this case, one of Pendergrass Plaintiffs’ expert witnesses opined that “[t]hroughout the history of the state of Georgia, voting rights have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state has passed legislation, and often used extralegal means, to

disenfranchise minority voters.” PX 4, 10; Tr. 1428:3–24. Another expert witness testified, Georgia has “used basically every expedient . . . associated with Jim Crow to prevent Black voters from voting in the state of Georgia.” Tr. 1161:20–1162:11.

During the trial, Defendants stipulated “up until 1990 we had historical discrimination in Georgia.” Tr. 1524:14–15. Thus, the unrebutted testimony and the extensive accounts of Georgia’s history of discrimination in Pendergrass Plaintiffs’ expert reports demonstrate that Georgia’s discriminatory history—including in voting procedures— spans from the end of the Civil War onward and have uncontrovertibly burdened Black Georgians. See, e.g., Tr. 1429:11–21.

(2) *Georgia practice from the passage of the VRA to 2000*

Congress enacted the Voting Rights Act of 1965 to address these discriminatory practices. One of the Voting Rights Act’s provisions was the preclearance requirement that prohibited certain jurisdictions with well-documented practices of discrimination—including Georgia—from making

changes to their voting laws without approval from the federal government. PX 4, 36; Tr. 1436:11–1437:6.

The Voting Rights Act, however, “did not translate to instant success” for Black political participation. PX 4, 36. Among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens by 1976. Id.; Tr. 1437:10–1438:3. These continued disparities following the VRA were at least caused because “Georgia resisted the Voting Rights Act . . . [and] for a period, it refused to comply[.]” Tr. 1163:9–1164:1. For example, a study found that local jurisdictions in Georgia and Mississippi “went ahead with election changes despite a pending preclearance request.” PX 4, 39. Even still, from 1965 to 1981, the Department of Justice objected to more than 200 changes submitted by Georgia, more than any other state in the country. Id.

Georgia’s history of discrimination against Black voters did not end in 1981. When the VRA was reauthorized in 1982, the Senate Report specifically cited to Georgia’s discriminatory practices that diminished the voting power of Black

voters. S. Rep. 97-417, at 10, 13 (1982). During the 1990 redistricting cycle, twice the DOJ rejected the State's reapportionment plans. PX 4, 42.

During the process of reauthorization of the Voting Rights Act in 2006, Georgia legislators "took a leadership position in challenging the reauthorization of the [A]ct." Tr. 1164:2-17. As Dr. Jones reminds us, "Georgia's resistance to the VRA is consistent with its history of resisting the expansion of voting rights to Black citizens at every turn." APAX 2, 9. Even following the 2000 Census, the district court in the District of Columbia refused to preclear the General Assembly's Senate plan because the court found "the presence of racially polarized voting" and that "the State ha[d] failed to demonstrate by a preponderance of the evidence that the reapportionment plan for the State Senate will not have a retrogressive effect." Georgia v. Ashcroft, 195 F. Supp. 2d 25, 94 (D.D.C. 2002), affirmed by King v. Georgia, 537 U.S. 1100 (2003).

(3) *More recent voting practices with a disproportionate impact on Black voters*

The Court concludes that Pendergrass Plaintiffs submitted evidence about more recent practices in Georgia which disproportionately impact Black voters and have resulted in a discriminatory effect. These practices include polling place

closures, voter purges, and the Exact Match requirement. Pendergrass Plaintiffs' also continually rely on the Georgia's General Assembly passage of SB 202 following the 2020 presidential election as evidence of recent and present discrimination disproportionately affecting Black voters.⁴⁹

Following Shelby County and the end of pre-clearance, the U.S. Commission on Civil Rights, found that Georgia had adopted five of the most common restrictions that impose roadblocks to the franchise for minority voters: (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting⁵⁰, and (5) widespread polling place closures. PX 4, 48–49 (citing

⁴⁹ On the Record, Dr. Burton clearly stated and the Court would like to reiterate, this Order, in no way states or implies that the General Assembly or Georgia Republicans are racist. Tr. 1473:18–1474:9. As articulated by Dr. Burton, “[n]o. I’m not saying that the legislature is [racist]—I am saying that some of the legislation that comes out has a disparity—it affects Black citizens differently than white citizens to the disadvantage of Black citizens, but I am not saying that they are racist. But the effect has a disparate impact among whites and Blacks and other minorities.” Tr. 1474:4–9. Section 2 of the VRA does not require the Court to find that the General Assembly passed the challenged maps to discriminate against Black voters, or that the General Assembly is racist in any way. Nothing in this Order should be construed to indicate otherwise.

⁵⁰ While it may have been true at the time of this report that Georgia had made cuts to early voting, the Court acknowledges Mr. Germany's trial testimony was that SB 202 increased early voting opportunities by adding two mandatory Saturdays and expressly permitted counties to hold early voting on Sundays, at their discretion. Tr. 2269:9–21.

U.S. Commission on Civil Rights, An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report (Washington, 2018), 369). No other State has engaged in all five practices. PX 4, 49.

The Court ultimately weighs the evidence submitted and determines that the present evidence of Georgia's voting practices show they had a disproportionately negative impact on Black voters. The Court proceeds by assessing Pendergrass Plaintiffs' evidence of (a) Georgia's practice of closing polling places, (b) Georgia's Exact Match requirement and purging of its registration lists, (c) the General Assembly's passage of SB 202, and (d) the State's rebuttal evidence of open and fair election procedures.⁵¹ The Court finally (e) renders its conclusion of law on this Senate Factor.

⁵¹ The Court may evaluate statewide evidence to determine whether Black voters have an equal opportunity in the election process. LULAC, 548 U.S. at 438 (2006) ("[S]everal of the [] factors in the totality of circumstances have been characterized with reference to the State as a whole."); see also Allen, 599 U.S. at 22 (crediting the three-judge court's findings of lack of equal openness with respect to statewide evidence (citing Singleton, 582 F. Supp. 3d at 1018-1024); Gingles, 478 U.S. at 80 (crediting district court's findings of lack of equal opportunity that was supported by statewide evidence (citing Gingles v. Edmisten, 590 F. Supp. 345, 359-75 (E.D.N.C. 1984))).

(a) polling place closures

The Court finds that there is compelling evidence that Georgia's recent closure of numerous polling places disproportionately impacts Black voters. In the wake of the Supreme Court's decision in Shelby County, "'dozens of polling places' were 'closed, consolidated, or moved.'" PX 4, 49 (citing Kristina Torres, "Cost-Cutting Raises Voter Access Fears," Atlanta Journal Constitution, (Oct. 13, 2016); Kristina Torres, "State Monitored For Voting Rights Issues," Atlanta Journal Constitution, (Jun. 20, 2016)).

By 2019, the Leadership Conference Education Fund determined that Georgia had closed over 200 polling locations since June of 2012, despite the significant growth in Georgia's population. PX 4, 50. "A 2020 study found that 'about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state's polling places.'" Id. (citing Stephen Fowler, "Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Their Numbers Have Soared, and Their Polling Places Have Dwindled," ProPublica, <https://www.propublica.org/article/why-do->

nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled, (Oct. 17, 2020)).

Specifically, in the challenged area (i.e., around Illustrative CD-6), “[i]n 2020, the nine counties in metro Atlanta that had nearly half of the registered voters (and the majority of the Black voters in the state)[, but] had only 38% of the state’s polling places.” PX 4, 51 (citing Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?”). In 2020, Union City, which is within Illustrative CD-6 and has a Black voting age population of 88%, had wait times as long as five hours. PX 4, 51 (citing Mark Niese and Nick Thieme, “Fewer Polls Cut Voter Turnout Across Georgia,” Atlanta Journal Constitution (Dec. 15, 2009); Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?”).

At trial, Dr. Burton testified about his findings as to polling place closures and his conclusion that they disproportionately impacted Black voters. Tr. 1432:21–25; 1441:2–21. These conclusions were not raised on cross examination. Tr. 1465:6–1494:14.

The Court concludes that Pendergrass Plaintiffs’ evidence of polling place closures—and, notably, in west-metro Atlanta where Pendergrass Plaintiffs

propose Illustrative CD-6 be drawn as an additional majority-minority district—is recent evidence of a voting practice with a disproportionate impact on Black voters.

(b) exact match and registration list purges

Pendergrass Plaintiffs’ evidence also shows Georgia’s voting practices include roadblocks to the voting efforts of minority voters in the form of the Exact Match system and the State’s purging of voter registration lists. PX 4, 49–51 (citing U.S. Commission on Civil Rights, An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report (Washington, 2018), 369).

These practices, however, have been determined in prior decisions by the Court to *not* be illegal under federal law. The prior decisions upholding the Exact Match requirement and registration list purges certainly impact the weight to afford these voting practices. However, in this case, the evidence shows—without contradicting the prior legal determinations—that these practices have a *disproportionate effect* on Black voters for purposes of the instant totality of the circumstances inquiry. Specifically, when these prior decisions are considered in

the light of the legal frameworks at issue, the Court finds that these practices can be used as evidentiary support of a disproportionate discriminatory impact on Black voters in Georgia without contradicting or minimizing the prior decisions upholding Georgia's laws.

Specifically, Georgia's Exact Match procedure was determined to not violate VRA's Section 2 because when the burden on voters, the disparate impact, and the State's interest in preventing fraud were considered together, the weighing of these considerations counseled against finding a violation. Fair Fight Action, 634 F. Supp. 3d at 1246. The Exact Match decision in Fair Fight relied on the Brnovich decision and emphasized that "the modest burdens allegedly imposed by [the Exact Match law], the small size of the disparate impact [on Georgia voters as a whole], and the State's justifications" did not support a Section 2 violation. Id. at 1245 (citing Brnovich v. Democratic Nat'l Comm., 594 U.S. ----, 141 S. Ct. 2321, 2346 (2021)). Even without a Section 2 violation, however, the Court found that the Exact Match requirement disproportionately impacted Black voters given that: Black voters were a smaller portion of the electorate but as of January 2020, 69.4% of individuals flagged as "missing identification

required” were African American, and 31.6% of the voters flagged for pending citizenship 31.6% were African American, whereas white voters only accounted for 20.9%. Fair Fight Action, 634 F. Supp. 3d at 1160, 1162; Tr. 1283:3–10. The Court’s decision in Fair Fight itself acknowledged that the Exact Match practice in Georgia has a *discriminatory impact* on Black voters – the inquiry specifically at issue here. When the Court considers Fair Fight’s determination in the light of the Civil Rights’ Commission’s report that generally Exact Match practices are a roadblock to minority voters, the Court concludes that this modern practice in Georgia supports that Georgia’s modern voting practices have a discriminatory effect on Black voters.

The same Fair Fight case also resolved on summary judgment (in favor of the State) claims that purges of voter registration lists violated the Constitution. Fair Fight Action, Inc. v. Raffensperger, No. 18-cv-5391, 2021 WL 9553856 (N.D. Ga. Mar. 31, 2021). The Anderson-Burdick framework governed this summary judgment resolution and notably did not require any showing or determination of racial discrimination. Id. Instead, the Court’s task was to balance the voter’s burden with the State’s interest in complying with federal law (i.e., the National

Voter Registration Act). 2021 WL 9553856, *at 15–18. The Court’s weighing of these considerations does not instantly preclude a finding that Georgia’s voter purges have a disproportionate impact on Black voters for purposes of the totality of the circumstances inquiry here. This is especially the case in the light of the expert evidence that these voter purges have minimized the “electoral influence of minority voters and particularly of Black Georgians.” PX 4, 2. Thus, the Court finds that, while not illegal under Anderson-Burdick, the voter purges provide some evidence of modern practices with disproportionate discriminatory impact on Black voters in Georgia.

Accordingly, while the Court is cognizant of the prior decisions upholding the Exact Match and registration list purges in Georgia, the Court still finds that these voting practices are *some* evidence indicating a disproportionate impact on Black voters.

(c) SB 202’s disparate impact

The Pendergrass Plaintiffs also cite to Georgia’s passage of SB 202 as evidence of modern discrimination. The General Assembly passed SB 202 following the 2020 Presidential election. PX 4, 53–56; Tr. 1474:10–1481:1. A

challenge to SB 202 is pending in the Northern District of Georgia and has not been resolved at the time the Court enters this Order.⁵² In re SB 202, 1:21-mi-55555 (N.D. Ga. Dec. 23, 2021). The Court acknowledges that the evidence presented in that case is not presently before this Court.⁵³ Given this pending challenge to SB 202, the Court proceeds cautiously in an effort of judicial restraint, which counsels against the Court preemptively making any findings that could lead to inconsistent rulings or implicate the ultimate determination of the legality of SB 202.

⁵² The Court notes that on October 11, 2023, the district court hearing the case ruled on a pending motion for preliminary injunction that involves Section 2 and constitutional challenges to several provisions in SB 202. In re SB 202, 1:21-mi-55555, ECF No. 686 (N.D. Ga. Oct. 11, 2023). The court denied the plaintiffs motions for preliminary injunction and found that there was not a substantial likelihood of success on the merits of any of their claims. Id. at 61. No rulings in that case are binding on this Court. McGinley v. Houston, 361 F.3d 1328, 1331 (11th Cir. 2004) (“[A] a district judge’s decision neither binds another district judge nor binds him”). However, the Court is cautious in its discussion of SB 202 to avoid inconsistent rulings and creating confusion.

⁵³ To be abundantly clear, this Court does not have a challenge to SB 202 before it. Plaintiffs’ experts have provided evidence regarding potential motivations behind SB 202 and the impact that its passage had on Black voters. APAX 2; PX 4; GX 4. And Defendants provided counter evidence. See Tr. 2261–2307 (testimony of Ryan Germany). The Court evaluates solely the evidence adduced in this case.

With these qualifications in mind, the Court cannot ignore that evidence on SB 202 has been presented by the Plaintiffs as proof of present discriminatory practices in Georgia's treatment of Black voters. PX 4, 53-55, Tr. 1474:10-1481:1.⁵⁴ Defendants likewise provided rebuttal testimony. See generally Tr. 2261-2307. The Court, treading cautiously, tethers its findings regarding SB 202 to the testimony and evidence provided by Pendergrass Plaintiffs' experts *for purposes of the totality of the circumstances inquiry on the Senate Factors*. Namely, the Court considers the passage of SB 202, once again, as some evidence of practices with a disproportionate impact on Black voters. This determination is made with the conclusion of Dr. Burton, Pendergrass Plaintiffs' expert, in mind: "[t]he history of Georgia demonstrates a clear pattern" (PX 4, 4), where "periods of increased nonwhite voter registration and turnout" have been followed by the state

⁵⁴ Drs. Burton and Jones concluded that certain portions of SB 202 have an actual or perceived negative impact on Black voters. See Tr. 1185:17-1186:16 (Dr. Jones opining that Black voters increased use of absentee ballots and their use of drop boxes correlated with the passage of SB 202); Tr. 1445: 1-25 (Dr. Burton opining that certain provisions of SB 202 were put in place because of the gains made by Black voters in the electorate).

[passing] legislation” to deter minority voters. PX 4, 10. Dr. Burton specifically cites the passage of SB 202 as evidence of this pattern. PX 4, 10.

Accordingly, the Court considers SB 202 as evidence of a current manifestation of a historical pattern that following an election, the General Assembly responsively passes voting laws that disproportionately impact Black voters in Georgia.

(4) *Defendant’s rebuttal evidence*

The Court now turns to Defendants’ rebuttal evidence. To begin, Defendants submit no rebuttal expert or report to Dr. Burton’s report and testimony. Tr. 1425:8–16. In fact, Defendants do not affirmatively rebut the aforementioned evidence with their own evidence. Instead, Defendants cross-examined Dr. Jones on the prior legal determinations that the Exact Match and list maintenance procedures utilized by Georgia. Tr. 1251:16–19. As the Court has already determined, it considers these prior judicial decisions as part of its weighing of this evidence. It also has assessed the basis for these prior decisions and has determined that it is not inconsistent with these prior rulings to now find that these voting practices have a discriminatory impact on Black voters for

purposes of the instant totality of the circumstances. See Section II(C)(4)(b)(3)(b) *supra*.

Defendants also, through lay witness testimony, submitted that Georgia has implemented legislation to make it easier for all voters to participate.⁵⁵ In favor of Defendants on these factors, the Court considers Mr. Germany's testimony about SB 202 indicates that the motive for passing the law was to alleviate stress on the electoral system and increase voter confidence. Tr. 2265:5–23. Moreover, SB 202, among other things, expanded the number of early voting days in Georgia. Tr. 1476:7–9. There's evidence that Georgia employs no-excuse absentee voting (Tr. 1476:10–13), automatic voter registration through the Department of Driver Services (Tr. 2263:12–20) and voters to register the vote using both paper registration and online voter registration (Tr. 2263:14–23).

⁵⁵ The Court notes that on cross-examination Mr. Germany explained that SB 202 received numerous complaints; however, he is unable to quantify whether those complaints primarily came from Black voters because the Secretary of State's Office does not analyze the impact of the legislation on particular categories of voters—i.e., white voters v. Black voters. In his opinion, that analysis is not helpful to the overall goal to “make it easy for everyone, regardless of race.” Tr. 2283:2–2285:5.

Georgia offers free, state-issued, identification cards that voters can use to satisfy Georgia's photo ID laws. Tr. 2264:15–22.

Additionally, the Court has also been presented with additional evidence that immediately prior to Shelby County, the DOJ precleared Georgia's 2011 Congressional Plan. Tr. 1471:14–17. Moreover, following the passage of SB 202, Georgia experienced record voter turnout in the 2022 midterm election cycle. Tr. 1480:3–9.

(5) *Conclusion on Senate Factors One and Three*

In sum, the majority of the evidence before the Court shows that Georgia has a long history of discrimination against Black voters. This history has persisted in the wake of the VRA and even into the present through various voting practices that disproportionately effect Black voters. Pendergrass Plaintiffs have provided concrete recent examples of the discriminatory impact of recent Georgia practices, some specifically in the challenged area of Illustrative CD-6.

Defendants have submitted some recent evidence of Georgia increasing the access and availability of voting. The evidence even shows that *overall* voter

turnout has increased in the most recent national election.⁵⁶ These efforts are commendable, and the Court is encouraged by these developments. In the Court's view, however, it is insufficient rebuttal evidence. Thereby, *in toto*, the Court concludes that Georgia has a history – uncontrovertibly in the past, and extending into the present – of voting practices that disproportionately impact Black voters. Thus, Senate Factors One and Three, on the whole, weigh in favor of finding a Section 2 violation.

c) Senate Factor Two: racial polarization

The second Senate Factor assesses “the extent to which voting in the elections of the State or political subdivision is racially polarized.” Wright, 979 F.3d at 1305 (quoting LULAC, 548 U.S. at 426). As indicated in the Pendergrass Summary Judgment Order (Doc. No. [215], 97), polarization is a factor to be considered in the totality of circumstances inquiry, in addition to the second and third Gingles preconditions. Pursuant to persuasive authority, the

⁵⁶ As discussed in greater detail, *infra*, Black voter turnout rate decreased by 15 points from the 2020 election cycle to the 2022 election cycle and recorded the lowest voter turnout rate in a decade. See Section II(D)(4)(e)(1) *infra*.

Court finds that when a Defendant has raised a race-neutral reason for the polarization, the Court must look beyond the straight empirical conclusions of polarization. See Nipper, 39 F.3d at 1524 (plurality opinion) (finding that Defendants may rebut evidence of polarization by showing racial bias is based on nonracial circumstances); Uno v. City of Holyoke, 72 F.3d 973, 983 (1st Cir. 1995) (stating that an inference of racial polarization “will endure *unless* and *until* the defendant adduces credible evidence tending to prove the detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system.”).

Defendants have consistently argued that partisanship is a race-neutral explanation for polarization of voters in Georgia. See, e.g., Tr. 2410:18–2411:14. In an intentional discrimination context, the Eleventh Circuit cautioned courts “against conflating discrimination on the basis of party affiliation on the basis of race [e]vidence of *race-based* discrimination is necessary to establish a constitutional violation.” League of Women Voters of Fla. Inc. v. Fla. Sec’y of State, 66 F.4th 905, 924 (11th Cir. 2023) (emphasis in original) (citing Brnovich, 141 S. Ct. at 2349). However, Chief Justice Roberts recently confirmed that a

Section 2 violation “occurs where an ‘electoral structure operates to minimize or cancel out’ minority voters’ ‘ability to elect their preferred candidates.’ Such as risk is greatest ‘where minority and majority voters consistently prefer different candidates’ and where minority voters are submerged in a majority voting population that ‘regularly defeat[s]’ their choices.” Allen, 599 U.S. at 1, 17–18.

The Court acknowledges that whether voter polarization is on account of partisanship and race is a difficult issue to disentangle. During an extended colloquy with the Court, Dr. Alford testified that “voting behavior is complicated” and that in his view democracy is about “voting for a person that follows their philosophy or they think is going to respond to their needs.” Tr. 2182:4–5; 2183:4–8. He went on to clarify that party identity and affiliation is exceptionally strong this country and starts at a young age. Tr. 2183:8–2184:6.

Dr. Alford concluded that, from the empirical evidence presented by Pendergrass Plaintiffs, one cannot causally determine whether the data is best explained by party affiliation or racial polarization. He specifically testified that:

[T]he kind of data that we use here, which is, you know ecological and highly abstract data, cannot demonstrate cohesion in sort of its natural form.

Much of the work on things like individual-level surveys, exit polls, et cetera, also make it very difficult in a non-experimental setting to demonstrate causation. It really takes an experimental setting. So there is some work done in experimental settings, but this is not an area of inquiry that is – scientific causation in the social sciences is very difficult to establish. This is not an area where there has been any work that’s established that.

Tr. 2226:7–18.

The Court is not in a position to resolve the global question of what causes voter behavior. Such question is empirically driven, and one in which the expert political scientists and statisticians did not agree. The Court can, however, assess the *evidence* of polarization presented at trial. In doing so, the Court determines that the Pendergrass Plaintiffs shown sufficient evidence of racial polarization in Georgia voting.

The Pendergrass Plaintiffs present Dr. Palmer’s report, indicating strong evidence of racial polarization in voting. PX 2; see also Section II(C)(2)–(3) *supra*. Plaintiffs also offered testimony about the strong connection between race and partisanship as it currently exists in Georgia. Tr. 424:5–8 (affirming that “race and party cannot be separated for the purpose of [Dr. Palmer’s] racial polarization analysis”); 1460:11–15 (“[O]ne party is highly supporting . . . issues that are most

important to minorities, particularly African Americans. And another party is not getting a good grade on how they're voting for them."); PX 4, 74 (indicating the "opposing positions that member's of Georgia's Democratic and Republican parties take on issues inexplicably linked to race.").

Defendants also argued that there must be evidence that voter's change their behavior based on the candidate to show that the polarization is race-based. Tr. 2409:25–2410:9. The Court finds that this is not a necessary precondition to determining whether voting is polarized on account of race. Race of a candidate is not dispositive for a polarization inquiry. DeGrandy, 512 U.S. at 1027 ("The assumption that majority-minority districts elect only minority representatives, or that majority-white districts elect only white representatives, is false as an empirical matter. And on a more fundamental level, the assumption reflects the demeaning notion that members of the defined racial groups ascribe to certain minority views that must be different from those of other citizens." (citation omitted)). The Court, however, finds that an assessment of the success of Black candidates in reference to different percentages of white voters, is good evidence that partisanship is not the best logical explanation of racial voting patterns in

Georgia. Cf. Johnson v. Hamrick, 196 F.3d 1216, 1221–22 (11th Cir. 1999) (“We do not mean to imply that district courts *should* give elections involving [B]lack candidates more weight; rather, we merely note that in light of existing case law district courts may do so without committing clear error.”).

Assuming *arguendo* that evidence of voter behavior in relation to the race of the candidate were required, Pendergrass Plaintiffs have provided evidence showing racial polarization based on the race of the candidate. Pendergrass Plaintiffs offer the expert opinions and testimony of Dr. Burton, who assessed the success of Black candidates in the light of the percentage of white voters in the district.

The following chart showcases his findings:

Winning Candidates in 2020 in Georgia House of Representatives

Percentage white registered voters in district	White Republicans ¹⁹⁷	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Winning Candidates in 2020 in Georgia State Senate

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

PX 4, 56 (footnote content omitted).

There is a meaningful difference in Black candidate success depending on the percentage of white voters in a district. When the white voter percentage is lowest, Black Democratic candidates have the most success. However, as the percentage of white voters increases, Black elected officials decreased. Id. And, when the white voter percentage reaches 47% (for the State Senate) or 55% (for

the State House) of the electorate no Black candidates are elected, even though white Democrats do achieve some success. PX 4, 56. These findings are consistent with Dr. Palmer's unrebutted findings about the challenged districts: Black voters voted for the same candidate, on average, 98.4% of the time and white voters voted for a different candidate, on average, 87.6% of the time. Stip. ¶ 223.

In contrast to Pendergrass Plaintiffs' evidence, Defendants' expert, Dr. Alford, rendered only descriptive conclusions based on Dr. Palmer's data set and, most importantly, did not offer additional support for a conclusion that voter behavior was caused by partisanship rather than race. DX 8. To be sure, Defendants did not offer any further evidence—quantitative or qualitative—in support of their theory that partisanship, not race, is controlling voting patterns in Georgia.

While the Court acknowledges that the Black preferred candidate was the Democrat in all elections reviewed, the Court also finds that there is not sufficient evidence to show that Black people myopically vote for the Democrat candidate. The Court specifically asked Dr. Alford, "[a]re you saying that whites folks will vote for Republicans just because they're Republicans, and Blacks folks will vote

for Democrats just because they're Democrat?" Tr. 2180:23–25. Dr. Alford responded by answering, "I've spent a lifetime trying to understand voting behavior and, I would never say something as simple as that. It's much more complicated than that." Tr. 2181:1–3. The Court agrees that it is too simple to find that partisanship is the moving force behind a Black voter's choice of candidate. The history provided to the Court shows the complicated history between the current Republican Party and Black citizens. See Tr. 1444:23–1448:21 (explaining the history of politics in Georgia, and nationwide, as it relates to race and partisan affiliation).

Finally, even Defendant's expert agreed that candidate choices and Black political alignment with the Democratic party is not just based on the party label.

The Court: So could it be said that voters are not necessarily voting for the party; they're voting for a person that follows their philosophy or they think is going to respond to their needs?

[Dr. Alford]: That's -- with my view, that's what democracy is about. That's what's going on. It is the case that in the United States, unlike in most other democracies, party identity is also really important, that we identify with a party.

Tr. 2183:4–12. Given all the evidence before the Court, the Court finds that there is significant evidence that “minority and majority voters consistently prefer different candidates”, and because “minority voters are submerged into a majority voting population that ‘regularly defeat[s]’ their choice,” Georgia’s “electoral structure operates to minimize or cancel out’ [Black] voters’ ‘ability to elect their preferred candidates.’” Allen, 559 U.S. at 17–18.

In light of the foregoing evidence, the Court finds that Senate Factor Two weighs heavily in favor of finding a Section 2 violation.

d) Senate Factor Five:⁵⁷ socioeconomic disparities

Senate Factor Five considers socioeconomic disparities between Black and white voters and these disparities’ impact on Black voter participation. The Eleventh Circuit recognized in binding precedent that “disproportionate educational, employment, income level, and living conditions arising from past discrimination tend to depress minority political participation.” Wright, 979 F.3d

⁵⁷ Senate Factor 4—a history of candidate slating for congressional elections—is not at issue because Georgia’s congressional elections do not use a slating process. Doc. No. [173-1], 32; see also Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1317.

at 1294 (quoting United States v. Marengo Cnty. Comm’n, 731 F.2d 1546, 1568 (1984)). “Where these conditions are shown, and where the level of [B]lack participation is depressed, plaintiffs need not prove any further causal nexus between their disparate socio-economic status and the depressed level of political participation.” Id. (quoting Marengo Cnty., 731 F.2d at 1568-69); United States v. Dallas Cnty. Comm’n, 739 F.2d 1529, 1537 (11th Cir. 1984) (“Once lower socio-economic status of [B]lacks has been shown, there is no need to show the causal link of this lower status on political participation.”)).

(1) Black voter participation

The Court finds that, as a quantitative matter, Black voters participate less than white voters in Georgia’s elections. Pendergrass Plaintiffs’ expert, Dr. Collingwood, in evaluating Black and white voter turnout used the data from the Secretary of State’s website, which records the actual number of registrations and votes cast by racial group. Tr. 684:2-10.

Dr. Collingwood’s data shows that in the 2022 election cycle Black voters had a 45% turnout rate and white voters had a 58.3% turnout rate—a 13.3% gap. PX 6, 8. The 2020 election recorded similar results, where Black voter turnout was

60% and white voter turnout was 72.6%, a 12.6% difference. Id. By contrast in 2018 Black voter turnout was 53.9% and white voter turnout was 62.2%, which is only a 8.3% difference and 2012, which recorded the smallest gap, Black voters turned out at 72.6% and white voters turned out at 75.7%. Id. Using the precinct specific data, in 2020 white voters had a higher turnout in 79.2% of precincts and in 2022 that increased to 81.0%. PX 6, 14. Based on this data, Dr. Collingwood concluded that overall Black voter turnout has decreased over the last 6–8 years. Id.; Tr. 684:23–25.

Specifically, in the challenged district, Dr. Collingwood found that in the 2020 election, the percentage of Black voter turnout did not exceed the percentage of white voter turnout in any county.⁵⁸ In the counties affected most by the Illustrative Congressional Plan (Cobb, Fulton, Douglas, and Fayette), the percentage of white voter turnout exceeded the percentage of Black voter turnout. Id.; PX 6, 16.

⁵⁸ In 2022 the percentage of Black voter turnout slightly exceeded white turnout in Clayton, Henry, and Rockdale counties. PX 6, 16.

In addition to voter turnout rates, Dr. Collingwood provided statistical evidence that white voters had higher participation rates in the political process outside of casting a ballot more than Black voters. White voters had higher participation than Black voters in attending local political meeting (5.92% of white voters, 3.51% Black voters); putting up political signs (17.95% white voters, 6.46% Black voters), working for a candidate's campaign (3.65% white voters, 1.84% Black voters); contacting a public official (21.01% white voters, 8.84% Black voters), and donating money to political campaigns (24.36% white voters, 13.63% Black voters). PX 6, 36–37, tbls. 4–6, 8, 9; Tr. 700:6–701:20, 702:8–24. Some of these metrics present relatively comparable white voter participation and Black voter participation (i.e., attending local political meetings, working for political campaigns). Dr. Collingwood testified that under ordinary methods, these close percentages still are statistically significant.⁵⁹ Tr. 700:11–15. The Court credits Dr. Collingwood's conclusions and finds that white voters tend to engage more with the political process than Black voters across various metrics.

⁵⁹ Defendants did not rebut these findings regarding Black voter participation in the political process.

Defendants did not put forth rebuttal evidence contesting that Black voter participation in the political process was lower than white voters. Defendants also did not challenge or rebut the accuracy of Dr. Collingwood's findings on voter turnout, but rather questioned whether they were sufficient to prove lower percentages of Black voter participation. Tr. 695:5–13; 700:6–704:10. Defendants argue that voter turnout depends on voter mobilization, which can be explained largely by the candidates on the ballot. See Tr. at 694:9–696:13. At the trial, Defendants questioned Dr. Collingwood about the significance of particular Black candidates appearing on the ballot—i.e., President Obama in 2012 and Stacy Abrams in 2018. Tr. 695:5–21. Dr. Collingwood agreed that the particular candidate on the ballot could have some effect. Tr. 695:5–21.

The Court understands Defendants argument to be that voter turnout is not suppressed because Black voters are actively *choosing not* to vote, unless an “exciting” candidate is running for office. To prove this point, Defendants cited to discrete elections of Black candidates where voter turnout was high for both

Black and white voters.⁶⁰ However, Defendants provide no empirical evidence to support this conclusion; rather, the only evidence on this point is a hypothetical question asked to Pendergrass Plaintiffs' expert. The Court is not persuaded by this argument.

Even assuming that Defendants' theory of voter mobilization could be a valid legal argument rebutting statistical evidence of suppressed Black voter turnout, Defendants submitted little-to-no evidence connecting lower Black voter turnout to a lack of motivation to vote. Some nonempirical testimonial evidence on cross examination that the candidates on a ballot impact voter turnout is insufficient to rebut the expert statistical evidence presented by Pendergrass Plaintiffs that Black voter turnout is, on the whole and across elections,

⁶⁰ To the extent that Defendants rely on the 2012 presidential election and the 2018 gubernatorial election because of the race of the candidate, the Court determines that the whole of the evidence does not support that the race of the candidate explains voter turnout. Specifically, in 2020, where the disparity in voter turnout was 12.6%, Senator Warnock was running for the U.S. Senate and became the first Black Senator in Georgia's history. Jud. Not., 11. Similarly, in 2022, where the disparity in voter turnout was 13.3%, Stacey Abrams ran for Governor and Senator Warnock ran against Herschel Walker for U.S. Senate. Id. In both of the 2020 election contests, Black candidates were at the top of the ballot, like in the 2012 and the 2018 elections, but turnout gap was greater than in the preceding election.

disproportionately lower than white voter turnout, and that Black voters participate less in the political process than white voters. Thus, the Court concludes that Pendergrass Plaintiffs submitted evidence that Black Georgians participate in the political process, both generally and in voter turnout, less than white voters.

(2) *Socio-economic disparities*

The Court also concludes that there is sufficient evidence in the Record to show disproportionate educational, employment, income level, and living conditions arising from past discrimination. Census estimates provide: the unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%); white households are twice as likely as Black households to report an annual income above \$100,000; Black Georgians are more than twice as likely – and Black children, in particular, are more than three times as likely – to live below the poverty line; Black Georgians are nearly three times more likely than white Georgians to receive SNAP benefits; Black adults are more likely than white adults to lack a high school diploma (13.3% as compared to 9.4%); 35% of white Georgians over the age of 25 have obtained a bachelor’s degree or higher,

compared to only 24% of Black Georgians over the age of 25. PX 6, 4 & tbl.1; Stip. ¶ 342–347. Additionally, Black Georgians are more likely to report a disability than white Georgians (11.8% compared to 10.9%) and are more likely to lack health insurance (18.9% compared to 14.2%, among 19-to-64-year-olds). PX 6 at 4. Defendant did not meaningfully contest this evidence. Thereby, the Court concludes that this evidence is more than sufficient to show socioeconomic disparities exist between Black and white Georgians.

(3) Conclusion on Senate Factor Five

Under binding precedent, Pendergrass Plaintiffs have proven that rates of Black voter political participation are depressed as compared to white voters participation. The aforementioned evidence also shows that Black Georgians suffer from significant socioeconomic disparities, including educational attainment, unemployment rates, income levels, and healthcare access. When both of these showings have been made, the law does not require a causal link be proven between the socioeconomic status and Black voter participation. Wright,

979 F.3d at 1294 (citing Marengo Cnty. Comm’n, 731 F.2d at 1568).⁶¹ Accordingly, the Court concludes that the socioeconomic evidence and the lower rates of Black voter participation support a finding that Senate Factor Five weighs heavily in favor of a Section 2 violation.

e) **Senate Factor Six: racial appeals in Georgia’s political campaigns**

Senate Factor Six “asks whether political campaigns in the area are characterized by subtle or overt racial appeals.” Wright, 979 F.3d at 1296 (quoting Gingles, 478 U.S. at 45). Courts have continually affirmed district courts’ findings of “overt and blatant” as well as “subtle and furtive” racial appeals. Gingles, 478 U.S. at 40; see also Allen, 599 U.S. at 22–23. However, in the Alabama district court proceedings, which preceded the Allen appeal, the trial court had assigned less weight to the evidence of racial appeals because the plaintiffs had only shown three examples of racial appeals in recent campaigns, but did not submit

⁶¹ While not required as a matter of law, as a matter of social science, Dr. Collingwood’s report indicates that the academic literature “demonstrates a strong and consistent link between socioeconomic status [] and voter turnout.” PX 6, 7. He describes this link in terms of resources causally driving behavior. Id. At trial, Dr. Collingwood also testified to the same. Tr. 688:15–689:3.

“any systematic or statistical evaluation of the extent to which political campaigns are *characterized* by racial appeals” and thus the court could not evaluate if these appeals “occur frequently, regularly, occasionally, or rarely.” Singleton, 582 F. Supp. 3d at 1024.

Similarly here, the Court finds that there is evidence of isolated racial appeals in recent Georgia statewide campaigns.⁶² However, there is no evidence for the Court to determine if these appeals *characterize* political campaigns in Georgia. Thus, while Pendergrass Plaintiffs submitted at least six instances⁶³ in

⁶² None of the evidence of racial appeals occurred in congressional races.

⁶³ Pendergrass Plaintiffs have provided evidence of six racial appeals used in recent Georgia elections across the past few election cycles:

In the 2018 gubernatorial election, then-Secretary of State Kemp, (now twice-elected Governor) used a social media campaign to associate Stacey Abrams with the Black Panther Party and ran a commercial advertisement where he discussed rounding up illegal immigrants in his pickup truck. PX 4, 67; Tr. 1364:12-16.

In the 2020 U.S. Senatorial election, then-Senator Kelly Loeffler ran an ad against “a dangerous Raphael Warnock,” whose skin had been darkened, and who was also associated with communism, protests, and civil unrest. Tr. 1193:19-1195:5; APAX 31; APAX 2, 39.

In 2022, during the senatorial race between Senator Warnock and Herschel Walker, Mr. Walker ran an advertisement that aimed to distinguish “between the Black candidate and himself” as the Republican candidate, in order to “associate himself with

recent elections where racial appeals were invoked – which is some evidence of political campaigns being characterized by racial appeals – the Court cannot meaningfully evaluate whether these appeals “occur frequently, regularly, occasionally, or rarely” and thereby does not afford great weight to this factor. Singleton, 582 F. Supp. 3d at 1024.

f) Senate Factor Seven: minority candidate success

Senate Factor Seven “focuses on ‘the extent to which members of the minority group have been elected to public office in the jurisdiction.’” Wright, 979 F.3d at 1295 (quoting LULAC, 548 U.S. at 426). Unlike the second and third Gingles preconditions, the Court now must specifically look at the success of *Black* candidates, not just the success of Black preferred candidates. Assessing the

the white voter [and] mak[e] the Black candidate look menacing and problematic” Tr. 1198:1–1199:10; APAX 2, 43–44.

Also in 2022, in the Republican primary for governor, former Senator David Purdue stated in an interview, that Abrams was “demeaning her own race” and should “go back where she came from.” PX 4, 70 (citing Ewan Palmer, “David Perdue Doubles Down on ‘Racist’ Stacey Abrams Remarks in TV Interview,” *Newsweek*, (May 24, 2022), <https://www.newsweek.com/david-perdue-racist-stacey-abrams-go-back-georgia-1709429>). Later, in the general gubernatorial election, Governor Kemp darkened Abrams’s face in ads and repeatedly attacked Abrams in the general election as “upset and mad,” evoking the trope and dog whistle of the “angry Black Woman.” PX 4, 70.

results of Georgia's recent elections, the Court finds that Black candidates have achieved little success, particularly in majority-white districts.

As a population, Black Georgians have historically been and continue to be underrepresented by Black elected officials across Georgia's statewide offices. Georgia has never elected a Black governor (Stip. ¶ 349) and Black candidates have otherwise only had isolated success in statewide partisan elections in the last 30-years. Specifically, in 2000, David Burgess was elected Public Service Commissioner, in 2002 and 2006 Mike Thurmond was elected to Labor Commissioner, and in 1998, 2002, and 2006 Thurbert Baker was elected Georgia Attorney General.⁶⁴ Stip. ¶361. Most recently, after 230 years of exclusively white Senators, Senator Raphael Warnock was twice elected to U.S. Senate and in his most recent election he defeated a Black candidate. Jud. Not., 11. Finally, nine

⁶⁴ The Court takes judicial notice of the elections that each candidate successfully won. See Scott v. Garlock, 2:18-cv-981-WKW-WC, 2019 WL 4200400, at *3 n. 4 (M.D. Ala. July 31, 2019) (taking judicial notice of the publicly filed election results).

Black individuals have been elected to statewide nonpartisan office in Georgia.⁶⁵ Stip. ¶ 362.

In Georgia's congressional elections, only 12 Black candidates have ever been elected to the Congress. Tr. 1201:1-5. Five Black individuals serve in the United States House of Representatives from Georgia's current congressional districts. Stip. ¶ 359. Four of these Black congresspersons are elected in majority-Black districts. PX 1, K-1. The other Black Representative, Congresswoman Lucy

⁶⁵ The Court takes judicial notice of the following election results. Justice Robert Benham was elected to Georgia Court of Appeals in 1984 and was re-elected to the Georgia Supreme Court Justice five times following his 1989 appointment until his 2020 retirement. Justice Leah Ward-Sears was re-elected to the Georgia Supreme Court after her appointment in 1992 and served until her retirement in 2009. Justice Harold Melton was re-elected to the Georgia Supreme Court following his appointment in 2005 and served until his retirement in 2021. Justice Verda Colvin was appointed to the Georgia Supreme Court in 2021 and was re-elected in 2022. Judge John Ruffin was re-elected to the Georgia Court of Appeals following his appointment in 1994 and served until his retirement in 2008. Judge Clarence Cooper served as a judge on the Georgia Court of Appeals from 1990 until 1994 when he was appointed to the Northern District of Georgia. Judge Herbert Phipps was appointed to the Georgia Court of Appeals in 1999 and was re-elected twice before his retirement in 2016. Judge Yvette Miller was appointed to the Georgia Court of Appeal in 1999, has been re-elected since and continues to serve in this role. Judge Clyde Reese was appointed to the Georgia Court of Appeals in 2016 and was re-elected in 2018, where he served until his death in 2022.

McBath, represents Congressional District 7, which is a majority-minority district where the white voting age population is 32.78%.⁶⁶ PX 1, Ex. G.

In State legislative districts, the Georgia Legislative Black Caucus has only 14 members in the Georgia State Senate (25%) and 41 members in the Georgia House of Representatives (less than 23%).⁶⁷ Stip. ¶ 348. As shown Section II(C)(4)(f) *supra*, Pendergrass Plaintiffs' expert, Dr. Burton, submits a chart showing that in the 2020 and 2022 legislative elections, Black candidates had little-to-no success when they did not make up the majority of a district.⁶⁸ Specifically, Black candidates in the 2020 legislative elections did not have any success when they did not make up at least 45.1% of a House District or 53.8% of a Senate District.

⁶⁶ Congresswoman McBath first defeated white candidate Karen Handel in the 2018 Congressional District 6 election, in a district that had a white voting age population of 58.11%. Jud. Not., pp. 9-11; Stip. ¶ 167; PX 1, 64, Ex. F.

⁶⁷ The Enacted Senate Plan contains 14 majority-Black districts. Stip. ¶ 186; APAX 1, M-1. The Enacted House Plan contains 49 majority-Black districts. Stip. ¶¶ 183, 186, APAX 1, Z-1.

⁶⁸ The Court notes that Erick Allen was elected to Georgia House District 40 in 2018 and re-elected in 2020. Tr. 1012:2-12. House district 40 was not a majority-Black district in 2018 or 2020. Id.

Winning Candidates in 2020 in Georgia House of Representatives

Percentage white registered voters in district	White Republicans ¹⁹⁷	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Winning Candidates in 2020 in Georgia State Senate

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

PX 4, 56.

Although the Court finds that Black candidates have achieved some success in statewide elections following 2000, the Court nonetheless finds that this factor weighs heavily in favor of Pendergrass Plaintiffs. The Supreme Court in Gingles, when discussing the success of a select few Black candidates, cautioned courts in conflating the success of few as dispositive. Gingles, 478 U.S.

at 76 (“Nothing in the statute or its legislative history prohibited the court from viewing with some caution black candidates’ success in the 1982 election, and from deciding on the basis of all the relevant circumstances to accord greater weight to blacks’ relative lack of success over the course of several recent elections.”).

In short, since Reconstruction, Georgia has only elected *four* Black candidates in statewide partisan elections: Mike Thurmond, Thurbert Baker, David Burgess, and Raphael Warnock. Stip. ¶ 361. For statewide non-partisan elections, Georgia has elected nine successful Black candidates: Robert Benham, Leah Ward-Sears, Harold Melton, Verda Colvin, John Ruffin, Clarence Cooper, Herbert Phipps, Yvette Miller, Clyde Reese. Stip. ¶ 362. Georgia has sent twelve successful Black candidates to the U.S. House of Representatives. Tr. 1201:1–5. Currently, the Georgia Legislative Black Caucus has 55 members in the Georgia General Assembly (of 236 total members). Stip. ¶ 348.

The Court concludes that these isolated successes of Black candidates show that the Black population is underrepresented in Georgia’s statewide elected offices. This conclusion is even stronger in majority-white districts.

To be sure, Dr. Burton acknowledged, that some academic scholarship indicates “the future electoral prospects of African American statewide nominees in growth states such as Georgia are indeed promising.” Tr. 1470:2–24. The Court is likewise hopeful about the prospects of increased enfranchisement of all voters and for the potential success of minority candidates in Georgia. However, Dr. Burton also emphasized that, specifically in Georgia, dating back to Reconstruction, “when these things happen, then you get more legislation from whichever party is in power that works to sort of disenfranchise or at least dilute or make the vote count less.” Tr. 1470:12–24. The optimism about Georgia’s future elections does not rebut the contrary evidence of the present lack of success of Black candidates; accordingly, the Court finds that Senate Factor Seven weighs heavily in favor of finding a Section 2 violation.

g) **Senate Factor Eight: responsiveness to Black residents**

Senate Factor Eight considers whether elected officials are responsive to the particularized needs of Black voters. A lack of responsiveness is “evidence that minorities have insufficient political influence to ensure that their desires are considered by those in power.” Marengo Cnty. Comm’n, 731 F.2d at 1572. The

Eleventh Circuit noted that “although a showing of unresponsiveness might have some probative value a showing of responsiveness would have very little.” *Id.* Pendergrass Plaintiffs’ expert, Dr. Collingwood, discussed the existence of significant socioeconomic disparities between Black and white Georgians, which he concluded contributed to the lower rates at which Blacks engage their elected representatives. PX 5, 34, 37. He further explained, “such clear disadvantages in healthcare, economics, and education” demonstrates that “the political system is relatively unresponsive to Black Georgians.” *Id.* at 4; see also id. at 7 (“If the [political] system did respond, we would expect to see fewer gaps in both health and economic indicators and a reduction in voter turnout gaps.”); Tr. 675:14–24. Dr. Collingwood also testified that lower Black voter turnout “typically means that elected officials as a whole are going to be less responsive to you” and thus perpetuates “these same gaps [i]n [] economic, health, [and] educational outcomes.” Tr. 690:2–20.

The Court finds that the arguments regarding socioeconomic disparities are not particularly helpful in determining whether Georgia’s elected officials are responsive to Black Georgians. At the trial, a number of Pendergrass Plaintiffs’

lay witnesses testified about socioeconomic issues affecting Black voters, but also admitted that these issues are not exclusive to the Black population. Tr. 657:23–658:4; 1014:16–1015:4, 1016:1–8, 1016:18–24, 1016:25–1017:8; 639:24–640:25.

Ultimately, there is an absence of evidence regarding the level of responsiveness of Georgia’s elected representatives to Black voters and white voters. Due to the lack of evidence, the Court finds that Senate Factor Eight does not weigh in favor of finding a Section 2 violation. See Greater Birmingham Ministries, 992 F.3d at 1334 (finding that failure to consider amendments to a particular piece of legislation does not show that legislatures were unresponsive to the needs of minority voters).

h) Senate Factor Nine: justification for the Enacted Congressional Plan

The Court considers Defendants’ justification for the Enacted Congressional Plan and finds that this factor weighs in favor of Defendants and thus weights against finding a Section 2 violation. The “final Senate Factor considers whether the policy underlying Georgia’s use of the voting standard, practice, or procedure at issue is ‘tenuous.’” Rose v. Raffensperger, 619 F. Supp. 3d 1241, 1267 (N.D.2022) (quoting Senate Report at 29, 1982 USCCAN 207).

“Under our cases, the States retain a flexibility that federal courts enforcing § 2 lack . . . deference is due to their reasonable fears of, and to their reasonable efforts to avoid, § 2 liability.” Vera, 517 U.S. at 978.

At the trial, Ms. Wright testified that the Enacted Congressional Plan began with the creation of a blank map that largely balanced population that then could be modified based on input from legislators. Tr. 1665:2–1666:14. Ms. Wright also relied on information obtained from the public hearings on redistricting. Tr. 1668:24–1670:5. Political performance was an important consideration in the design of the Enacted Congressional Plan. Tr. 1668:20–23. In Enacted CD-6 specifically, Ms. Wright emphasized and explained that the four-way split of Cobb County was because Cobb County was better able to handle a split of a congressional district than a smaller nearby county. Tr. 1671:5–1672:4. She further testified that the inclusion of parts of west Cobb County in Enacted CD-14 was because of population and political considerations, namely putting a democratic area into District 14 instead of District 11 (which was more political competitive). Tr. 1673:6–1674:2.

The Court finds that Defendants' evidence that the Enacted Congressional Plan was drawn to further partisan goals is a sufficient, non-tenuous justification for this Senate Factor. The Supreme Court has held that partisan gerrymandering is outside of the reach of the federal courts and "[f]ederal judges have no license to reallocate political power between the two major political parties, with no plausible Grant of authority in the Constitution, and no legal standards to limit and direct their decisions." Rucho v. Common Cause, 588 U.S. ----, 139 S. Ct. 2484, 2507 (2019). Accordingly, the Court finds that Defendants' justification, supported by Ms. Wright's testimony, that the General Assembly drew the congressional plan to capitalize on a partisan advantage is sufficient for Senate Factor Nine to not weigh in favor of a Section 2 violation.⁶⁹

i) Proportionality

Finally, Defendants argued that Georgia's Black congressional delegation is proportional to Georgia's Black voting age population, which shows that

⁶⁹ Consistent with the operative legal standards, this factor must be accorded less weight to Senate Factor Nine in a Section 2 case given that Section 2 is an effects test and that a legislatures' intent in drawing map is irrelevant.

Georgia’s political process is equally open to Black voters. Tr. 52:16–17; 2392:12–2393:1. However, De Grandy, the Supreme Court expressly rejected proportionality as a safe harbor for Section 2 violations. De Grandy, 512 U.S. at 1017–18 (“Proportionality . . . would thus be a safe harbor for any districting scheme. The safety would be in derogation of the statutory text and its considered purpose, however, and of the ideal that the Voting Right Act of 1965 attempts to foster.”). De Grandy did find, however, that proportionality is helpful in determining the “apparent[]” political effectiveness, based solely on an analysis of district makeups. Id. at 1014.

According to the 2020 Census population statistics,⁷⁰ under the Enacted Congressional Plan, four of Georgia’s U.S. House Congressional districts are

⁷⁰ The Parties have stipulated to the data for the 2021 Enacted Plan contained in Dr. Cooper’s report at Exhibit K-1. See PX 1, Exs. K-1. Exhibit K-1 reflects the 2020 Census population statistics. PX 1 ¶¶ 38, 62. The Court notes that under the various data sets, the number of majority-Black districts fluctuates between 2 and 4 districts. Using the NH DOJ CVAP and total AP Black numbers there are four majority-Black districts. PX 1, Exs. G, K-1. However, using the AP BVAP percentages only two districts are majority-Black CD-4 (54.52%), CD-13 (66.75%). PX 1, Ex. K-1. Enacted CD-2 has an AP BVAP of 49.29% and CD-5 has an AP BVAP of 49.60%. Id.

majority-Black districts, using the total AP Black population. (CD- 2, 4, 5, 13) (or 28.6% of the congressional districts⁷¹) and one additional majority-minority district (CD-7) (for, a total of 5 majority-minority districts, which is 35.7% of the

District	18+ Pop	18+ SR Black	% 18+ SR Black	18+ AP Black	% 18+ AP Black	18+ Latino	% 18+ Latino	18+ NH White	% 18+ NH White
001	589266	157770	26.77%	166025	28.17%	39938	6.78%	440636	57.59%
002	587555	281564	47.92%	289612	49.29%	30074	5.12%	305611	39.94%
003	586319	130099	22.19%	136708	23.32%	31274	5.33%	492494	64.37%
004	589470	308266	52.30%	321379	54.52%	59670	10.12%	197536	25.82%
005	621515	295885	47.61%	308271	49.60%	41432	6.67%	273819	35.79%
006	574797	50334	8.76%	56969	9.91%	52353	9.11%	487400	63.70%
007	566934	157650	27.81%	169071	29.82%	120604	21.27%	225905	29.52%
008	585857	170421	29.09%	175967	30.04%	35732	6.10%	443123	57.91%
009	592520	56416	9.52%	61747	10.42%	76361	12.89%	495078	64.70%
010	588874	126798	21.53%	133097	22.60%	38336	6.51%	486487	63.58%
011	595201	98212	16.50%	106811	17.95%	66802	11.22%	469264	61.33%
012	588119	207872	35.35%	215958	36.72%	28628	4.87%	398843	52.13%
013	574789	370024	64.38%	383663	66.75%	60467	10.52%	125106	16.35%
014	579058	77108	13.32%	82708	14.28%	61247	10.58%	520854	68.07%
Total	8220274	2488419	30.27%	2607986	31.73%	742918	9.04%	5362156	65.23%

PX 1, Ex. K-1.

The Parties have stipulated that the 2021 Enacted Plan contains 3 majority-Black congressional districts in the Atlanta MSA. Stip. ¶ 162. Enacted CD-2 is not in the MSA, but according to the Census data in the aforementioned exhibits, has an AP Black population that exceeds 50%. See PX 1, Ex. K-1 (showing CD-2 with an AP Black of 51.39%) & Ex. G (showing CD-2 with a non-Hispanic Black population of 49.03%). For purposes of this Order, the Court will use the total AP Black statistics for determining whether a district is majority-Black, because these are the statistics that were seemingly contemplated in the Parties' stipulations.

⁷¹ 4/14 is approximately 28.6%.

congressional districts⁷²). See PX 1, Ex. K-1 (reproduced below). Thus, under the Enacted Congressional Plan, 28.57% of Georgia's Congressional Districts are

Georgia U.S. House -- 2020 Census -- Enacted Plan

District	Population	Deviation	% Deviation	AP Black	% AP Black	Latino	% Latino	NH White	% NH White
001	765137	1	0.00%	230783	30.16%	59328	7.75%	440636	57.59%
002	765137	1	0.00%	393195	51.39%	45499	5.95%	305611	39.94%
003	765136	0	0.00%	188947	24.69%	48285	6.31%	492494	64.37%
004	765135	-1	0.00%	423763	55.38%	88947	11.63%	197536	25.82%
005	765137	1	0.00%	392822	51.34%	56496	7.38%	273819	35.79%
006	765136	0	0.00%	78871	10.31%	78299	10.23%	487400	63.70%
007	765137	1	0.00%	239717	31.33%	181851	23.77%	225905	29.52%
008	765136	0	0.00%	241628	31.58%	54850	7.17%	443123	57.91%
009	765137	1	0.00%	87130	11.39%	117758	15.39%	495078	64.70%
010	765135	-1	0.00%	184137	24.07%	58645	7.66%	486487	63.58%
011	765137	1	0.00%	143404	18.74%	99794	13.04%	469264	61.33%
012	765136	0	0.00%	294961	38.55%	43065	5.63%	398843	52.13%
013	765137	1	0.00%	520094	67.97%	93554	12.23%	125106	16.35%
014	765135	-1	0.00%	118694	15.51%	97086	12.69%	520854	68.07%
Total	10711908		0.00%	3538146	33.03%	1123457	10.49%	5362156	50.06%

majority-Black and 35.71% are majority-minority, and 64.29% are majority-white.

Id.

The Black voting age population in Georgia is 31.73%, total minority voting age population is 47.18%, and the white voting age population is 52.82%. PX 1

⁷² 5/14 is approximately 35.7%. Conversely, with the added majority Black district in the Illustrative Congressional Plan, the proportion of majority-white districts drops to approximately 64.3% (i.e., 9 of 14 districts), which is closer to the proportion of the white population in Georgia (55.7%) (see PX 1 ¶ 18 & fig.2).

¶ 18, fig.2. Under the Enacted Congressional Plan, the only group that has representation that is equal to or exceeds their proportion of the State's population is white voters, who receive 64.29% of the districts, but only make up 55.7% of the electorate.

The Illustrative Congressional Plan, however, reaches near proportional representation. The addition of one majority-Black district brings the proportion of Black congressional districts to 35.7% (i.e., 5 of 14 congressional districts), which is close to the 33.3% AP Black voting age population in the State (PX 1 ¶ 18 & fig.2.). The additional Illustrative CD-6, moreover, brings the number of majority-minority congressional districts to 6, which is approximately 42.9% of the 14 congressional districts and close to the 44.3% of the total minority voting age population (PX 1 ¶ 18 & fig.2). And 57.14% of Georgia's congressional districts will be majority-white districts and close to the 52.82% of the total white voting age population. Id.

The Court understands that Defendants are arguing that the recent election of five Black Congresspersons to the U.S. House of Representatives (35.7% of Georgia's congressional delegation) is proportionate to the percentage of

Georgia's Black residents (33.03%); therefore, Georgia's political system is equally open to Black voters. As is clear from the text of Section 2, "nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in their population." 52 U.S.C. § 10301(b). Furthermore, it is abundantly clear that it is reversible error for the District Court to attempt to maximize the number of majority-minority districts. DeGrandy, 512 U.S. at 1000; Miller, 515 U.S. at 926–27. However, the existence of near proportional representation or a remedy that results in proportional representation, in and of itself, is not reversible error because "proportionality is not dispositive." DeGrandy, 512 U.S. at 1000; see also Allen, 599 U.S. at 26–30, 42 (affirming three-judge court's finding of a Section 2 violation, even though the remedy would result in proportional representation). Having considered the evidence provided in support of and to rebut the Senate Factors and after conducting a "careful[] and searching review [of] the totality of the circumstances," the Court finds that Black voters do not have equal access to the political process in the challenged area. DeGrandy, 512 U.S. at 1026 (O'Connor, J., concurring).

The Supreme Court recently confirmed that:

what must be shown to prove a § 2 violation[,] [] requires consideration of the totality of circumstances in each case and demands proof that the political processes leading to nomination or election in the State or political subdivision are not *equally open* to participation by members of a protected class *in that its members have less opportunity* than other members of the electorate to participate in the political process and to elect representatives of their choice.

Brnovich, 141 S. Ct. at 2332 (cleaned up) (emphasis in original). The Court has reviewed all of the evidence before it, and even with Georgia’s election of five Black congresspersons, the Black voters in the area of the challenged congressional districts do not have an equal opportunity to participate. As Justice O’Connor opined, “the presence of proportionality [does not] prove the absence of dilution.” DeGrandy, 512 U.S. at 1026.

This past summer, the Supreme Court was again confronted with the question of proportionality. Allen, 599 U.S. at 26–30. In Justice Thomas’s dissent, he opined that it is error to use proportionality as a benchmark for a Section 2 violation.” Allen, 599 U.S. at 71–73 (Thomas, J., dissenting). Justice Kavanaugh specifically addressed this issue and explained that Gingles “does not mandate a

proportional number of majority-minority districts.” Allen, 559 U.S. at 43 (Kavanaugh, J., concurring). Rather, a Section 2 violation occurs only when (1) the redistricting maps split the minority community and (2) a reasonably configured district could be drawn in that area. Id. He concluded that “[i]f Gingles required proportional representation, then States would be forced to group together geographically dispersed minority communities in unusually shaped districts. Id. That is not the case here, as is evidenced above, Illustrative CD-6 is more compact on objective measures than Enacted CD-6, and the district is in a relatively small area of the State. See Section II(C)(1)(b)–(c) *supra*.

Consistent with DeGrandy, Brnovich, and Allen, the Court finds that if there is sufficient evidence of minority voter dilution under the totality of the circumstances, taking into consideration the Senate Factors, then proportionality cannot immunize the State from a Section 2 challenge. In other words, proportionality is neither a benchmark for plaintiffs, nor a safe harbor for States.

Accordingly, the Court finds that proportionality neither weighs in favor of Defendants, nor weighs against finding a Section 2 violation.⁷³

j) Demographic Changes

Finally, the Court considers Georgia's demographic changes as part of its totality of the circumstances analysis. See Singleton, 582 F. Supp. 3d at 977. The greatest population growth since the last Decennial Census was in metro-Atlanta. PX 1 ¶ 25 & fig.4. More than half (53.27%) of the population increase in the counties included in Illustrative CD-6 results from the increased Black population. Id. ¶ 42 & fig.8. And, in all but Fulton County, the Black population accounts for most of the population changes. Id. The Enacted Congressional Plan does not account for the growth in the Black population in this area.

⁷³ Achieving proportional representation is not a factor to weigh against finding a Section 2 violation. De Grandy was evaluating proportionality under the Enacted Congressional Plan, not the remedial plan. Its statement that proportionality cannot prove a Section 2 case does not readily extend to say that achieving proportionality weighs *against* a Section 2 case. Id. at 1000. See Allen, 599 U.S at 26-30; see also id. at 71-73 (Kavanaugh, J., concurring).

Figure 8
Four-County Area: 2010 Census to 2020 Census Population and Black
Population Changes

	2020 Population	2020 Black Population	2010–2020 Population Change	2010–2020 Black Population Change	Black Population Change as Percentage of Total Change
Cobb	766,149	223,116	78,071	42,151	53.99%
Douglas	144,237	74,260	11,834	20,007	169.06%
Fayette	119,194	32,076	12,627	9,578	75.85%
Fulton	1,066,710	477,624	146,129	60,732	41.56%
Total	2,096,290	807,076	248,661	132,468	53.27%

PX 1 ¶ 42 & fig.8; Id. ¶ 43.

In Allen, the three-judge court noted that, over the past decade, the Black population grew by 6.53%, and the white population's share of Alabama's total population decreased by 3.92%. Singleton, 582 F. Supp. 3d at 977. The Black population's growth in Georgia, as a whole, and in metro-Atlanta, specifically, is greater than the demographic changes in Alabama. In fact, during the same period, Georgia's Black population grew by 15.84% and accounted for 5.00% percent of Georgia's population growth, while the white population's share of the State's total population decreased by 5.82%. PX 1 ¶ 14 & fig.1. In metro-Atlanta alone, the Black population is responsible for 51.04% of Atlanta MSA's

population growth, and their population share increased by 2.30%. PX 1 ¶ 30 & fig.5. Conversely, the white population in the Atlanta MSA decreased by 2.83%, their share of the population decreased by 7.08%. Id. Meaning, that the demographic shifts in Georgia—as a whole and in the area where the proposed majority-minority district is located—are greater than those in Alabama, where a Section 2 violation was found and affirmed.

Despite the growth in the Black population in the affected areas and the voter polarization between white and Black Georgians, see Section II(C)(2)(4)(c) *supra*, the Enacted Congressional Plan did not increase the number of majority-Black districts in the Atlanta metro area. By failing to do so, the Enacted Congressional Plan in effect dilutes and diminishes the Black population's voting power in that area of the State. Accordingly, the Court finds that the population changes in metro-Atlanta weigh heavily in favor of finding a Section 2 violation.

5. Conclusions of Law

The Court finds that the Pendergrass Plaintiffs have met their burden in establishing that (1) the Black community in the west-metro Atlanta metro area is sufficiently numerous and compact to constitute an additional majority-Black

district; (2) the Black community is politically cohesive; and (3) that the white majority votes as a bloc to typically defeat the Black-preferred candidate. The Court also finds that in evaluating the totality of the circumstances, Georgia's electoral system is not equally open to Black voters. Specifically, the Court finds that Senate Factors One, Two, Three, Five, and Seven weigh in favor of showing the present realities of lack of opportunity for Black voters. The Court also finds that Senate Factor Six weighs slightly in favor finding a Section 2 violations. Additionally, the growth of Georgia's Black population in metro-Atlanta while the white population decreased weighs in favor of a Section 2 violation.

Only Senate Factors Four, Eight⁷⁴ and Nine do not weigh in favor of finding a Section 2 violation. The Court also finds that proportionality does not weigh against finding a Section 2 violation.

In sum, the Court finds that the majority of the totality of the circumstances' evidence weighs in favor of finding a Section 2 violation. Because Pendergrass

⁷⁴ The Eleventh Circuit found that Senate Factor Eight is given little weight. Marengo Cnty. Comm'n, 731 F.2d at 1572. And the Court gives less weight to Senate Factor Nine because this is not an intentional discrimination case.

Plaintiffs have carried their burden of proof on all of the legal requirements, the Court concludes that SB 2EX violates Section 2 of the Voting Rights Act.

D. Legislative Districts

The Court will now discuss the State legislative districts (i.e., State Senate and State House districts). First, the Court will discuss the first Gingles precondition for all illustrative legislative districts. This portion of the Section is divided into different regions of the State (i.e., metro Atlanta, eastern Black Belt, Macon-Bibb, and southwest Georgia). For the regions where both the Alpha Phi Alpha Plaintiffs and the Grant Plaintiffs challenged districts, the Court will first make its findings as to all of the Alpha Phi Alpha illustrative districts and will then make findings as to all of the Grant illustrative districts. For the illustrative districts that survive the first Gingles precondition, the Court will then evaluate them under the second and third Gingles preconditions (Alpha Phi Alpha first and then Grant). For the illustrative districts that survive all three Gingles precondition, the Court will then turn and evaluate whether the political process is equally open to Black voters in those areas (again, Alpha Phi Alpha first and Grant second).

1. First Gingles Precondition

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in proving the first Gingles precondition in three of the proposed district in south-metro Atlanta (i.e., Cooper SD-17, SD-28, and HD-74). The Alpha Phi Alpha Plaintiffs have not met their burden in proving the first Gingles precondition in one of the House district in south-metro Atlanta, the districts in the Eastern Black Belt, in and around Macon-Bibb, or southwest Georgia (Cooper SD-23, HD-133, HD-117, HD-145, HD-171).

The Court finds that the Grant Plaintiffs have met their burden in proving the first Gingles precondition in the south-metro Atlanta Senate districts, two House districts in metro Atlanta, and two House districts in the Macon-Bibb region (i.e., Esselstyn SD-25, SD-28, HD-64, HD-117, HD-145, and HD-149). The Grant Plaintiffs have not met their burden in proving the first Gingles precondition as to the proposed district in the eastern Black Belt, or one proposed district in south-metro Atlanta (Esselstyn SD-23, HD-74).

a) Racial predominance

The Court begins its discussion of the illustrative districts by finding that race did not predominate in the drawing of either the Cooper or Esselstyn

Legislative Plans. In a Section 2 case “the question [of] whether additional majority-minority districts can be drawn . . . involves a ‘quintessentially race-conscious calculus.” Allen, 599 U.S. at 31 (plurality opinion) (quoting DeGrandy, 512 U.S. at 1020). “The line that [has] long since [been] drawn is between consciousness and predominance.” Id. at 33 (plurality opinion). Race does not predominate when a mapmaker “adhere[s] . . . to traditional redistricting criteria,” testifies that “race was not the predominate factor motivating his design process,” and explains that he never sought to “maximize the number of majority-minority” districts. Davis, 139 F.3d at 1426.

Both Mr. Cooper and Mr. Esselstyn testified at the trial and preliminary injunction that they were aware of race when drawing their illustrative legislative plans, but that race did not outweigh any of the other traditional redistricting principles. See Tr. 108:4–11 (Mr. Cooper testifying that he is “aware of [race], but it didn’t control how these districts were drawn); Tr. 522:5–14 (“I’m constantly looking at the shape of the district, what it does for population equality, . . . political subdivisions, communities of interest, incumbents, all that. So while yes, at time [race] would have been used to inform a decision, it was one

of a number of factors.”); Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1244 (crediting Mr. Cooper’s testimony that race did not predominate when he drew his illustrative maps); id. at 1245–46 (crediting Mr. Esselstyn’s testimony that race was but one factor he considered when drawing his illustrative maps). The Court again finds that Mr. Cooper and Esselstyn testified credibly that race did not predominate when they drew their illustrative legislative plans. Accordingly, the Court finds that race did not predominate in the creation of the Cooper Legislative Plan or the Esselstyn Legislative Plan.

The Court will now determine whether the Black community is sufficiently numerous and compact in each of the proposed legislative districts.

b) Metro Atlanta region

(1) Alpha Phi Alpha

(a) numerosity

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in showing that the Black voting age population in metro Atlanta is large enough to create two additional majority-Black Senate districts and two majority-Black House districts in south-metro Atlanta. “[A] party asserting § 2 liability must

show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” Bartlett, 556 U.S. at 20.

It is undisputed that Cooper SD-17 and SD-28 have an AP BVAP of 62.55% and 51.32%, respectively, both of which exceed the 50% threshold required by Gingles. APAX 1, Ex. O-1. It is also undisputed that Cooper HD-74, and HD-117 have an AP BVAP of 61.49% and 54.64%, respectively. APAX 1, Ex. AA-1.

Based on these numbers, the Court finds that the Alpha Phi Alpha Plaintiffs have met their burden with respect to the numerosity prong of the first Gingles precondition in all additional majority-Black districts that Mr. Cooper proposed in metro Atlanta (i.e., SD-17, SD-28, HD-74, and HD-117).

(b) Compactness

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden to show that the minority community is sufficiently compact to warrant the creation of two additional majority-Black State Senate (Cooper SD-17 and SD-28) and one majority-Black House district (Cooper HD-74) in south-metro Atlanta.

The standards governing the compactness inquiry for these additional districts is the same as the compactness inquiry in the Pendergrass case. See

Section II(C)(1)(b) *supra*. The Court must consider if the illustrative proposed districts adhered to traditional redistricting principles, namely: population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respecting political subdivisions, and uniting communities of interest. See id.

i) Cooper SD-17

The Court finds that Cooper SD-17 is reasonably compact. The Court notes that Cooper SD-17 is in the same area as Enacted SD-17. APAX 1 ¶ 104 (“a majority-Black Senate District 17 can be drawn in the vicinity of 2021 Senate District 17”).

((a)) empirical measures

((1)) *population equality*

The Court finds that Cooper SD-17 is not malapportioned. See Reynolds v. Sims, 377 U.S. 533, 577 (1964) (requiring “an honest and good faith effort to construct districts . . . of nearly equal population as practicable.”); Brown v. Thomson, 462 U.S. 835, 842 (1983) (finding “minor deviations” do not violate the Fourteenth Amendment). The General Assembly’s “General Principles for Drafting Plans” specifies that “[e]ach legislative district . . . should be drawn to

achieve a total population that is substantially equal as practicable.” Stip. ¶ 135; JX 2, 2.

The ideal population size of a State Senate district is 191,284. Stip. ¶ 277. The General Assembly did not enumerate a specific deviation range that is acceptable for the State Senate districts. However, relying on the Enacted Senate Plan as a rough guide, an acceptable population deviation range is between -1.03% and +0.98% is acceptable. APAX 1, Ex. M-1. Cooper SD-17 has a population deviation of +0.002%, which is 35 people from perfect correlation. APAX 1, Ex. O-1. Cooper SD-17 achieves better population equality than Enacted SD-17, which has a population deviation of +0.67%. APAX 1, Ex. M-1. Thus, the Court finds that Cooper SD-17 achieves population equality that is consistent with the General Assembly’s Redistricting Guidelines and traditional redistricting principles.

((2)) contiguity

The Parties stipulated that Cooper SD-17 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper SD-17 complies with the traditional redistricting principle of contiguity.

((3)) compactness scores

The Court finds that Cooper SD-17 is more compact than Enacted SD-17. In reaching this conclusion, the Court, as it did in the Pendergrass case, looks to the objective compactness scores of the Polsby-Popper and the Reock indicators.

Using the Reock measure, Cooper SD-17 is 0.37 compared with Enacted SD-17, which is 0.35. GX 1, Attach. H. As such, Cooper SD-17 is 0.02 points more compact under the Reock indicator. When using the Polsby-Popper measure, Cooper SD-17 is 0.17 as is the Enacted SD-17, i.e., the two districts have identical Polsby-Popper scores. Id. Hence, the Court finds that on the empirical compactness measures, Cooper SD-17 fares better than or is identical to Enacted SD-17. Accordingly, the Court finds that Cooper SD-17 is slightly more compact when compared to Enacted SD-17.

((4)) political subdivisions

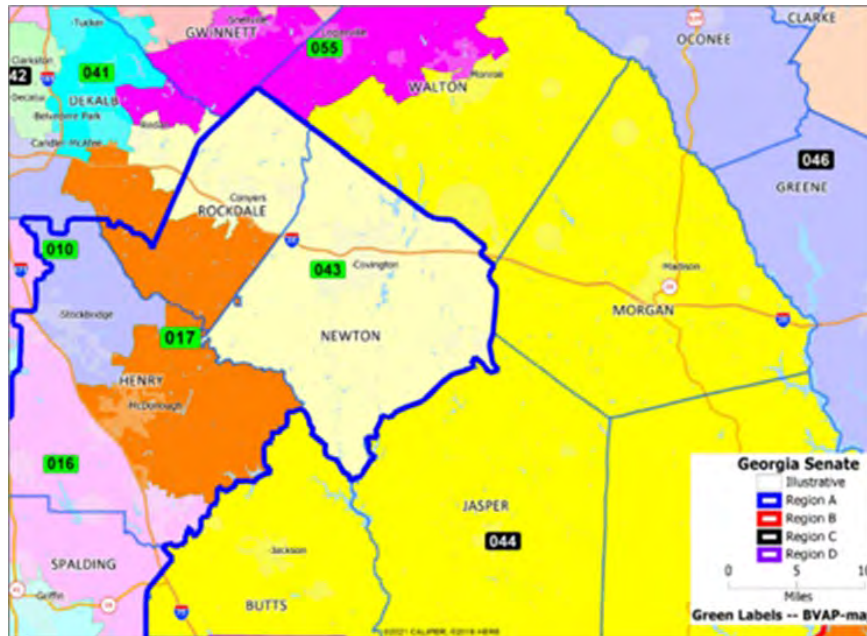
The Court also finds that Cooper SD-17 generally respected political subdivisions. That proposed district consists of portions of DeKalb, Henry, and Rockdale Counties. APAX 1 ¶ 105 & fig.17D. Enacted SD-17 also split three counties—Henry, Newton and Rockdale. APAX 1 ¶ 102 & fig.17C. Thus, the

Court finds that both Cooper SD-17 and Enacted SD-17 split the same number of counties. Although the county splits remain the same, the Court notes that Cooper SD-17 splits more VTDs (4) than Enacted SD-17 (none). APAX 1, Exs. T-1, T-3. There was no testimony that Cooper SD-17 split municipalities, even though there was testimony regarding the municipalities that were included in the district, such as McDonough in Henry County and Stonecrest in DeKalb County. Tr. 117:5–11.

Although Cooper SD-17 splits more VTDs, the Court finds that generally, SD-17 respects political subdivisions because he split the same number of counties and seemingly kept municipalities intact.

((b)) eyeball test

The Court finds that Cooper SD-17 is visually compact under the eyeball test:



APAX 1 ¶ 105 & fig.17D.

Moreover, using the mapping tool provided by Mr. Esselstyn, the Court finds that the district at its most distant points is less than 30 miles in length. *Id.* Cooper SD-17 has no appendages or tentacles. *Id.* And there is no contrary evidence or testimony in the Record. In fact, Mr. Morgan testified that Cooper SD-17 is “geographically more compact in the sense that it doesn’t go quite the distance as the enacted District 17 . . . [g]eographically, generally, yes, it appears more compact.” Tr. 2027:11-24. Accordingly, the Court finds that Cooper SD-17 is visually compact.

((c)) communities of interest

The Court finds that Cooper SD-17 respects communities of interest. Cooper SD-17 includes neighboring parts of south DeKalb, Henry, and Rockdale Counties, connecting the nearby communities of Stonecrest, Conyers, and McDonough. APAX 1, 45-6 ¶¶ 104-5 & fig.17D. Both Cooper SD-17 and Enacted SD-17 overlap in and around McDonough in Henry County. *Id.* at 44, 46.

Mr. Cooper testified that he is familiar with this area of Georgia because he has drawn districting maps for Henry County before, dating back to 1991 and most recently in the 2018 *Dwight v. Kemp* case. Tr. 116:12-24. He also testified that the communities in Cooper SD-17 are primarily suburban or exurban. Tr. 116:6-8. And, the distance between the portions of the district in south DeKalb and south Henry Counties are probably a 10-minute drive from one another. Tr. 231:14-20. Furthermore, he testified that in configuring the district in this manner, he was able to keep Newton County, whole (rather than split it, as the Enacted Senate Plan does) and include it in Cooper SD-43, which is compact and majority-Black. APAX 1, 48 & fig.17F.

Moreover, Mr. Cooper examined ACS data showing that the counties included in Cooper SD-17 share certain socioeconomic characteristics, such as similar educational attainment rates among Black residents in Henry, Rockdale, and DeKalb Counties. APAX 1 ¶¶ 127-128 & Ex. CD at 21-22.

The testimony of Mr. Lofton, who lives in McDonough, bolster's Mr. Cooper's testimony. Mr. Lofton testified regarding the interconnectedness of the different counties in south-metro Atlanta, including competing against one another in sports. Tr. 1306:23-25 ("I visited Rockdale even from high school. We used to compete against Rockdale County Heritage High School when I was in high school. We were [in] the same region."). Mr. Lofton testified about the similarities and connections between DeKalb, Stonecrest, Conyers and McDonough. Tr. 1308:16-22 (discussing the "major thoroughfares" connecting DeKalb, Rockdale, and Henry Counties that people drive up and down "all day."); Id. at 1308:23-1309:8 (discussing travelling between McDonough, Stonecrest, Conyers, and Covington for shopping and dining "because they're not terribly far out of the way."). He also testified that Henry, Rockdale, and

DeKalb Counties are getting more diverse and “on par” with one another. Id. at 1298:16-20, 1306:16-1307:8, 1308:4-7.

In sum, the Court finds that Cooper SD-17 is a small district contained wholly within metro Atlanta, unlike the districts in LULAC and Miller. There was extensive testimony from Mr. Cooper and a resident of McDonough about the interrelatedness of the communities in the district. Furthermore, Mr. Cooper’s report details the shared socio-economic characteristics of the voters living in the district. In all the Court finds that this testimony shows that the district preserves existing communities of interest.

((d)) conclusions of law

The Court determines that the Alpha Phi Alpha Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Cooper SD-17 to constitute an- additional majority-Black district. The Court finds that Cooper SD-17 complies with the traditional redistricting principles of population equality, contiguity, compactness, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain

any appendages or tentacles. Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have carried their burden in meeting the first Gingles precondition in the area contained in Cooper SD-17.

ii) Cooper SD-28

The Court finds also that the Alpha Phi Alpha Plaintiffs have shown that it is possible to draw an electoral district consistent with traditional redistricting principles in the area encompassed by Cooper SD-28. As an initial note, Mr. Cooper explained that Cooper SD-28 is in the same general area as, and correlates with, Enacted SD-16. APAX 1 ¶ 99 (“a majority-Black District 28 [] can be drawn in the vicinity of 2021 Senate District 16”).

((a)) empirical measures

((1)) *population equality*

The Court finds that Cooper SD-28 achieves relative population equality. As stated above, the General Assembly did not enumerate a specific acceptable deviation range for the State Senate Districts. However, relying on the Enacted Plan as a guide, a population deviation range between -1.03% and +0.98% is acceptable. APAX 1, Ex. M-1. In comparison, Cooper SD-28 has a population deviation of -0.73%, which is within range of the population deviations in the

Enacted Senate Plan. APAX 1, Ex. O-1. The Court finds that Cooper SD-28 is consistent with the General Assembly's Redistricting Guidelines, and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Cooper SD-28 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper SD-28 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds Cooper SD-28's compactness scores are within the range of compactness scores found in the Enacted Senate Plan. APAX 1, Exs. S-1, S-3. Cooper SD-28 and Enacted SD-16 have identical Reock scores of 0.37. Enacted SD-16 is more compact on the Polsby-Popper measure with a score of 0.31, while Cooper SD-28 has a Polsby-Popper score of 0.18. APAX 1, Exs. S-1, S-3.

Although Enacted SD-16 is more compact on the Polsby-Popper measure, Cooper SD-28 is within the range of compactness scores found in the Enacted Senate Plan. Specifically, the Enacted Senate Plan has a minimum Polsby-Popper score of 0.13. APAX 1, Ex. S-3. Cooper SD-28's Polsby-Popper score (0.18) exceeds the minimum threshold Polsby-Popper score found in the Enacted Senate Plan.

Id. Accordingly, the Court finds that Cooper SD-28 falls within the range of compactness scores found in the Enacted Senate Plan and therefore constitutes a compact district for purposes of the first Gingles precondition.

((4)) *political
subdivisions*

The Court finds that Cooper SD-28 generally respects political subdivisions. The Court notes that Cooper SD-28 does have more political subdivision splits than Enacted SD-16. Cooper SD-28 contains portions of Fayette, Spalding, and Clayton Counties, resulting in three county splits. APAX 1 ¶ 99. Enacted SD-16 splits only Fayette County, and keeps Spalding, Pike, and Lamar Counties whole. Additionally, Cooper SD-28 splits two VTDs, whereas Enacted SD-16 splits none. APAX 1, Exs. T-1, T-3. Mr. Cooper testified, “[y]ou can see that I separated or made the boundary for District 28, which is the new majority Black district, following the municipal lines of Griffin, which can be kind of odd shaped in places.” Tr. 114:4-7; APAX 11, at 41 ¶ 99 & fig.17B; see also Id. Ex. T-1 (listing a single split VTD in Fayette County and one in Spalding County).

Although those increased splits do exist, Mr. Cooper testified that he was able to keep municipalities whole. Specifically, when drawing these districts, he

was able to keep the city of Griffin wholly within Cooper SD-28 and Peachtree City was kept wholly within Cooper SD-39. APAX 1 ¶ 99 & fig.17A; Tr. 114:1-7, 238:4-7. Mr. Cooper explained that some of his mapping decisions, were made to comply with population equality. See Tr. 238:23-239:3 (“once you pick up Griffin and some of the area between Spalding and Fayetteville, there’s a lot of population as you approach Fayetteville. So, from one person one voter standpoint you could not include Peachtree City in District 28.”). The Court credits Mr. Cooper’s testimony regarding decisions for drawing boundary lines. Therefore, the Court finds that Cooper SD-28 respects political subdivisions.

((b)) eyeball test

The Court finds that Cooper SD-28 is visually compact under the eyeball test:

No. 23-13914
(consolidated with Nos. 23-13916 & 23-13921)

In the
United States Court of Appeals
for the Eleventh Circuit

Alpha Phi Alpha Fraternity, Inc., et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05337 — Steve C. Jones, *Judge*

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No. 23-13916
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In the
United States Court of Appeals
for the Eleventh Circuit

Coakley Pendergrass, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:21-cv-05339 — Steve C. Jones, *Judge*

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No. 23-13921
(consolidated with Nos. 23-13914 & 23-13916)

In the
United States Court of Appeals
for the Eleventh Circuit

Annie Lois Grant, et al.,
Plaintiff-Appellees,
v.

Secretary of State of Georgia,
Defendant-Appellant.

On Appeal from the United States District Court for the
Northern District of Georgia, Atlanta Division.
No. 1:22-cv-00122 — Steve C. Jones, *Judge*

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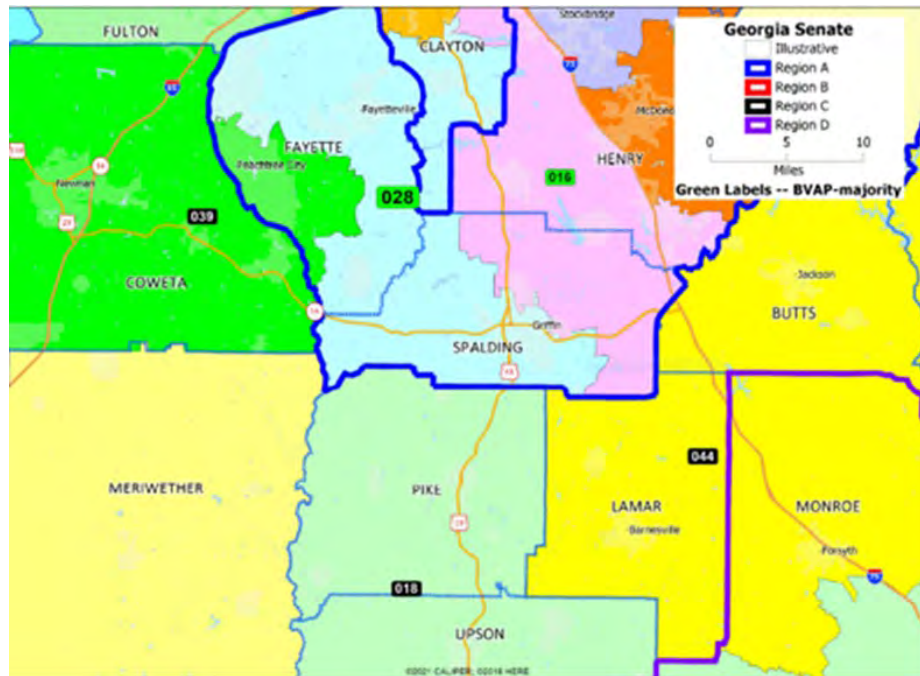
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APAX 1 ¶ 99 & fig.17A.

Using the mapping tool, the Court finds that at its most distant points, Cooper SD-28 is approximate 30 miles long. *Id.* Mr. Morgan testified that north to south the district is 24 miles long. Tr. 1982:7–12. Cooper SD-28 does not contain any tentacles or appendages. Mr. Cooper also testified that when looking at the district, one can see that “[t]he towns and cities are—suburbs are all very close together.” Tr. 113:18–21. The Court agrees with Mr. Cooper’s assessment, the district itself visually encompasses a small geographic area. Defendant submits

no evidence or testimony in the Record suggesting that Cooper SD-28 is not visually compact. See generally DX 1; Tr. 1896:13-23. Accordingly, the Court concludes that Cooper SD-28 is visually compact.

((c)) communities of interest

Mr. Cooper testified that the areas of Fayette and Spalding County that he included in Cooper SD-28 are growing, becoming more diverse and suburban, and thus more similar to Clayton County. Tr. 113:6-114:18; see also Tr. 242:15-24. He noted that these parts of Spalding and Fayette Counties are experiencing population growth and change as well as suburbanization, which warranted grouping them with Clayton County. Tr. 113:6-114:18. Moreover, he explained that the areas he connected are similarly suburban and exurban in nature, in comparison to the more rural and predominantly white Pike and Lamar Counties, which were not included in Cooper SD-28. Tr. 113:24-25 (“Yes. This area is predominantly a suburban/exurban. So the area matches up socioeconomically, I believe.”).

Mr. Cooper also explained why it made sense to not include western Fayette County in Illustrative District 28, highlighting the differences between Peachtree City and Griffin. Tr. 114:19-115:5

THE COURT: What are the commonalities of the people in Griffin and Peachtree City?

THE WITNESS: Well, the -- Griffin and Peachtree City are quite different, frankly.

THE COURT: They are.

THE WITNESS: Peachtree City is predominantly white. Just kind of sprung up there I think in the 1980s. They drive around in golf carts. I mean, that's --.

THE COURT: Yeah.

THE WITNESS: Yeah. And so it doesn't really fit with Griffin exactly, which is one of the reasons why I didn't include it in District 28. It is the western part of Fayette County.

Tr. 1311:21-1312:13.

Additionally, Mr. Cooper examined ACS data showing that the counties included in Cooper SD-28—namely, Fayette, Spalding, and Clayton—share socioeconomic commonalities. Specifically, Fayette, Spalding, and Clayton Counties share certain socioeconomic characteristics, as all have a relatively high proportion of Black residents in the labor force. APAX 1, at 56 ¶ 125, Ex. CD, at 53-55.

The testimony of Mr. Lofton, a lifelong metro Atlantan, and a long-time resident of Henry County with connections in Fayette, Clayton, and DeKalb Counties, was consistent with Mr. Cooper's. Mr. Lofton attested to the interconnectedness of the communities included in Cooper SD-28. For example, as Mr. Lofton explained, if you visit shopping centers in Griffin you will see Fayette and Clayton car tags. Tr. 1302:9-11. Mr. Lofton also testified that areas covered by Cooper SD-28 share common places of worship and that Black communities in the area share certain socioeconomic characteristics, like similar educational attainment. Id. at 1309:25-1310:9. Gina Wright, who testified that she was familiar with the area, agreed that the area of South Clayton County that is included in Cooper SD-28 is suburban. Id. at 1685:2-20.

Thus, the Court finds that Cooper SD-28 is a small district contained wholly within metro Atlanta and has no resemblance to the districts in LULAC and Miller. Mr. Cooper testified extensively about the communities that are contained within the district, the shared socio-economic factors, and the characteristics that unite them. Additionally, Mr. Lofton, with his lifelong experience as a resident in the area, explained how the communities interact with

one another. The Court finds that the size of the district coupled with the witness testimony shows Cooper SD-28 preserves communities of interest.

((d)) conclusions of law

The Court finds that the Alpha Phi Alpha Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Cooper SD-28 to constitute an additional majority-Black district. The Court finds that Cooper SD-28 complies with the traditional redistricting principles of population equality, contiguity, compactness, respect for political subdivisions, and preservation communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have carried their burden on the first Gingles precondition in the area encompassed by Cooper SD-28

iii) *Cooper HD-74*

The Court finds that Cooper HD-74 is reasonably compact. The Court notes that Cooper SD-17 is in the area of Enacted HD-74. APAX 1 ¶ 162.

((a)) empirical measures

((1)) *population equality*

The Court finds that Cooper HD-74 is not malapportioned. See Reynolds, 377 U.S. at 577 (requiring “an honest and good faith effort to construct districts . . . of nearly equal population as practicable.”); Brown, 462 U.S. at 842 (finding “minor deviations” are not violative of the Fourteenth Amendment). The General Assembly’s “General Principles for Drafting Plans” specifies that “[e]ach legislative district . . . should be drawn to achieve a total population that is substantially equal as practicable.” Stip. ¶ 135; JX 2, 2.

The ideal population size of a State House District is 59,511. Stip. ¶ 278. The General Assembly did not enumerate the deviation range for State House Districts. However, relying on the Enacted House Plan as a rough guide, a population deviation range between -1.40% and +1.34% is acceptable. APAX 1, Z-1. Cooper HD-74 has a population deviation of +0.78%. APAX 1, Ex. AA-1. Cooper HD-74 achieves better population equality than Enacted HD-74, which has a population deviation of -0.93%. APAX 1, Ex. M-1. Thus, the Court finds that Cooper HD-74 achieves population equality that is consistent with the General Assembly’s Redistricting Guidelines and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Cooper HD-74 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper HD-74 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that Cooper HD-74 is more compact than Enacted HD-74. In reaching this conclusion, the Court, as it did in the Pendergrass case, looks at the objective compactness scores of the Polsby-Popper and Reock measures.

Using the Reock indicator, Cooper HD-74 measures 0.63 as compared to Enacted HD-74 which measures 0.50. APAX 1, Exs. AG-1, AG-2. This means that on the Reock measure, Cooper HD-74 is 0.13 points more compact than Enacted HD-74. Id. Using the Polsby-Popper measure, Cooper HD-74 has an 0.11 compactness advantage: Cooper HD-74 is 0.36 and Enacted HD-74 is 0.25. Id. Hence, the Court finds that on the empirical compactness scores, Cooper HD-74 fares better than Enacted HD-74.

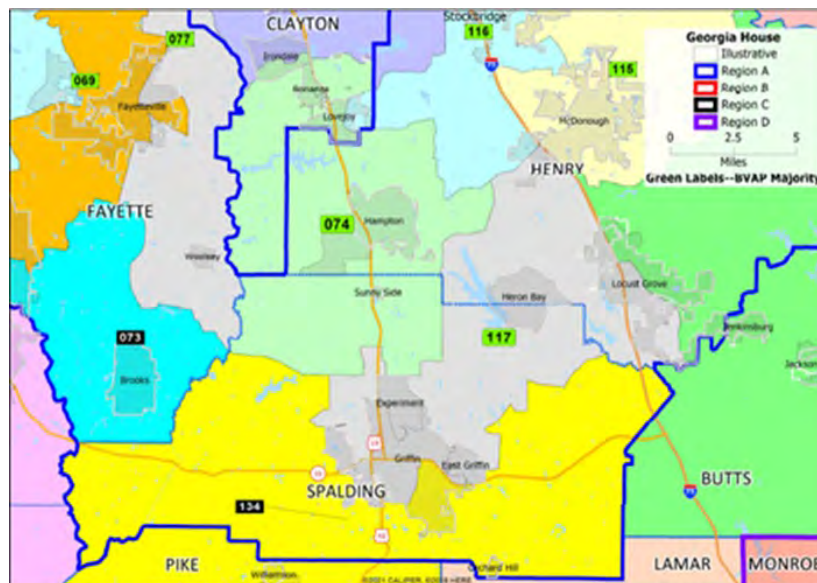
Accordingly, the Court finds that Cooper HD-74 is more compact when compared to Enacted HD-74.

**((4)) *political
subdivisions***

The Court also finds that Cooper HD-74 exhibits respect for political subdivisions more so than Enacted HD-74. Cooper HD-74 consists of portions of Clayton, Henry and Spalding Counties. APAX 1 ¶ 164 & fig.29. Enacted HD-74 also split three counties—Fayette, Harris, and Spalding. APAX 1 ¶ 162 & fig.28. Yet Cooper HD-74 split fewer VTDs than Enacted HD-74. Enacted HD-74 split five VTDs while Cooper HD-74 split only two. APAX 1, Exs. AH-1, AH-3. There is no testimony or opinion that Cooper HD-74 split municipalities. In fact, Mr. Morgan, Defendant’s mapping expert, agreed that it includes the “panhandle of Clayton, which is not included in the enacted District 74.” Tr. 2049: 10–12. Thus, the Court finds that Mr. Cooper respected political subdivisions when drawing Cooper HD-74.

((b)) eyeball test

The Court finds that Cooper SD-17 is visually compact under the eyeball test:



APAX 1 ¶ 164 & fig.29.

Using the mapping tool provided by Mr. Esselstyn, the Court finds that the district at its most distant points is less than 15 miles in length. *Id.* Cooper HD-74 has no appendages or tentacles. *Id.* Mr. Cooper testified that the district “couldn’t be more compact.” Tr. 122:18. And, Mr. Morgan testified that Cooper HD-74 is “a smaller geographic area and it contains the panhandle of Clayton, which is not included in the enacted District 74.” Tr. 2027:11–24. The Court agrees with both mapping experts, Cooper HD-74 is a very compact district, visually. Accordingly, the Court finds that Cooper HD-74 passes the eyeball test.

((c)) communities of interest

The Court finds that Cooper HD-74 respects communities of interest. Cooper HD-74 unites nearby, adjacent communities on either side of the line between south Clayton and Henry Counties. APAX 1 ¶ 198. As Mr. Cooper testified, “the distance[] there to get from one part of the district to the other are . . . maybe a 20-minute drive at most, unless you’re going during rush hour traffic or something.” Tr. 272:24-273:2.

Mr. Cooper testified that the communities included in the district are “largely suburban” in nature. Tr. 273:17-22. Consistent with that, Mr. Cooper’s examination of the ACS data shows that the counties included in Cooper HD-74 share a similar proportion of population in the labor force (71.0%, 58.2%, and 69.5% respectively). APAX 1 ¶ 198. Mr. Lofton’s testimony was consistent, testifying that Black communities in south-metro Atlanta are “middle class, upper middle class, professional, college educated. A lot of families, single families.” Tr. 1309:25-1310:4.

The Court finds that Cooper HD-74 complies with the traditional redistricting principle of preserving communities of interest. Defendant’s expert

admitted that Mr. Cooper's district is geographically compact. This district in no way resembles the districts in Miller and LULAC that stretched across large swaths of their respective States. There is unrebutted testimony that the voters in this area have similar socio-economic characteristics. Accordingly, the Court finds that Cooper HD-74 complies with the traditional redistricting principle of preserving communities of interest.

((d)) conclusions of law

The Court determines that the Alpha Phi Alpha Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Cooper HD-74 to constitute an additional majority-Black district. The Court finds that Cooper HD-74 complies with the traditional redistricting principles of population equality, contiguity, compactness scores, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have carried their burden in meeting the first Gingles precondition as to the area contained in Cooper HD-74.

iv) Cooper HD-117

The Court next finds that the Alpha Phi Alpha Plaintiffs have not shown that it is possible to draw an electoral district consistent with traditional redistricting principles in the area encompassed by Cooper HD-117. As an initial note, Mr. Cooper explained that Cooper HD-117 is in the same general area, and correlates with, Enacted HD-117. APAX 1 ¶ 165 (“another majority-Black House District can be drawn around where District 117 in the 2021 House Plan is drawn”).

((a)) empirical measures

((1)) *population equality*

The Court finds that Cooper HD-117 is not malapportioned. As stated above, the General Assembly did not enumerate the deviation range for the State Senate Districts. However, using the Enacted House Plan as a guide a population deviation range of $\pm 1.40\%$ is acceptable. Stip. ¶ 302. In comparison, Cooper SD-28 has a population deviation of -1.38% , which is within the deviation found in the Enacted House Plan. APAX 1, Ex. AA-1. The Court does note that Enacted HD-117 has a lower population deviation-- $+1.04\%$. The population deviation of Cooper HD-117 is higher than its enacted corollary, and it is barely within the

range of population deviations approved by the Georgia General Assembly when it passed the Enacted House Plan. Although the Court finds that Cooper HD-117 is not malapportioned, the Court also finds that it respects the traditional redistricting principle of population equality less than Enacted HD-117.

((2)) *contiguity*

The Parties stipulated that Cooper HD-117 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper HD-117 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds Cooper HD-117's compactness scores are either identical or very close to the compactness scores found in the Enacted House Plan. APAX 1, Exs. AG-1, AG-2. Cooper HD-117 and Enacted HD-117 have identical Reock scores of 0.41. Id. Enacted HD-117 is slightly more compact on the Polsby-Popper measure with a score of 0.28 while Cooper HD-117 has a Polsby-Popper score of 0.26. APAX 1, Exs. AG-2, AG-3. In sum, , the districts have identical Reock scores, but Enacted HD-117 is slightly more compact on the Polsby-Popper measure.

Despite a disadvantage of 0.02 points on the Polsby-Popper measure, Cooper HD-117 is well within the range of compactness scores of the Enacted

House Plan. Specifically, the Enacted Senate Plan has a minimum Polsby-Popper score is 0.10. APAX 1, Ex. AG-2. Cooper HD-117's Polsby-Popper score (0.26) far exceeds the lowest threshold Polsby-Popper score found in the Enacted House Plan. Id. Accordingly, the Court finds that Cooper HD-117 has identical or near identical compactness scores as Enacted HD-117, and Cooper HD-117 falls comfortably within the range of compactness scores in the Enacted House Plan. Therefore, Cooper HD-117 constitutes a compact district for purposes of the first Gingles precondition.

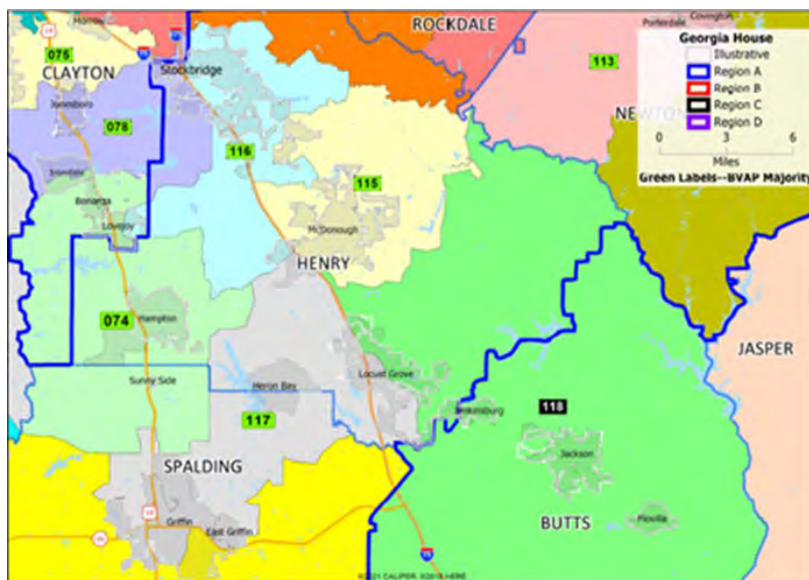
((4)) *political
subdivisions*

In considering respect for the preservation of political subdivisions, Cooper HD-117 fares worse than Enacted HD-117. For example, Cooper HD-117 has more political subdivision splits than Enacted HD-117. Both districts split Henry and Spalding Counties. APAX 1 ¶ 165 & fig.29A; ¶ 167 & fig.29C. But, Cooper HD-117 splits six VTDs, while Enacted HD-117 splits only one. APAX 1, Exs. AH-1, AH-3. Mr. Cooper testified, “[y]ou can see that I separated or made the boundary for District 28, which is the new majority Black district, following the municipal lines of Griffin, which can be kind of odd shaped in places.”

Tr. 114:4-7; APAX 11, at 41 ¶ 99 & fig.17B; see also id. at T-1 (listing a single split VTD in Fayette County and one in Spalding County). Mr. Cooper also testified that he did not keep the cities of Griffin or Locust Grove intact. Tr. 276:22-277:1. The Court finds that on balance, Cooper HD-117 reflects less respect for political subdivisions than Enacted HD-117.

((b)) eyeball test

The Court finds that Cooper HD-117 is visually compact under the eyeball test:



APAX 1 ¶ 198, Ex. AC-1.

Using the mapping tool, the Court finds that at its most points, Cooper HD-117 is less than 20 miles long. Id. Cooper HD-117 does not contain any tentacles or appendages. Defendant's own mapping expert agreed that Cooper HD-117 and Enacted HD-117 are both fairly compact. Tr. 2051:20-2052:1. ("Q. And illustrative 117 and enacted 117 are similarly compact? A. On compactness scores or just looking at it? Q. Both. A. I mean, it's hard to say whether it would be that way on compactness scores. But looking at it, they're both fairly compact, yes. They're not a great distance between anything."). Consistent with Defendant's mapping expert, the Court concludes that Cooper HD-117 is visually compact.

((c)) communities of interest

Cooper HD-117 unites communities that are geographically proximate to one another. Cooper HD-117 is in an area that includes adjacent portions of South Henry County around Locust Grove and a portion of Spalding County, including much of Griffin (Spalding County's seat and largest city) which is majority-Black. APAX 1 ¶ 198 & Ex. AC-2.

Mr. Cooper testified that “everyone” in Cooper HD-117 “lives close by.” Tr. 123:17. Again, Defendant’s mapping expert agreed, testifying that Griffin and Locust Grove are “close.” Tr. 1794:23. When specifically asked about the connection between Griffin and Locust Grove, Mr. Cooper testified that “they are in an exurban area of Metro Atlanta.” Tr. 277:25. Further Mr. Cooper noted that the area has a “somewhat younger population” (Tr. 123:24) and has a similar Black labor force participation rate. APAX 1 ¶ 198.

Mr. Lofton’s testimony was consistent with respect to the proximity and connections between the communities in Cooper HD-117. For example, he testified about the shared commercial centers used by residents of the area, such as Tanger Outlets, and about how Highways 138 and 155 are important transportation corridors that unite the district. Tr. 1308:20-1309:8.

Thus, the Court finds that Cooper HD-117 is a small district contained wholly with metro Atlanta and has no resemblance to the districts in LULAC and Miller. Mr. Cooper testified about the communities that are contained within the district, the shared socio-economic factors, and the characteristics that unite them. Additionally, Mr. Lofton, with his lifelong experience as a resident in the area,

explained how the communities interact with one another. The Court finds that the size of the district coupled with the witness testimony shows Cooper HD-117 preserves communities of interest.

((d)) conclusions of law

The Court finds that the Alpha Phi Alpha Plaintiffs have not carried their burden in establishing that the Black community is sufficiently compact in Cooper HD-117 to constitute an additional majority-Black district. Although Cooper HD-117 complies with the traditional redistricting principles of contiguity, compactness scores, and preservation of communities of interest, the Court finds that it split more political subdivisions than Enacted HD-117. Additionally, the district's population deviation is both higher than Enacted HD-117 and is barely within the range of the Enacted House Plan's population deviations.

Although there is no requirement that an illustrative district match or perform better than the correlating enacted district,⁷⁵ the Court finds that the higher deviation coupled with the splitting of an additional four VTDs as well as two municipalities leads to a finding that the district could not be drawn in accordance with traditional redistricting principles.

Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have not carried their burden on the first Gingles precondition in the area encompassed by Cooper HD-117.

(2) Grant

The Court finds that the Grant Plaintiffs have met their burden in proving the three Gingles preconditions in relation to the challenged Senate districts in metro Atlanta and two of the challenged House districts in metro Atlanta.

⁷⁵ See Wright v. Sumter Cnty. Bd. of Elections & Registration, 301 F. Supp. 3d 1297, 1326 (M.D. Ga. 2018), aff'd, 979 F.3d 1282 (11th Cir. 2020) (opining that an illustrative plan can be “far from perfect” in terms of compactness yet satisfy the first Gingles precondition).

(a) numerosity

The Court finds that Grant Plaintiffs have met their burden in showing that the Black voting age population in metro Atlanta is large enough to create two additional majority-Black Senate districts, two majority-Black House districts in south metro Atlanta, and one additional majority-Black House district in western metro Atlanta. “[A] party asserting § 2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” Bartlett, 556 U.S. at 20.

It is undisputed that Esselstyn SD-25 and SD-28 have an AP BVAP of 58.93% and 57.28%, respectively, both of which exceed the 50% threshold required by Gingles. GX 1 ¶ 27 & tbl.1; Stip. ¶ 234.

Table 1: Illustrative Senate plan majority-Black districts with BVAP percentages.

District	BVAP%	District	BVAP%	District	BVAP%
10	61.10%	26	52.84%	39	60.21%
12	57.97%	28	57.28%	41	62.61%
15	54.00%	34	58.97%	43	58.52%
22	50.84%	35	54.05%	44	71.52%
23	51.06%	36	51.34%	55	65.97%
25	58.93%	38	66.36%		

It is also undisputed that Esselstyn HD-64, HD-74, and HD-117 have an AP BVAP of 50.24%, 53.94%, and 51.56%, respectively. Stip. ¶ 239, GX 1 ¶ 48 & tbl.5.

Table 5: Illustrative House plan majority-Black districts with BVAP percentages.

District	BVAP%	District	BVAP%	District	BVAP%	District	BVAP%
38	54.23%	69	62.73%	91	60.01%	137	52.13%
39	55.29%	74	53.94%	92	68.79%	140	57.63%
55	55.38%	75	66.89%	93	65.36%	141	57.46%
58	63.04%	76	67.23%	94	69.04%	142	50.14%
59	70.09%	77	76.13%	95	67.15%	143	50.64%
60	63.88%	78	51.03%	113	59.53%	145	50.38%
61	53.49%	79	71.59%	115	53.77%	149	51.53%
62	72.26%	84	73.66%	116	51.95%	150	53.56%
63	69.33%	85	62.71%	117	51.56%	153	67.95%
64	50.24%	86	75.05%	126	54.47%	154	54.82%
65	63.34%	87	73.08%	128	50.41%	165	50.33%
66	53.88%	88	63.35%	129	54.87%	177	53.88%
67	58.92%	89	62.54%	130	59.91%		
68	55.75%	90	58.49%	132	52.34%		

Based on these numbers, the Court finds that the Grant Plaintiffs have met their burden with respect to the numerosity prong of the first Gingles precondition in all additional majority-Black districts that Mr. Esselstyn proposed in metro Atlanta (i.e., SD-25, SD-28, HD-64, HD-74, and HD-117).

(b) compactness

The Court finds that the Grant Plaintiffs have also met their burden to show that the minority community is sufficiently compact to warrant the creation of two additional majority-Black State Senate districts in south-metro Atlanta. They have also met their burden in showing that one additional compact

majority-Black district can be drawn in south metro Atlanta and one can be drawn in west-metro Atlanta. The Grant Plaintiffs have not met their burden with respect to Esselstyn HD-74, in south-metro Atlanta.

The standards governing the compactness inquiry for these additional proposed State Senate Districts is the same as the compactness inquiry undertaken in the Pendergrass case. See Section II(C)(1)(b) *supra*. The Court must consider if the illustrative proposed districts adhered to traditional redistricting principles, namely: population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respect for political subdivisions, and preserving communities of interest. See Section II(C)(1)(b) *supra*.

*i) Esselstyn SD-25*⁷⁶

The Court finds that the minority community in Esselstyn SD-25 is sufficiently compact.

⁷⁶ Esselstyn's State Senate districts in metro-Atlanta do not correlate to any of the enacted State Senate districts. Compare GX 1 ¶ 27 & fig. 4, with GX 1, attach D. Accordingly, the Court will compare the Esselstyn State Senate districts to the overall Enacted Senate Plan's statistics.

((a)) empirical measures

((1)) *population equality*

The Court finds that Esselstyn SD-25 is not malapportioned. See Reynolds, 377 U.S. at 577 (requiring “an honest and good faith effort to construct districts . . . of nearly equal population as practicable.”); Brown, 462 U.S. at 842 (“minor deviations” are not violative of the Fourteenth Amendment). The General Assembly’s “General Principles for Drafting Plans” specifies that “[e]ach legislative district . . . should be drawn to achieve a total population that is substantially equal as practicable.” Stip. ¶ 135; JX 2, 2.

The ideal population size of a State Senate District is 191,284. Stip. ¶ 277. The General Assembly did not enumerate a specific acceptable deviation range for the State Senate Districts. However, using the Enacted Plan as a rough guide, a population deviation range between -1.03% and -0.98% is acceptable. GX 1, Attach. E. Esselstyn SD-25 has a population deviation of +0.74%. GX 1, Attach. F. This deviation falls squarely within the range of deviations in the Enacted Senate Plan. Thus, the Court finds that Esselstyn SD-25 achieves population equality that is consistent with the General Assembly’s Redistricting Guidelines and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Esselstyn SD-25 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn SD-25 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that Esselstyn SD-25 is more compact than Enacted SD-25. In reaching this conclusion, the Court, as it did in the Pendergrass case, looks at the objective compactness scores of the Polsby-Popper measure and Reock indicator.

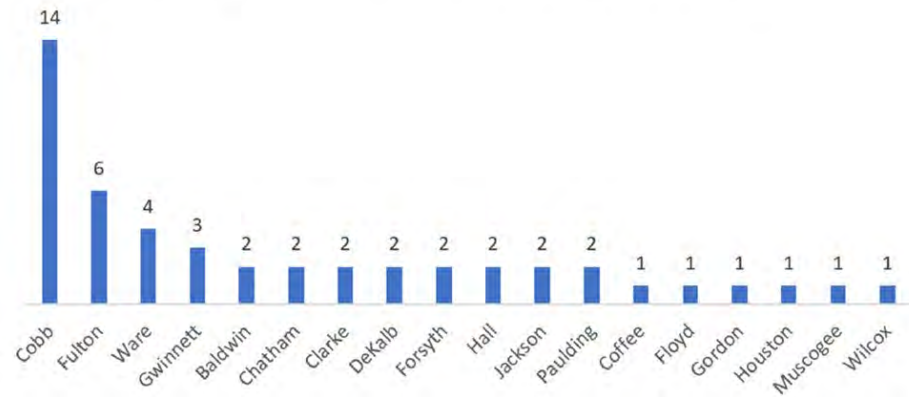
Using the Reock indicator, Esselstyn's SD-25 is 0.57 as compared to the Enacted Senate Plan, which has an average Reock score of 0.42. GX 1, Attach. H. Thus, under the Reock measure, Esselstyn SD-25 is 0.15 points more compact than Enacted Senate Plan's average Reock score. Under the Polsby-Popper measure, Esselstyn's SD-25 is 0.34, and the Enacted Senate Plan has an average score of 0.29, a 0.05 point advantage for Esselstyn's SD-25 on this measure. Id. Hence, the Court finds that upon application of the empirical compactness measures, Esselstyn SD-25 fares better than the Enacted Senate Plan's average compactness scores.

The State's mapping expert, Mr. Morgan, agreed that Esselstyn SD-25 is significantly more compact than Enacted SD-25. Tr. 1850:8-11. Mr. Morgan conceded, furthermore, that Esselstyn SD-25 is more compact on the Reock and Polsby-Popper scale than *all* of the districts implicated by in the Enacted Senate Plan, except for one with an identical Polsby-Popper score. Tr. 1895:17-1896:1.

In sum, the Court finds that Esselstyn SD-25 is sufficiently compact w.

((4)) *political
subdivisions*

The Court also finds that in creating Esselstyn SD-25, Mr. Esselstyn respected political subdivisions. Esselstyn SD-25 consists of portions of Henry and Clayton Counties. GX 1 ¶ 30 & fig.6. Additionally, Esselstyn SD-25 does not split any VTDs. GX 1 ¶ 40 & fig.10. See below for a graphic depiction of the Esselstyn Senate Plan's VTD splits:

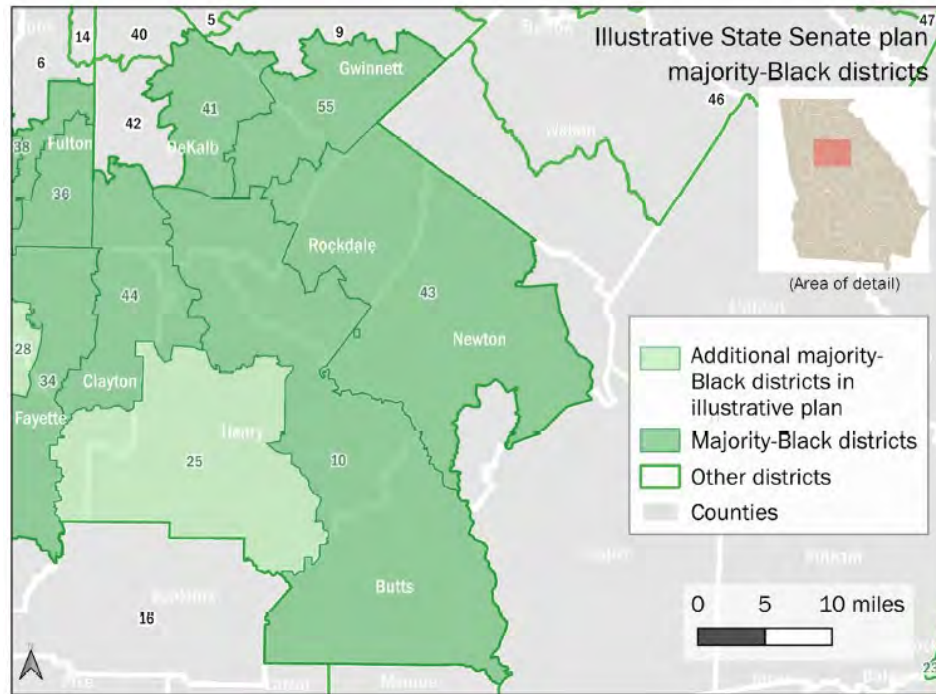
Figure 10: VTD splits in illustrative State Senate plan by county.

GX 1 ¶ 40 & fig.10.

Mr. Esselstyn also testified that he made an effort to keep municipalities intact. Tr. 544:8–12 (testifying that McDonough is mostly intact, and that Locust Grove, Hampton, Bonanza and Lovejoy are kept intact). Accordingly, the Court finds that Esselstyn SD-25 reflects a respect for political subdivisions.

((b)) eyeball test

The Court finds that Esselstyn SD-25 is visually compact under the eyeball test:



GX 1 ¶ 30 & fig.6.

Using the mapping tool provided by Mr. Esselstyn, the Court finds that the district at its most distant points is approximately 20 miles in length. Id. Esselstyn SD-25 has no appendages or tentacles. Id. There is no contrary evidence or testimony in the Record. In fact, Mr. Morgan’s report includes no analysis on the visual compactness of Esselstyn SD-25. Accordingly, the Court finds that Esselstyn SD-25 is visually compact.

((c)) communities of interest

The Court finds that Esselstyn SD-25 demonstrates respect for communities of interest. Mr. Esselstyn testified that the district is in metro Atlanta. Tr. 484:5–9. He also explained that he combined Henry and Clayton Counties because they are adjacent to one another. Tr. 544:1–7.

On cross-examination, Mr. Esselstyn admitted that he was unable to articulate a community of interest that connects south Clayton County with Locust Grove. Tr. 546:16–21. the Grant Plaintiffs, however, supplemented this testimony with testimony from Jason Carter, a former member of the State Senate and 2014 candidate for Governor of Georgia. Mr. Carter noted that Mr. Esselstyn’s districts in south metro Atlanta are “suburban and exurban,” “clearly [] fast-growing, . . . Atlanta commuter communit[ies] that ha[ve] all of the traffic concerns and the concerns of . . . expanding schools and massive population boom.” Id. at 953:20–954:3. See also id. at 958:9–19 (similar); id. at 959:6–19 (similar); id. at 962:1–965:17 (similar). Addressing their shared interests, Mr. Carter explained that residents of these areas need their government officials to be responsive to their “transportation, education, [and] healthcare” needs. Id.

at 955:7–21. In the same vein, Eric Allen, 2020 candidate for Lt. Governor, testified that the residents of Esselstyn SD-25 share similar entertainment districts, hospitals, transit systems, education systems, employment, and all travel on I-75, I-285, I-20, and I-85. Tr. 1000:18–1001:2. In fact, the State’s own map drawer, Ms. Wright, testified in connection with Enacted SD-28 and said that it was important to keep the city of Locust Grove wholly within that district (Tr. 1634:3–6), which Mr. Esselstyn accomplished (Tr. 546:16–21).

In sum, the Court finds that Esselstyn SD-25 is a small district contained wholly within metro Atlanta. It is comprised of two adjacent counties. The communities share the same concerns with transportation routes and have both experienced recent major population growth. Additionally, the Court finds that this district is not long and sprawling, like the districts in LULAC and Miller that stretched across large portions of the States and combined disparate minority populations. Rather, as is evidenced by the size of the district and the trial testimony, Esselstyn SD-25 preserves communities of interest.

((d)) conclusions of law

The Court determines that the Grant Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Esselstyn SD-25 to constitute an additional majority-Black district. The Court finds that Esselstyn SD-25 complies with the traditional redistricting principles of population equality, contiguity, compactness, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Grant Plaintiffs have carried their burden in meeting the first Gingles precondition in the area contained in Esselstyn SD-25.

ii) Esselstyn SD-28⁷⁷

The Court finds also that Grant Plaintiffs have shown that it is possible to draw a reasonably compact electoral district consistent with traditional redistricting principles in the area encompassed by Esselstyn SD-28.

⁷⁷ As stated *supra*, the Court compares Esselstyn SD-28 to the Enacted Senate Plan as a whole. See Section II(D)(1)(b)(2)(b)(i) *supra*.

((a)) empirical measures

((1)) *population equality*

The Court finds that Esselstyn SD-28 achieves relative population equality. As stated above, the General Assembly did not enumerate a specific acceptable deviation range for the Enacted Senate Plan. However, using the Enacted Plan as a guide, a population deviation range between -1.03% and -0.98% is acceptable. GX 1, Attach. D. Accordingly, the Court finds that Esselstyn SD-28 is within the acceptable range of population deviations approved by the Georgia General Assembly when it passed the Enacted Senate Plan. Thus, it achieves population equality that is consistent with the Enacted Senate Plan, the General Assembly's Redistricting Guidelines, and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Esselstyn SD-28 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn SD-28 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds Esselstyn SD-28's compactness scores, while lower on a side-by-side comparison with the Enacted Senate Plan, are within the acceptable

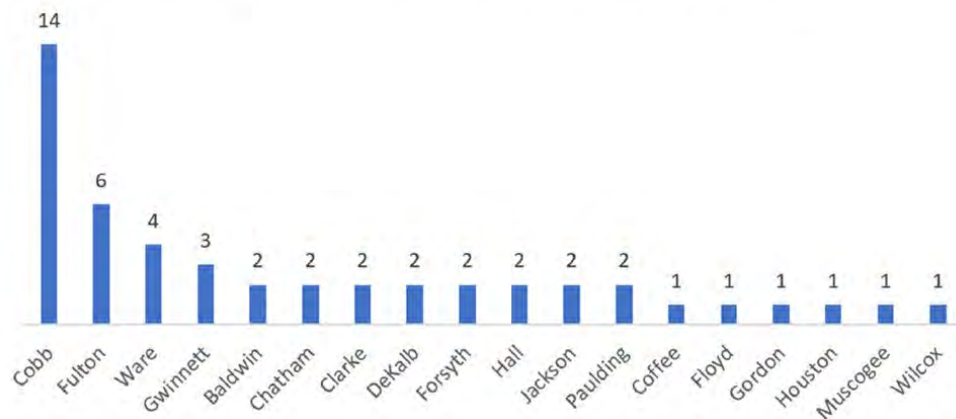
range of compactness scores found in the Enacted Senate Plan. GX 1, Attach. H. Esselstyn SD-28 has a Reock score of 0.38 and a Polsby-Popper score of 0.19. Id. The Enacted Senate Plan has an average Reock score of 0.42 and Polsby-Popper score of 0.29. Accordingly, the Enacted Senate Plan's average compactness scores beats Esselstyn SD-28 on all empirical measures—0.05 points on Reock and 0.10 on Polsby-Popper.

Despite a lower compactness score under both empirical measures, Esselstyn SD-28 is within the range of compactness scores found in the Enacted Senate Plan. Specifically, the Enacted Senate Plan has a minimum Reock score of 0.17. GX 1, Attach. H. Esselstyn SD-28's Reock score (0.38) far exceeds that minimum threshold Reock score in the Enacted Senate Plan. Id. Similarly, the Enacted Senate Plan's minimum Polsby-Popper score is 0.13. Id. Esselstyn SD-28's Polsby-Popper score (0.19) exceeds, albeit slightly, the minimum threshold Polsby-Popper score in the Enacted Senate Plan. Id. Accordingly, the Court finds that Esselstyn SD-28 falls within the range of compactness scores in the Enacted Senate Plan and therefore constitutes a compact district for purposes of the first Gingles precondition.

((4)) *political
subdivisions*

The Court finds that Esselstyn SD-28 exhibits respect for political subdivisions. Esselstyn SD-28 contains portions of Clayton, Coweta, Fayette, and Fulton Counties. GX 1 ¶ 31.

Figure 10: VTD splits in illustrative State Senate plan by county.



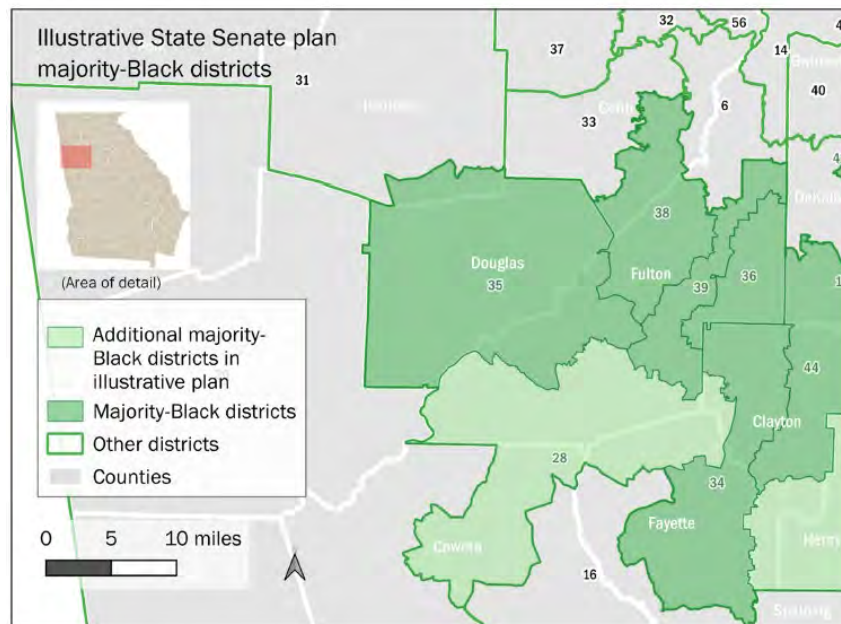
GX 1 ¶ 40 & fig.10. As this chart shows, the only county that is included within Esselstyn SD-28 with VTD splits is Fulton County. Put differently, Esselstyn SD-28 does not split any VTDs in Coweta, Clayton, and Fayette Counties, which make up the majority of the district. *Id.*; at ¶ 31 & fig.7. Even though Esselstyn SD-28 splits the city of Newnan, 90% of the city is contained within a single

district. Tr. 549:2-5, 550:25-551:9. Esselstyn, moreover, did not split any VTDs in Newnan, which is in Coweta County, itself. GX 1 ¶ 40 & fig.10.

Based on the foregoing, the Court finds that Esselstyn SD-28 exhibits a respect for political subdivisions.

((b)) eyeball test

The Court finds that Esselstyn SD-28 is visually compact under the eyeball test:



GX 1 ¶ 31 & fig.7.

Using the mapping tool, the Court finds that at its most distant points, Esselstyn SD-28 is approximate 25 miles long. Id. Esselstyn SD-28 does not contain any tentacles or appendages. Defendants submit no evidence or testimony in the Record suggesting that Esselstyn SD-28 is not visually compact. See generally DX 3; Tr. 1896:13-23. Accordingly, the Court concludes that Esselstyn SD-28 is visually compact.

((c)) communities of interest

The Court finds that Esselstyn SD-28 respects communities of interest. Because Esselstyn SD-25 and SD-28 are in close proximity to one another, much of the testimony adduced about SD-28 was also discussed in relation to Esselstyn SD-25. See Tr. 484:5–9 (Mr. Esselstyn testimony); see also generally id. 953:20–965:17 (Mr. Carter testimony). The Court thereby incorporates its general analysis on communities of interest in south-metro Atlanta from Esselstyn SD-25 above into this section on Esselstyn SD-28. See Section II(D)(1)(2)(b)(i)(c) *supra*.

Specific to Esselstyn SD-28, Mr. Esselstyn testified that he drew the district to best keep together municipalities in Fulton County, and specifically to keep 90% of Newnan intact. Tr. 548:20–549:24. Similar to Locust Grove, Mr. Esselstyn

admitted that he was unable to articulate a community of interest that connects the city of Newnan with Fulton and Clayton Counties (Tr. 548:20–549:1). Again, however, the Grant Plaintiffs’ supplemented this testimony with testimony from Mr. Allen, who testified that all of Esselstyn SD-28 is within metro Atlanta. Tr. 1002:18–20. He also mentioned that the area was serviced by the same healthcare systems (i.e., Emory Hospital and Grady Hospital) and relied on the same interstates for transportation. Id. at 1002:21–1003:5. Additionally, the State’s map drawer, Ms. Wright, who is herself a resident of nearby Henry County (Tr. 1653:17–21), testified about the general communities in this area. In reference to the Enacted Senate Plan, Ms. Wright testified that it makes sense to group Coweta and Fayette Counties in a single district because the counties “are commonly sharing resources and things like that.” Tr. 1656:18–21.

Thus, the Court finds that Esselstyn SD-28 is a small district contained wholly within metro Atlanta. Its communities share the same concerns with transportation routes and have experienced recent major population growth. Additionally, the Court finds that this district is not long and sprawling, like the districts in LULAC and Miller that stretched across large portions of their

respective States and combined disparate minority populations. Rather, as is evidenced by the size of the district and the trial testimony, Esselstyn SD-28 preserves communities of interest.

((d)) conclusions of law

The Court finds that the Grant Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Esselstyn SD-28 to constitute an additional majority-Black district. The Court finds that Esselstyn SD-28 complies with the traditional redistricting principles of population equality, contiguity, compactness scores, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Grant Plaintiffs have carried their burden on the first Gingles precondition in the area encompassed by Esselstyn SD-28.

iii) Esselstyn HD-64

The Court finds that the Grant Plaintiffs have shown that it is possible to draw a State House district consistent with traditional redistricting principles in the area encompassed by Esselstyn HD-64.

((a)) Empirical measures

((1)) *population equality*

The Court finds that Esselstyn HD-64 achieves better population equality than Enacted HD-64. Enacted HD-64 has a population deviation of -0.88%, whereas Esselstyn HD-64 has a population deviation of +0.23%. GX 1, attaches. I, J. Accordingly, Esselstyn HD-64 achieves population equality consistent with the General Assembly's Guidelines and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Esselstyn HD-64 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn HD-64 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that Esselstyn HD-64's compactness score is within the range of scores achieved by the Enacted House Plan. Esselstyn HD-64 has a compactness measure of 0.22 on both metrics. GX 1, Attach. L. Enacted HD-64 has a Reock score of 0.38 and Polsby-Popper score of 0.36. *Id.* While Esselstyn HD-64 is less compact than Enacted HD-64 using empirical measures, the proposed district is still within the range of acceptable range of compactness

scores found in the Enacted House Plan (i.e., a minimum Reock score of 0.12 and a minimum Polsby-Popper score of 0.10). Id. Accordingly, the Court finds that Esselstyn HD-64 is reasonably compact in terms of empirical scoring.

**((4)) *political
subdivisions***

The Court finds that Esselstyn HD-64 respects political subdivisions. Esselstyn HD-64 consists of portions of Douglas, Fulton, and Paulding Counties. GX 1 ¶ 49. Esselstyn HD-64 splits one more county than Enacted HD-64, which includes only portions of Douglas and Paulding Counties. GX 1, Attach. I. When comparing the VTD splits in Enacted HD-64 and Esselstyn HD-64, they both split only one VTD (in Paulding County). GX 1, Attach. L.⁷⁸ Additionally, Mr. Esselstyn testified he was able to keep Lithia Springs intact, which is an incorporated community. Tr. 562:4-13.

Defendants' mapping expert, Mr. Morgan, did not opine about Esselstyn HD-64 in his report. DX 3. However, at the trial, he testified that Esselstyn HD-

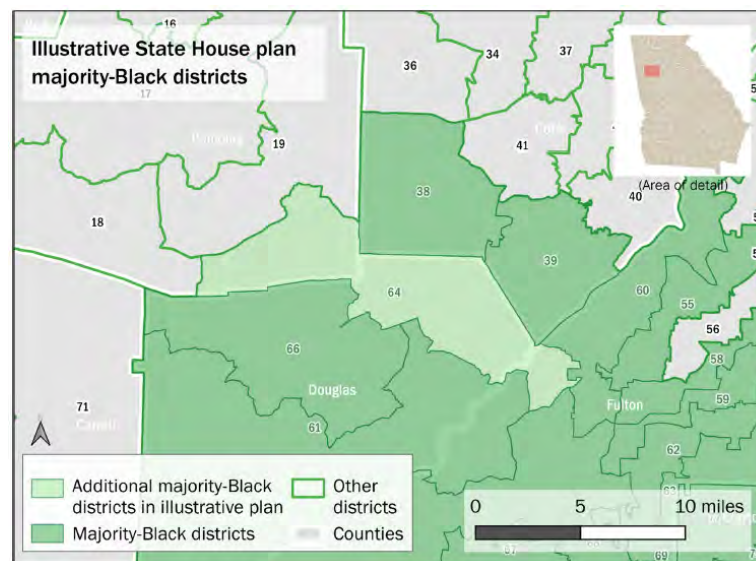
⁷⁸ The statistics for the VTD splits can be found on page 14 of subdivision of the Political Subdivisions Chart entitled GA House Enacted and page 14 of Political Subdivisions Chart entitled GA House Illustrative. GX 1, Attach. L.

64 contains the same Fulton and Douglas County precincts as Enacted HD-61. Tr. 1826:17–21. Outside of this testimony, Mr. Morgan offered no opinion about whether Esselstyn HD-64 exhibited respect for existing political subdivisions.

The Court finds that not only are Esselstyn HD-64 subdivision splits consistent with Enacted HD-64, but Esselstyn HD-64 on the whole respects political subdivisions.

((b)) eyeball test

The Court finds that Esselstyn HD-64 is visually compact:



GX 1 ¶ 49 & fig.14.

Mr. Esselstyn testified that he modeled the shape of Esselstyn HD-64 on the shape of Enacted HD-61. Tr. 560:14–24. Visually, the Court finds that Esselstyn HD-64 does not have appendages or tentacles. Esselstyn HD-64 is relatively small in size. In fact, when measured with the mapping tool, it is less than 20 miles at its most distant points. GX 1 ¶ 49 & fig.14.

Because of these considerations and the fact that Defendants do not meaningfully dispute the visual compactness of this district, the Court finds that Esselstyn HD-64 is visually compact.

((c)) communities of interest

The Court finds that Esselstyn HD-64 preserves communities of interest and does not combine disparate communities. As an initial note, the Court finds that Esselstyn HD-64 is in the same relative area as Illustrative CD-6. Both proposed districts combine areas in-and-around Fulton and Douglas Counties.⁷⁹ GX 1 ¶ 49. As the Court stated above, it found that Illustrative CD-6 preserved communities of interest. See Section II(C)(1)(b)(3) *supra*.

⁷⁹ Esselstyn HD-64 also contains parts of Paulding County, and Illustrative CD-6 combines areas in Cobb and Fayette Counties.

Specific to Esselstyn HD-64, Mr. Allen explained that the residents of this west-metro Atlanta district have shared interests. Tr. 1004:1–10. They rely on the same roadways and face many of the same transportation-related challenges. Id. at 1004:11–22. They rely on the same healthcare systems and share an interest in preserving access to Grady Hospital, the only Level One Trauma Center in the metro area. Id. at 1005:1–24. Accordingly, the Court finds that Esselstyn HD-64 preserves existing communities of interest.

((d)) conclusions of law

The Court finds that the Grant Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Esselstyn HD-64 to constitute an additional majority-Black district. The Court finds that Esselstyn HD-64 complies with the traditional redistricting principles of population equality, contiguity, compactness, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Grant

Plaintiffs have carried their burden in meeting the first Gingles precondition in the area encompassed by Esselstyn HD-64.

iv) Esselstyn HD-74

The Court finds that Grant Plaintiffs have not shown that it is possible to draw a legislative district consistent with traditional redistricting principles in the area encompassed by Esselstyn HD-74.

((a)) empirical measures

((1)) *population equality*

The Court finds that Esselstyn HD-74's population deviation of -1.84% is greater than any district in the Enacted House Plan (-1.40% and +1.34%). Esselstyn HD-74 is nearly one point greater than the deviation of Enacted HD-74 (-0.93%). GX 1, attaches. J, I. ; Stip. ¶ 278. Mr. Esselstyn admitted that it was one of the most underpopulated districts on his House Plan. Tr. 567:23-568:6. "[T]he Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as practicable." Reynolds, 377 U.S. at 577.

[M]inor deviations from mathematical equality among State legislative districts are insufficient to make out a prima facie case . . . under the Fourteenth

Amendments Our decisions have established, as a general matter, that an apportionment plan with a maximum population deviation under 10% falls within this category of minor deviations.

Brown, 462 U.S. at 842 (quoting Reynolds, 377 U.S. at 577) (quotation marks omitted). More recently, the Supreme Court held that population deviations that are below 10 percent are not entitled to a safe harbor. Cox v. Larios, 542 U.S. 947, 949 (2004). Specifically, “the equal-population principle remains the only clear limitation on improper districting practices, and we must be careful not to dilute its strength.” Id. at 949–50. In 2004, that three-judge court noted that with technology it is possible to have perfect population equality. Larios v. Cox, 300 F. Supp. 2d 1320, 1341 (N.D. Ga. 2004). In 1991, a court in the Northern District of Illinois similarly remarked that “[t]he use of increasingly sophisticated computers in the congressional map drawing process has reduced population deviations to nearly infinitesimal proportions.” Harstert v. State Bd. of Elections, 777 F. Supp. 634, 643 (N.D. Ill. 1991).

Although perfect population deviation is not a requirement by the Supreme Court or the Georgia General Assembly, “[e]ach legislative district of the General Assembly shall be drawn to achieve a total population that is

substantially equal as practicable, considering the principles listed below.” JX 2, 2. The Court finds that Esselstyn HD-74 achieves population equality less so than Enacted HD-74. Using the Georgia Enacted House Plan as a guide, the accepted population deviation range is $\pm 1.40\%$. Esselstyn HD-74, at -1.84% , is significantly greater than that range.

((2)) *contiguity*

The Parties stipulated that Esselstyn HD-74 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn HD-74 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that the Esselstyn HD-74’s compactness scores are within the acceptable range of compactness scores on the overall Enacted House Plan. Esselstyn HD-74 has a Reock score of 0.30 and a Polsby-Popper score of 0.19. GX 1, Attach. L. The Court notes that Enacted HD-74 performs better on the Reock measure (0.50) as well as the Polsby-Popper measure (0.25). *Id.* The Court notes Esselstyn HD-74’s scores do not fall below the minimum compactness scores for the Enacted Plan—0.12(on Reock) and 0.10 (on Polsby-Popper). *Id.* In sum, the Court finds that Esselstyn HD-74 is less compact than Enacted HD-74.

((4)) *political
subdivisions*

The Court finds that Esselstyn HD-74 generally exhibited respect for communities of interest. The Court notes that Esselstyn HD-74 splits one less county than Enacted HD-74. GX 1 ¶ 50 & fig.15 (Esselstyn HD-74 is contained in Clayton and Fulton Counties); GX 1, Ex. I (Enacted HD-74 is contained in Fayette, Henry, and Spalding Counties).

However, at the trial Mr. Esselstyn testified that he split Peachtree City. Tr. 567:6-13; 1657:22-23. It is worth noting that the Enacted House Plan also split Peachtree City. Id. Esselstyn HD-74 testified that he was able to keep the communities of Irondale, Brooks, and Woolsey “if not entirely intact, almost entirely intact,” but conceded that Irondale is not an incorporated municipality. Tr. 566:22-567:5.

Finally, Esselstyn HD-74 split fewer VTDs than Enacted HD-74. Enacted HD-74 split four VTDs, one in Fayette and three in Spalding Counties (GX 1, Ex. L),⁸⁰ whereas Esselstyn HD-74 split only one VTD in Clayton County (id.).

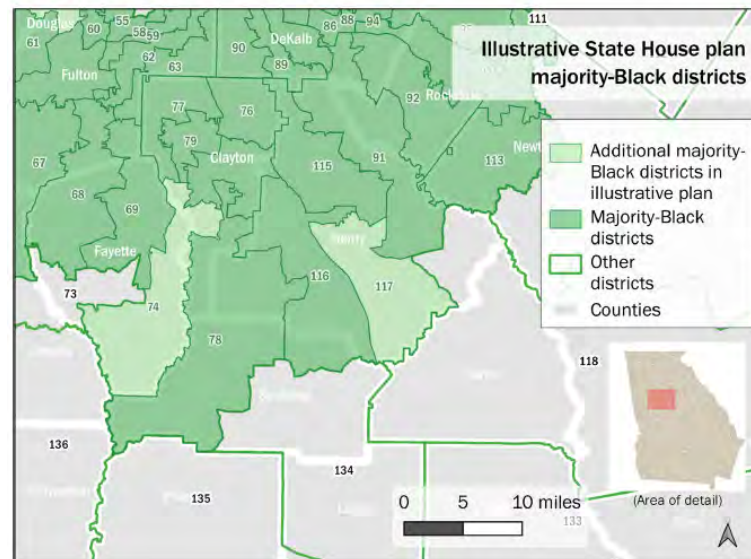
Based on the foregoing, the Court finds that Esselstyn HD-74 reflects respect for political subdivisions.

((b)) eyeball test

The Court finds that Esselstyn HD-74 is visually compact:

⁸⁰ The statistics for the VTD splits can be found on pages 11 and 15 of subdivision of the Political Subdivisions Chart entitled GA House Enacted and page 2 of Political Subdivisions Chart entitled GA House Illustrative. GX 1, Attach. L.

Figure 15: Map of southern Metro Atlanta area of illustrative plan with majority-Black House districts indicated.



GX 1 ¶ 50 & fig.15.

Esselstyn HD-74 does not have appendages or tentacles. Using the mapping tool, Esselstyn HD-74 is approximately 20 miles in length at its most distant points.

Defendants do not meaningfully dispute the visual compactness of this district. Accordingly, the Court finds that Esselstyn HD-74 is visually compact.

((c)) communities of interest

The Court finds that Esselstyn HD-74 combines rural, urban, and suburban populations. In fact, Mr. Esselstyn testified that the proposed district contained

rural, urban, and suburban populations. Tr. 566:22–24. Mr. Carter’s testimony about the communities of interest in this district was generally the same as his testimony about the communities of interest in Esselstyn HD-117, SD-25, and SD-28 because they are in the same relative region of the state. However, on cross-examination, Mr. Carter agreed that the parts of south Fayette County included in Esselstyn HD-74 were exurban, if not rural, compared with other parts of the district. Tr. 987:2–16.

The Court finds that the testimony specific to Esselstyn HD-74 shows that it combined widely diverse communities into a district. Accordingly, the Court finds that Esselstyn HD-74 combines disparate communities into one district.

((d)) conclusions of law

The Court has determined that the Grant Plaintiffs have not carried their burden in establishing that the Black community in Esselstyn HD-74 is sufficiently numerous and compact to constitute an additional majority-Black district. Although the Black population in Esselstyn HD-74 exceeds 50%, the Court finds that it does so by having one of the most underpopulated districts in the Esselstyn House Plan. Tr. 567:23–568:6. Additionally, the Court finds that

although the district is visually compact, it is significantly less compact than Enacted HD-74 in other ways. Furthermore, Mr. Esselstyn admitted and Mr. Carter agreed that the district combines urban, suburban, and rural communities. Neither witness was able to explain the commonalities that the voters in Esselstyn HD-74 share, except for the general commonalities that all metro Atlanta voters share. Accordingly, the Court concludes that the Grant Plaintiffs have not carried their burden in meeting the first Gingles precondition in the area drawn by Esselstyn HD-74.

v) Esselstyn HD-117

The Court finds that the Grant Plaintiffs have shown that it is possible to draw a legislative district consistent with traditional redistricting principles in the area encompassed by Esselstyn HD-117.

((a)) Empirical measures

((1)) *population equality*

The Court finds that Esselstyn and Enacted HD-117 have comparable population deviations. Esselstyn HD-117 has a population deviation of +1.06% whereas Enacted HD-117 has a population deviation of +1.04%. GX 1, Attachs. I, J. The Court finds that the difference in population deviations between the two

districts is not legally significant. Additionally, the Court finds that Esselstyn HD-117's population deviation is within the range of population deviations found in the Enacted House Plan (-1.40% and 1.34%). *Id.* at Attach. I. Accordingly, the Court finds that Esselstyn HD-117 complies with traditional redistricting principle of population equality.

((2)) *contiguity*

The Parties stipulated that Esselstyn HD-117 is a contiguous district. *Stip.* ¶ 258. Hence, the Court finds that Esselstyn HD-117 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that Esselstyn and Enacted HD-117 are comparably compact. Esselstyn HD-117 has a Reock score of 0.40 and a Polsby-Popper score of 0.33. GX 1, Attach. L. Enacted HD-117 has a Reock score of 0.41 and a Polsby-Popper score of 0.28. *Id.* Thus, Enacted HD-117 is more compact on the Reock measure (by 0.01 points), and Esselstyn HD-117 is more compact on the Polsby-Popper score (by 0.05 points). Generally, however, the two districts are roughly equal in terms of objective compactness scores. The Court also finds that Esselstyn HD-117 performs better than the Enacted House Plan's average

compactness scores (0.39 on Reock and 0.28 on Polsby-Popper). Id. Accordingly, the Court finds that Esselstyn HD-117 is compact as compared to Enacted HD-117 and overall qualifies as a compact district.

**((4)) *political
subdivisions***

The Court finds that Esselstyn HD-117 demonstrates respect for political subdivisions. Esselstyn HD-117 is wholly within Henry County, meaning it does not split any counties (GX 1 ¶ 50 & fig.15), whereas Enacted HD-117 consists of Henry and Spalding Counties (GX 1, Ex. I). Accordingly, Esselstyn HD-117 splits one less county than Enacted HD-117.

Conversely, however, Mr. Esselstyn split the city of McDonough, even though he kept the core of the city whole. Tr. 571:19–25. Mr. Esselstyn also split the city of Locust Grove, by using I-75 as a boundary.⁸¹ Tr. 571:16–21. Finally,

⁸¹ Mr. Esselstyn, however, crossed over I-75 in another district. Tr. 571:16–21

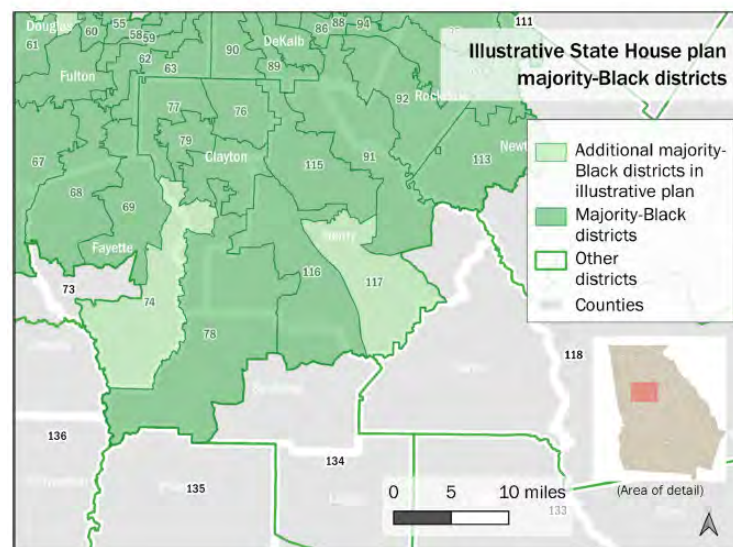
Esselstyn HD-117 splits two VTDs in Henry County, whereas the Enacted HD-117 split only one VTD in Henry County. GX 1, Ex. L.⁸²

Given the above evidence, the Court finds that Mr. Esselstyn, generally, respected political subdivisions in creating Esselstyn HD-117.

((b)) Eyeball test

The Court finds that Esselstyn HD-117 is visually compact:

Figure 15: Map of southern Metro Atlanta area of illustrative plan with majority-Black House districts indicated.



⁸² The statistics for the VTD splits can be found on page 13 of subdivision of the Political Subdivisions Chart entitled GA House Enacted and page 13 of Political Subdivisions Chart entitled GA House Illustrative. GX 1, Attach. L.

GX 1 ¶ 50 & fig.15.

Esselstyn HD-117 does not have appendages or tentacles. Using the mapping tool, Esselstyn HD-117 is approximately 15 miles at its most distant points. Defendants do not meaningfully dispute the visual compactness of this district. Accordingly, the Court finds that Esselstyn HD-117 is visually compact.

((c)) Communities of interest

The Court finds that Esselstyn HD-117 respects communities of interest. The testimony about HD-117 is virtually identical to the testimony regarding Esselstyn HD-74 because both districts are relatively close in proximity. See Section II(D)(1)(b)(2)(i)(c), id. at (ii)(c), id. at (iii)(c) *supra* (HD-74 and in Senate districts for south metro). There is no evidence or testimony opining or showing that Esselstyn HD-117 includes disparate communities.

The Court does not find Mr. Esselstyn's split of McDonough and Locust Grove to constitute a failure in preserving communities of interest. Mr. Esselstyn testified that when drawing the district, he made his best effort to keep the core of McDonough whole and only the "fringes of McDonough [] are outside of District 117." Tr. 570: 22-25. And Locust Grove is divided based on the I-75

boundary. Tr. 571:16–19. The Court credits Mr. Esselstyn’s explanations for the reasons why McDonough and Locust Grove were not kept intact and finds that they are sufficient for purposes of showing that Mr. Esselstyn preserved communities of interest.

In sum, the Court finds that Esselstyn HD-117 is a small district contained wholly within metro Atlanta. The communities share the same concerns with transportation routes and have experienced recent major population growth. Additionally, the Court finds that this district is not long and sprawling, like the districts in LULAC and Miller that stretched across large portions of their respective States and combined disparate minority populations. Rather, as is evidenced by the size of the district and the trial testimony, Esselstyn HD-117 preserves communities of interest.

((d)) Conclusions of law

The Court finds that the Grant Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Esselstyn HD-117 to constitute an additional majority-Black district. The Court finds that Esselstyn HD-117 complies with the traditional redistricting principles

of population equality, contiguity, compactness, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Grant Plaintiffs have carried their burden in meeting the first Gingles precondition in the area drawn by Esselstyn HD-117.

c) Eastern Black Belt region

(1) Alpha Phi Alpha

The Court finds that the Alpha Phi Alpha Plaintiffs have not met their burden in establishing that the Black community in the eastern Black Belt sufficiently large and geographically compact to constitute an additional majority-Black Senate or House district.

(a) numerosity

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in showing that the Black voting age population in the eastern Black Belt is large enough to constitute an additional majority-Black district. Bartlett, 556 U.S. at 20 (“[A] party asserting § 2 liability must show by a preponderance of the evidence

that the minority population in the potential election district is greater than 50 percent.”).

Cooper SD-23 has an AP BVAP of 50.21%, which slightly exceeds the 50% threshold required by Gingles. APAX 1, 227 & Ex. O-1. As the Court discusses further below, it is significant that Mr. Cooper removed Black population from SD-22 to create SD-23, which resulted in two underpopulated districts that meet the 50% majority-Black threshold by only slight margins. Tr. 257:1-4.

The Black voting age population in the eastern Black Belt is also large enough to constitute an additional majority-Black House district. Cooper HD-133 has an AP BVAP of 51.97%, which exceeds the 50% threshold required by Gingles APAX 1, Ex. AA-1. Thus, Cooper HD-133 meets the first Gingles precondition’s numerosity requirement.

(b) compactness

The Court concludes that neither Cooper SD-23 nor Cooper HD-133 are, on the whole, compact pursuant to the standards for the first Gingles precondition in the Alpha Phi Alpha Plaintiffs’ case.

i) *Cooper SD-23*

((a)) empirical measures

((1)) *population equality*

The ideal population size of a State Senate District is 191,284 people. Stip. ¶ 277. Cooper SD-23 has a population of 190,081 people, which constitutes a population deviation of -0.63%. APAX 1, Ex. O-1. The neighboring majority-Black district, SD-22, is also underpopulated—its population is 189,518, which constitutes a population deviation of -0.92%. APAX 1, Ex. O-1. Conversely, Enacted SD-23 is slightly underpopulated with a population of 190,344, with a population deviation of only -0.49%. APAX 1, Ex. M-1. For its part, Enacted SD-22 is overpopulated with a population of 193,163 and a population deviation of +0.98%. Id.

The Supreme Court has indicated a strong preference for “population equality with little more than *de minimis* variation.” Connor v. Finch, 431 U.S. 407, 414 (1977) (internal quotation mark omitted) (quoting Chapman v. Meier, 420 U.S. 1, 27 (1975)). While the Equal Protection Clause does not require that Legislative Districts meet perfect population deviations, with the advent of technology, it seems that $\pm 10\%$ deviation is no longer a safe harbor for proposed districts. See

Section II(D)(1)(b)(2)(b)(iii)(a)(1) supra (Esselstyn HD-74); see also JX 2, 2 (stating a guideline that “[e]ach legislative district of the General Assembly shall be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.”).

The Court finds that Cooper SD-23 itself is not malapportioned. To create the district, however, Mr. Cooper reduced the population in SD-22 to nearly the lowest deviation on the Cooper Senate Plan. Tr. 254:14-255:3, 1783:10-14. Therefore, the Court concludes it is significant that Mr. Cooper’s creation of SD-23 required creating increasing the population deviation in SD-22, so that it is barely within Mr. Cooper’s $\pm 1.00\%$ deviation guidepost. Stop. ¶ 301, APAX 1 ¶ 111. Moreover, even though the General Assembly did not enumerate a specific population deviation range for the Legislative Districts, the Court finds Cooper SD-23 performs worse on the population equality metric than Enacted SD-23. JX 2, 2; APAX 1, Exs. O-1, M-1. Accordingly, the Court finds that the evidence shows that Cooper SD-23 achieves the traditional redistricting principle of population equality less so than Enacted SD-23.

((2)) *contiguity*

The Parties stipulated that Cooper SD-23 is a contiguous district. Stip. ¶ 300. Therefore, the Court finds that Cooper SD-23 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

Under the objective Reock and Polsby-Popper measures, Cooper SD-23 and Enacted SD-23 are comparably compact. In fact, they achieve the same scores: Enacted SD-23 has a Reock score of 0.37 and a Polsby-Popper score of 0.16. APAX 1, Ex. S-3. Likewise, Cooper's SD-23 has a Reock score 0.37 and a Polsby-Popper 0.16. *Id.* Ex. S-1. Thus, the Court considers Cooper's SD-23 to be comparably compact to Enacted SD-23.

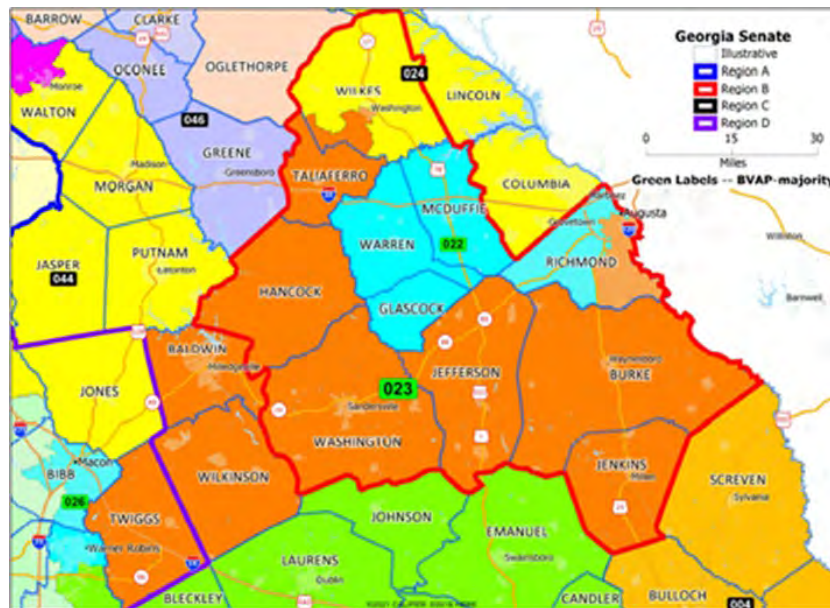
((4)) *political subdivisions*

Both Enacted SD-23 and Cooper SD-23 split two counties: Enacted SD-23 splits Richmond and Columbia Counties while Cooper SD-23 splits Richmond and Wilkes Counties. Tr. 119: 4-13. However, Cooper SD-23 splits the City of Washington (Tr. 258:24 – 259:2), whereas Enacted SD-23 does not. APAX 1 ¶ 107 & fig.18 (the city of Washington is in Wilkes County and all of Wilkes County is

within Enacted SD-24). Additionally, Cooper SD-23 splits two VTDs in Wilkes County, whereas Enacted SD-23 splits none. APAX 1, Exs. T-1, T-3. Thus, the Court concludes that Cooper SD-23 does not exhibit respect for political subdivisions as well as Enacted SD-23.

((b)) eyeball test

The Court concludes that Cooper SD-23 does not pass the eyeball test for visual compactness:



APAX 1 ¶ 108 & fig.19A.

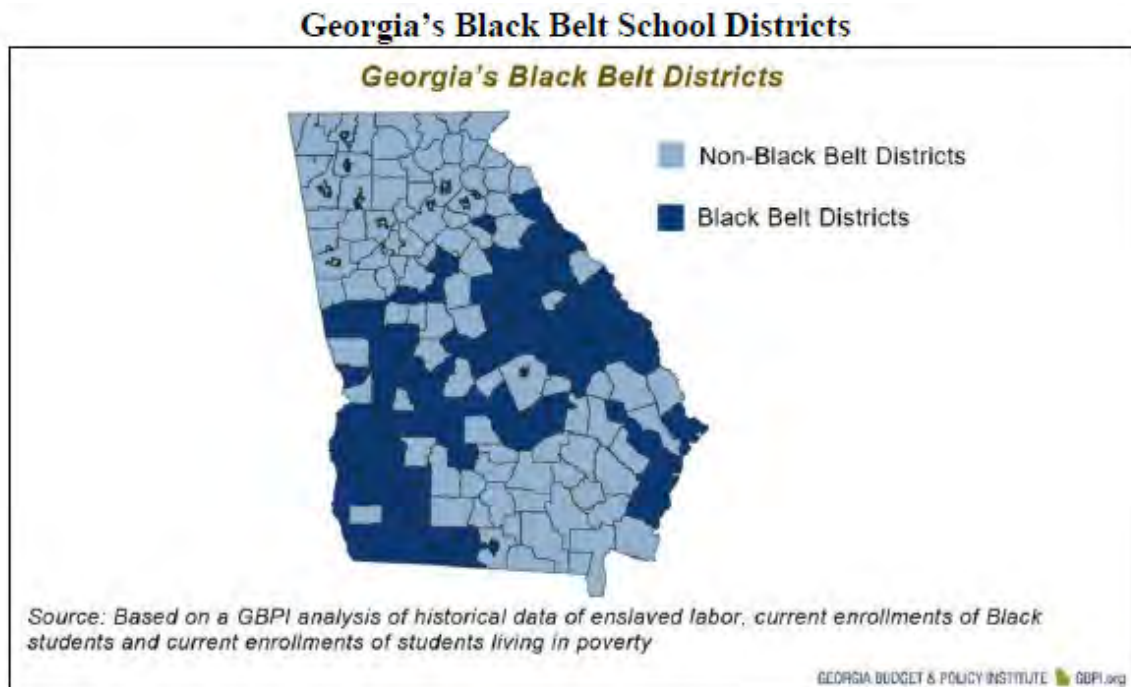
Cooper SD-23 is an oddly shaped, sprawling district that spans north to south from Wilkes County to Jenkins County and east to west from Twiggs County to Burke County. APAX Ex. 1, fig.19A. Milledgeville in Baldwin County (western part of the district) is more than 100 miles from Augusta in Richmond County (eastern part of the district). DX 2 ¶ 36. Based on the foregoing, Cooper SD-23 is not visually compact.

Admittedly, Enacted SD-23 is also large and sprawling, albeit in a different way than Cooper SD-23. However, as a majority-white district, Enacted SD-23 is not subject to Gingles' compactness requirements. LULAC, 548 U.S. at 430–31 (“[T]here is no § 2 right to a district that is not reasonably compact, the creation of a noncompact district does not compensate for the dismantling of a compact opportunity district.” (citing Abrams, 521 U.S. at 91–92)). In other words, the large and sprawling nature of Enacted SD-23 does not alleviate the concerns with the shape and size of Cooper SD-23. Moreover, plaintiffs, who have alleged a Section 2 violation, have the burden to show that the minority community is sufficiently compact to create the proposed majority-minority district. Based on

the foregoing, the Court concludes Alpha Phi Alpha Plaintiffs have not met their burden to show visual compactness.

((c)) communities of interest

The Court furthermore finds that the Alpha Phi Alpha Plaintiffs have not carried their burden in showing that Cooper SD-23 unites communities of interest. Mr. Cooper stated that the “Black Belt” formed a community of interest in relation to Cooper SD-23. Tr. 267:12–22. But when asked to define the factors that unite the Black communities in Cooper SD-23, Mr. Cooper only vaguely referenced “cultural and historical factors,” a response the Court finds unpersuasive. First, the Black Belt is a wide region that “stretches from one side of the State to another and “that is a pretty significant amount of distance to define as one community.” Tr. 1619:6-9.

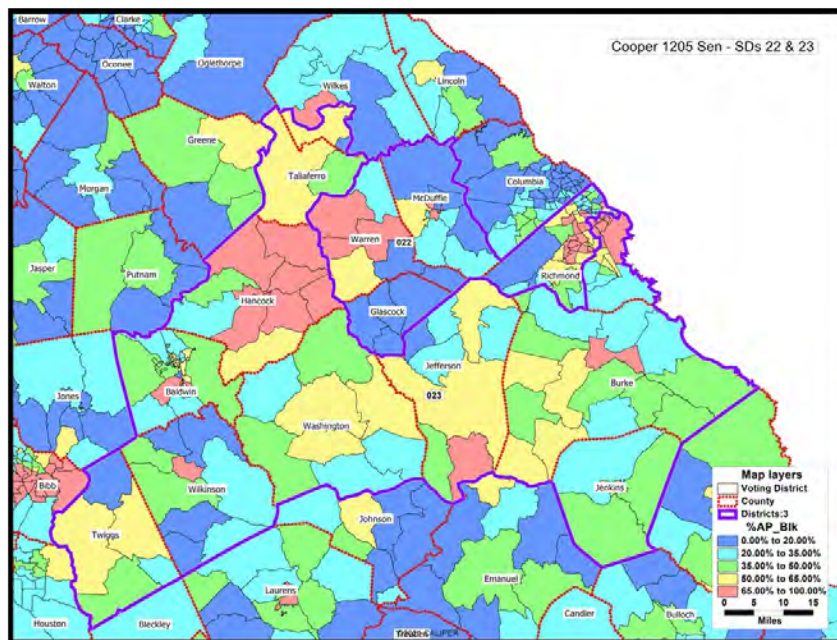


APAX 1 ¶ 18 & fig.1.

Ms. Wright, the State's map drawer, testified that there is a natural barrier in the area of the Ogeechee River that runs through Warren, Glascock, and Jefferson Counties, which runs through the center of Cooper SD-23. Tr. 1639:12-1640:1. She also testified that Augusta is a more urban area, whereas the surrounding counties are rural. Tr. 1639:12-14; 1695:25-1696:8.

With respect to the demographic makeup of the district, Mr. Morgan, Defendant's mapping expert, described Cooper SD-23 as a district that "connects

separate enclaves of Black population.” DX 2 ¶ 35. The Court agrees. For example, Cooper SD-23 links Black population from Milledgeville in Baldwin County to the Black population residing more than 100 miles away in Augusta. *Id.* Furthermore, Mr. Cooper conceded that Cooper SD-23 includes counties from different regions and splits a regional commission. Tr. 260:23–261:13.



DX 2 ¶ 34 & Ex. 23.

The Court finds that, although communities of interest are hard to define, the distance between the Black population in Cooper SD-23 coupled with the

sprawling geographic nature of the district indicates that there is not a unified community of interest in Cooper SD-23. Mr. Cooper's vague reference to shared historical and cultural similarities of the Black Belt is insufficient to establish communities of interest. The Black Belt runs across the southeastern United States, and in Georgia, it spans from Augusta, near the South Carolina border to the southwest corner of the State near Alabama and Florida. Stip. ¶ 118; GX 1 ¶ 19 & fig.1. The Court finds that portions of Cooper SD-23 are both urban and rural and that a river divides the proposed district.

The Court also finds that the lay witness testimony does not sufficiently prove that Cooper SD-23 preserves communities of interest. Dr. Diane Evans,⁸³ who lives in Jefferson County—at the heart of Cooper SD-23—testified about communities in the proposed district that share numerous interests. She said that Black residents in the eastern section of the Black Belt attend the same houses of worship and share church leadership. Tr. 627:19-628:6. She identified other common interests shared by the Black residents in the area such as sports, and

⁸³ The Court granted Plaintiffs' motion to incorporate Dr. Evans's testimony as part of the Alpha Phi Alpha record. Tr. 633:18-634:10.

farming; she said they also have similar policy concerns regarding high school dropout rates and education. Id. at 625:3-8, 629:22-630:13.

While the Court finds Dr. Evans to be highly credible, the Court also finds that the evidence presented at trial is not enough to show that the Black communities in Esselstyn SD-23 are part of a community of interest. Although there is some evidence of shared concerns over high rates of gun violence and low high school graduation rates, it is unclear how these commonalities unite the widely dispersed Black communities in the proposed district. Additionally, given the widely dispersed nature of the pockets of high concentration of Black people, the evidence is insufficient to show that all of the communities in this area share these same concerns.

Although the three-judge court in Singleton found a community of interest in Alabama's Black Belt, the evidence in this case differs. There, the three-judge court found that "Black voters in the Black Belt share common 'political beliefs, cultural values, and economic interests.'" Singleton, 582 F. Supp. 3d at 953. The Court finds that there is not sufficient evidence in the Record for it to conclude that the Black community in this region constitutes a community of interest.

Accordingly, the Court finds that Cooper SD-23 does not preserve communities of interest.

((d)) conclusions of law

The Court concludes that the Black community is not sufficiently compact in Cooper SD-23. This conclusion is based on (a) the underpopulation of Cooper SD-23 (and its ripple effect of reducing the population in Cooper SD-22), (b) Cooper SD-23's treatment of political subdivisions, (c) a lack of visual compactness, and (d) Cooper SD-23's unification of geographically distant disparate black populations without preserving articulable communities of interest.

Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have not carried their burden in meeting the first Gingles precondition as to Cooper SD-23. The three Gingles requirements are necessary preconditions, intended "to help courts determine which claims could meet the totality-of-the-circumstances standard for a § 2 violation." Bartlett, 556 U.S. at 21. Failure to prove any one of the preconditions is fatal to a plaintiff's Section 2 claim. Greater Birmingham Ministries, 992 F.3d at 1332. Because the Alpha Phi Alpha Plaintiffs have not

successfully carried their burden in establishing that the Black community in the eastern Black Belt is sufficiently compact, they have failed to demonstrate that the Enacted Senate Plan violates Section 2 with respect to the area of Cooper SD-23.

ii) Cooper HD-133

As with Cooper SD-23, the Court concludes, based on the following measures of compactness, that Cooper HD-133 does not satisfy the first Gingles’ precondition’s compactness requirement either.

((a)) empirical measures

((1)) *population equality*

The ideal population size of a State House District is 59,511 people. Stip. ¶ 278. Cooper HD-133 and Enacted HD-133 have identical population deviations of -1.33%. APAX 1, Exs. Z-1, AA-1. Accordingly, the Court finds that the population of Cooper HD-133 complies with the General Assembly’s guidelines and the traditional redistricting principle for population equality.

((2)) contiguity

The Parties stipulated that Cooper HD-133 is a contiguous district. Stip. ¶ 300. Therefore, the Court finds that Cooper HD-133 complies with the traditional redistricting principle of contiguity.

((3)) compactness scores

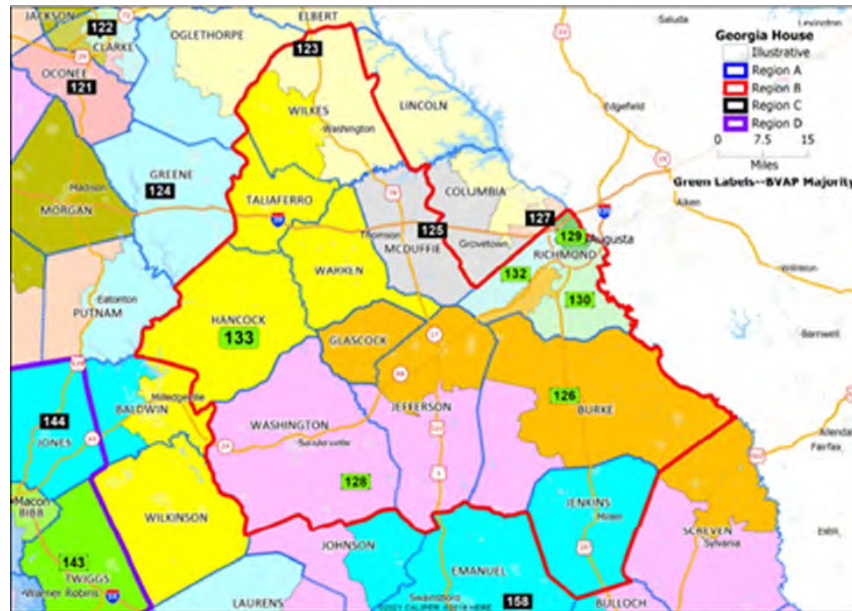
Under the Reock and Polsby-Popper measures, Cooper HD-133 is much less compact than Enacted HD-133: Enacted HD-133 has a Reock score of 0.55 and a Polsby-Popper score of 0.42, whereas Cooper's HD-133 has a Reock score 0.26 and a Polsby-Popper 0.20. DX 2, 25 & Chart 7. Accordingly, the Court concludes that Cooper HD-133 is not comparably compact to Enacted HD-133. The Court does note, however that both of these compactness scores are within the range of compactness scores found in the Enacted House Plan, i.e., minimum Reock score is 0.12 and minimum Polsby-Popper score is 0.10. APAX 1, Ex. AG-2. Although Cooper HD-133 exceeds the minimum threshold, the Court finds that, compared to Enacted HD-133, it performs far worse on compactness measures.

**((4)) *political
subdivisions***

Evidence at trial established that Mr. Cooper sacrificed preservation of political subdivisions, including counties and precincts, in creating Cooper HD-133. Mr. Cooper testified that there are more splits in this area of the Cooper House Plan than in other illustrative plans he has drawn. Tr. 282:3-4. Also, Cooper HD-133 split *nine* precincts—again, more than any other district on the Cooper House Plan. DX 2 ¶ 62; APAX 1, T-1, T-3. Furthermore, to create Cooper HD-133, Mr. Cooper made changes to Enacted HD-128—a majority-Black district—that resulted in additional split counties in that area. Tr. 282:13-19. Likewise, the creation of Cooper HD-133 required changes to Enacted HD-126 that resulted in additional county splits in that district. Tr. 283:23-284:11. Thus, the Court determines that Cooper HD-133 does not respect political subdivisions, either itself in the proposed district, or in the districts experiencing the ripple effect of Mr. Cooper’s changes to the area.

((b)) eyeball test

The Court concludes that Cooper HD-133 does not pass the eyeball test:



APAX 1 ¶ 169 & fig.31.

Cooper HD-133 is a long district that stretches from Wilkes County in the north, narrows around Milledgeville, and then widens out to Wilkinson County in the south. DX 2, 75 fig.31. According to Mr. Morgan, Defendants' mapping expert, Cooper HD-133 stretches north to south for 90 miles to pick up Black population from Milledgeville. DX 2 ¶ 61. In these ways, Cooper HD-133 stands in stark contrast to Enacted HD-133, which covers a much smaller geographic area. See DX 2, 74 fig.30. Thus, the Court concludes that Cooper HD-133 is not visually compact.

((c)) communities of interest

Finally, the Court finds that the Alpha Phi Alpha Plaintiffs have not carried their burden in showing that Cooper HD-133 unites communities of interest. Mr. Cooper identified the “Black Belt” as a community of interest that joined the various counties within Cooper HD-133. Tr. 280:23 – 25. He further stated that the counties in Cooper HD-133 are rural in nature, and with the exception of Glascock County, are significantly Black. Id. at 281:3-8.

The Court finds that, although communities of interest are hard to define, Alpha Phi Alpha Plaintiffs have not produced sufficient evidence show that this 90-mile district preserves communities of interest as opposed to combining disparate communities. This is true even in light of Dr. Evan’s testimony, which is incorporated here (see Section II(D)(1)(c)(1)(b)(i)(c) *supra*). Without more, the Court cannot conclude that Cooper HD-133 preserves communities of interest.

((d)) conclusions of law

The Court concludes that the Black community is not sufficiently compact in Cooper HD-133. This conclusion is based on the following findings of fact: compared to Enacted HD-133 Cooper HD-133 splits more VTDs, and added numerous county splits in the area. Additionally, the creation of Cooper HD-133

led to increased VTD splits in neighboring districts. Cooper HD-133, moreover, is not visually compact and unites Black populations whose only commonalities are being in the Black Belt in mostly rural areas—an insufficient showing of communities of interest.

Accordingly, the Court concludes that the Alpha Phi Alpha Plaintiffs have not carried their burden in meeting the first Gingles precondition as to Cooper HD-133. Like with Cooper SD-23, *supra*, failure to prove any one of the preconditions is fatal to Plaintiffs' Section 2 claim. Greater Birmingham Ministries, 992 F.3d at 1332. Accordingly, Alpha Phi Alpha Plaintiffs have failed to demonstrate that the Enacted House Plan violates Section 2 with respect to that area of the State.

(2) Grant: Esselstyn SD-23

The Court finds that the Grant Plaintiffs failed to prove that the Black community is not sufficiently compact to constitute an additional majority-Black Senate district in the Eastern Black Belt region.

(a) numerosity

The Court finds that the Grant Plaintiffs have met their burden in showing that the Black voting age population in the eastern Black Belt is large enough to

constitute an additional majority-Black district. It is undisputed that Esselstyn SD-23 has an AP BVAP of 51.06%, which exceeds the 50% threshold required by Gingles. GX 1 1 ¶ 27 & tbl.1; Stip. ¶ 234.

(b) compactness

Based on a review of traditional redistricting principles, the Court finds that the minority community is not sufficiently compact to warrant the creation of an additional majority-Black district in the eastern Black Belt as found in Esselstyn SD-23. Additionally, Esselstyn SD-23 fails to respect the other traditional redistricting principles (visual compactness and preservation of communities of interest).

i) empirical measures

((a)) population equality

The Court finds that Esselstyn SD-23 is not malapportioned. Nevertheless, as explained below, the Court finds that Esselstyn SD-23 has the *greatest* population deviation of any district in the Esselstyn and Enacted Senate Plans.

The ideal population size of a State Senate District is 191,284 people. Stip. ¶ 277. Esselstyn SD-23 has a population of 188,095 people, which amounts to a population deviation of -1.67%. GX 1, attach E. Esselstyn SD-23 is the most

underpopulated district in either the Esselstyn or Enacted Senate Plan. Additionally, the Court finds that neighboring majority-Black district, SD-22 is underpopulated under the Esselstyn Senate Plan. Esselstyn SD-22 has a population of 188,930, which is a population deviation of -1.23%. GX 1, attach E. In the Enacted Senate Plan, conversely, Enacted SD-23 is slightly underpopulated with a population of 190,344 (a population deviation of -0.49%), and Enacted SD-22 is overpopulated with a population of 193,163 (a population deviation of +0.98%). GX 1, Attach. D.

Although the General Assembly did not enumerate a specific deviation range for the Legislative Districts, the Court finds that the population of Esselstyn SD-23 does not comply with the guideline that “[e]ach legislative district of the General Assembly shall be drawn to achieve a total population that is substantially equal as practicable, considering the principles listed below.” JX 2, 2. Additionally, in creating Esselstyn SD-23, Mr. Esselstyn did not keep his deviations within the range of the Enacted Senate Plan, which is $\pm 1.03\%$. Cf. Stip. ¶ 301 (indicating the 2021 Senate Plan’s population deviation range in comparison to Mr. Cooper’s population deviation range). Thereby, for all these

reasons, Esselstyn SD-23 fails to achieve population equality to the same degree as any district in the Enacted Senate Plan.

((b)) contiguity

The Parties stipulated that Esselstyn SD-23 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn SD-23 complies with the traditional redistricting principle of contiguity.

((c)) compactness scores

Under the Reock and Polsby-Popper measures, Esselstyn SD-23 and Enacted SD-23 are comparably compact. Enacted SD-23 has a Reock score of 0.37 and a Polsby-Popper score of 0.16. GX 1, Attach. H. Esselstyn SD-23 has a Reock score 0.34 and a Polsby-Popper 0.17. Id. Thus, Enacted SD-23 is 0.03 points more compact on the Reock measure, but Esselstyn SD-23 is 0.01 points more compact on Polsby-Popper. On the whole, the Court finds that the Enacted and Esselstyn SD-23 are comparably compact.

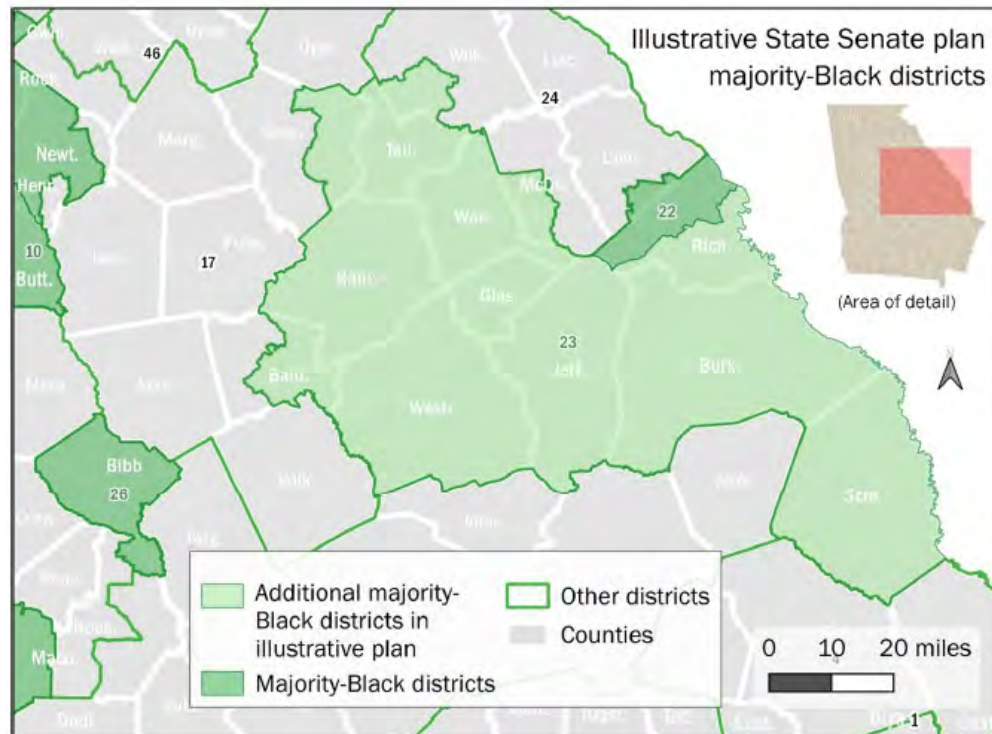
((d)) political subdivisions

The Court finds that Esselstyn SD-23 split more counties than Esselstyn SD-23. Enacted SD-23 splits Richmond and Columbia Counties but otherwise keeps nine counties whole. DX 3 ¶ 31. Meanwhile, Esselstyn SD-23 split more

counties than any other district on the Esselstyn Senate Plan. DX 3 ¶¶ 33, 36. Specifically, Esselstyn SD-23 splits Richmond, McDuffie, Wilkes, Greene, and Baldwin Counties. GX 1 ¶ 29; Tr. 536:22–237:5, 1818:7–13. As part of Esselstyn SD-23’s ripple effect, Esselstyn SD-22 includes more counties than Enacted SD-22. DX 3 ¶ 31. Enacted SD-22, which is a majority-Black district, is wholly within Richmond County. Id. Under the Esselstyn Senate Plan, however, Esselstyn SD-22 includes parts of Richmond and Columbia Counties. Based on the foregoing, the Court overall finds that it does not respect political subdivisions.

ii) eyeball test

The Court finds that Esselstyn SD-23 is not visually compact and does not pass the eyeball test:



GX 1 ¶ 29 & fig.5.

Esselstyn SD-23 is a long sprawling district that spans from Wilkes and Greene counties in the north, down to Screven County in the south. DX 3, 16. Additionally, Esselstyn SD-23 starts in Augusta in the east and stretches to Milledgeville in the west. GX 1 ¶ 29 & fig.5. From the Augusta portion of the district to Milledgeville, the district is approximately 80 miles using the mapping tool. Tr. 1854:18-22. It is more than 100 miles from Greene County to Screven

County. GX 1 ¶ 29 & fig.5. The Court finds that Esselstyn SD-23 it is not visually compact.

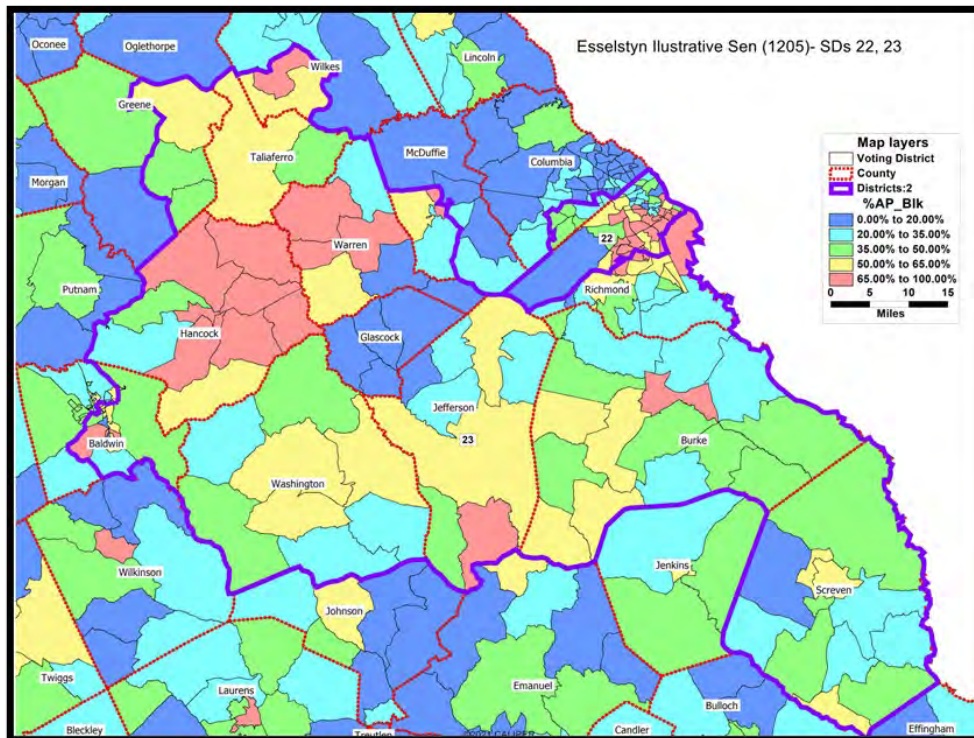
As with the Alpha Phi Alpha case's proposed Senate district in this area, the Court acknowledges that Enacted SD-23 is also large and sprawling. GX 1 ¶ 29 & fig.2. However, for purposes of a Section 2 violation, the large and sprawling nature of Enacted SD-23, a non-remedial district, does not alleviate the concerns with the shape and size of Esselstyn SD-23. See LULAC, 548 U.S. at 430–31. Enacted SD-23 is a majority-white district that was not required to comply with Gingles' compactness requirements. The Grant Plaintiffs, who have alleged a Section 2 violation, however, must show that the minority community is sufficiently compact to create a majority-minority district. Upon review of Esselstyn SD-23, the Court finds that the proposed district is not visually compact.

iii) communities of interest

The Court finds that the Grant Plaintiffs have not carried their burden in showing that Esselstyn SD-23 unites communities of interest. Rather, the evidence shows that the areas of high Black concentration in Esselstyn SD-23 are

spread out across the district and have large areas of intervening white population.

Mr. Esselstyn was unable to identify any community of interest shared by the counties and portions of counties in Esselstyn SD-23. Tr. 539:11-23. The district combines geographically separate Black populations in McDuffie and Wilkes Counties and in Milledgeville. Tr. 540:15-541:13.



DX 3, Ex. 29.

Esselstyn SD-23's disparate Black population, moreover, is separated by an intervening white population. The Black population is concentrated in distinct areas of Augusta, the middle of Burke County, south Jefferson County, Hancock and Warren Counties, Milledgeville, and north Wilkes County. Id. As the map shows, between those pockets within the district, the Black population ranges between 0 and 35%. Id. Thereby, the concentrations of Black population in Esselstyn SD-23 are not in close proximity to one another.

In defining what constitutes a community of interest, Mr. Esselstyn explained, "[t]here's not a simple definition for communities of interest in my mind because they can vary a lot. They can be made up of a large number of counties. Like the Black Belt could be considered a community of interest." Tr. 479:19-23. Ms. Wright testified that she does not consider the Black Belt to be a community of interest, however, because it stretches from one side of the State to the other and "that is a pretty significant amount of distance to define as one community." Tr. 1619:6-9.

The Court finds that Mr. Esselstyn's definition that the "Black Belt" alone is insufficient to constitute a community of interest. There is not a unified

community of interest in Esselstyn SD-23 given the distance separating the Black populations in Esselstyn SD-23 and the large distance the district spans. As discussed above, the Court also does not find that Dr. Evan's testimony sufficiently establishes that there is a unified community of interest in the area drawn by Esselstyn SD-23. See Section II(D)(1)(b)(1)(b)(iii) *supra*. The Black Belt runs across the southeastern United States, and in Georgia, it spans from Augusta, near the South Carolina border, and to the southwest corner of the State near Alabama and Florida. Stip. ¶ 118; GX 1 ¶ 19 & fig.1. Tr. 1639:12-1640:1; 1695:25-1696:8.

Again, although the counties in this region do share commonalities, such as high rates of gun violence and low high school graduation rates, it is unclear how these commonalities unite the widely dispersed Black communities in the proposed district. Furthermore, the State's map drawer, Ms. Wright testified about geographic boundaries in this region and said that portions of the region are urban, portions are rural, and portions are more suburban. Tr. 1640:12-1641:1.

Pursuant to the evidence presently before this Court, it finds that Esselstyn SD-23 does not preserve communities of interest, but rather unites distinct Black communities within the eastern portion of the Black Belt.

iv) conclusions of law

The Court finds that the Black community is not sufficiently compact in Esselstyn SD-23. The Court finds that Esselstyn SD-23 is underpopulated and has the greatest population deviation of any district in either the Enacted or Esselstyn Senate Plans. Esselstyn SD-23 does not respect political subdivisions, and its creation accounts for the increased county splits in the Esselstyn Senate Plan as a whole. The district is not visually compact and unites disparate Black populations with intervening white populations.

Accordingly, the Court finds that the Grant Plaintiffs have not carried their burden in meeting the first Gingles precondition in the area drawn by Esselstyn SD-23. Failure to prove any one of the preconditions is fatal to plaintiffs' Section 2 claim. Because the Grant Plaintiffs have not successfully carried their burden in establishing that the Black community is sufficiently compact to warrant the

creation of an additional majority-Black State Senate district in the eastern Black Belt, the Court concludes there is no Section 2 violation in this region.

d) Macon-Bibb region

(1) Alpha Phi Alpha: Cooper HD-145

The Court finds that the Alpha Phi Alpha Plaintiffs have not met their burden in establishing that an additional majority-Black House district can be drawn in or around Macon-Bibb.

(a) numerosity

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in showing that the Black voting age population in and around Macon-Bibb is large enough to create a majority-Black House districts. “[A] party asserting § 2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.” Bartlett, 556 U.S. at 20.

It is undisputed that Cooper HD-145 has an AP BVAP of 50.20%. APAX 1, AA-1. Accordingly, the Court finds that Black population is sufficiently numerous in Cooper HD-145.

(b) compactness

The Court finds, however, that the Alpha Phi Alpha Plaintiffs have not shown that it is possible to draw an electoral district consistent with traditional redistricting principles in the area encompassed by Cooper HD-145. As an initial note, Mr. Cooper explained that Cooper HD-145 is in the same general area, and correlates with, Enacted HD-145. APAX 1 ¶ 181-82 & fig.34.

i) *empirical measures*

((a)) population equality

The Court finds that Cooper HD-145 is not malapportioned, but Cooper HD-145's population deviation is double the deviation of Enacted HD-145. As stated above, the General Assembly did not enumerate an acceptable deviation range for State Senate Districts. However, using the Enacted House Plan as a guide, a population deviation range between $\pm 1.40\%$ is acceptable. Stip. ¶ 302. In comparison, Cooper SD-28 has a population deviation of $+1.18\%$. APAX 1, Ex. AA-1. The Court does note that Enacted HD-145's population deviation is half that at $+0.59\%$. APAX 1, Ex. Z-1. Thus, the Court finds that this district does not comply with the traditional redistricting principle of population equality as well as Enacted HD-145.

((b)) contiguity

The Parties stipulated that Cooper HD-145 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper HD-145 complies with the traditional redistricting principle of contiguity.

((c)) compactness scores

The Court finds Cooper HD-145's compactness scores are comparable to Enacted HD-145. APAX 1, Exs. AG-1, AG-2. Enacted HD-145 has a higher Reock Score (0.38) than Cooper HD-145 (0.25), but Cooper HD-145 has a higher Polsby-Popper Score (0.22) than Enacted HD-145 (0.19). Id.

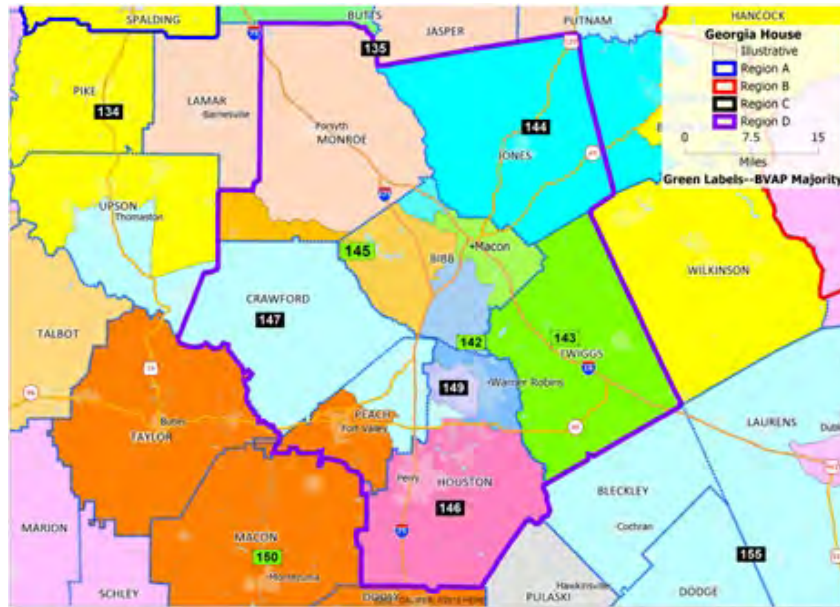
Although Enacted HD-145 is more compact on the Reock measure, Cooper HD-145 is well within the range of compactness scores of the Enacted House Plan. Specifically, the Enacted House Plan has a minimum Reock score of 0.12. APAX 1, Ex. AG-2. Cooper HD-145's Reock score (0.25) far exceeds the minimum threshold Reock score. Id. Accordingly, the Court finds that Cooper HD-145 constitutes a compact district for purposes of the first Gingles precondition, though, less so than Enacted HD-145.

((d)) political subdivisions

The Court finds that Cooper HD-145 demonstrates a respect for political subdivisions more so than Enacted HD-145. Cooper HD-145 is contained within portions of two counties—Bibb and Monroe. APAX 1 ¶ 183 & fig.35, Ex. AH-1. Meanwhile, Enacted HD-145 contains portions of Bibb, Houston, Monroe, Paulding Counties, and all of Crawford County. APAX 1 ¶ 181–82 & fig.34, Ex. AH-3. Thus, Cooper HD-145 splits half of the Counties that Enacted HD-145 splits. Both districts split the same number of VTDs, three. APAX 1, Exs. AH-1, AH-3. Mr. Cooper testified that in Monroe County he followed county and VTD lines. *Id.* at 167:10-12. Accordingly, the Court finds that Cooper HD-145 exhibits respect for political subdivisions more so than Enacted HD-145.

ii) eyeball test

The Court finds that Cooper HD-145 is not visually compact under the eyeball test:



APAX 1 ¶ 198 & fig.35.

Using the mapping tool, the Court finds that at its most distant points, Cooper HD-145 is less than 30 miles long. *Id.* Despite its small size, the district does contain a tentacle. The majority of the district is contained within the western half of Bibb County, but one thin line extends into Monroe County. *Id.* When asked why the district extended into Monroe County, Mr. Cooper explained that his decision to include portions of Monroe County was because it has “a very small population. And [he] made that decision to make sure we has

a district that was within plus or minus 1.5 percent, taking into account where incumbents live in Macon-Bibb.” Id. 16–19.

Although the Court credits Mr. Cooper’s testimony regarding the reasons for extending the district in this manner, the Court still finds that the district does not pass the eyeball test.

iii) communities of interest

Mr. Cooper testified that Cooper HD-145 stays entirely within the Macon-Bibb MSA. Tr. 166:19-20. Mr. Cooper’s report also demonstrated commonalities shared by the portion of the district that is within Bibb County. About 91% of all persons and 96% of Black persons in Cooper HD-145 are Macon-Bibb residents. APAX 1 ¶ 201. One-third of the Black population and nearly half (47.5%) of Black children in Macon-Bibb live in poverty. Id. By contrast, 11.6% of the white population in Macon-Bibb and 14.1% of white children live in poverty. Id. The Court finds that there is evidence in the Record of the commonalities in the communities in Bibb County, but there is nothing about Monroe County.

On cross-examination, Mr. Cooper was unable to provide an explanation of the connections between the communities in downtown Macon and Monroe

County. Tr. 288:13–15. The Court credits Mr. Cooper’s non-racial reasons for extending the district into Monroe County (population equality, incumbency protection, and avoidance of VTD splits). The Court finds, however, that this testimony does not remedy the lack of evidence about the commonalities between Monroe County and the rest of the district (even if that portion is only a small part of the districts composition).

Accordingly, the Court finds that Cooper HD-145 does not comply with the traditional redistricting principle of preserving communities of interest.

iv) conclusions of law

The Court finds that the Alpha Phi Alpha Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous to constitute an additional majority-Black district. The proposed district is not compact, however. Although, Cooper HD-145 complies with traditional redistricting principles of contiguity, empirical compactness scores, and respect for political subdivisions, the Court finds that the district fails to comply with population equality to the same degree as Enacted HD-145, and it united disparate communities. Additionally, the Court finds that the district is not

visually compact, it contains a tentacle that stretches into Monroe County, and the Record is devoid of any evidence showing a connection between this portion of the district and Bibb County. Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have not carried their burden on the first Gingles precondition in the area encompassed by Cooper HD-145.

(2) Grant

Based on the following analysis, the Court finds that the Grant Plaintiffs have met their burden in establishing that the Black community was sufficiently numerous and compact to create two additional majority-Black districts in the Macon-Bibb region.

(a) numerosity

The Court finds that the Grant Plaintiffs have met their burden in showing that the Black voting age population in the area around Macon-Bibb is large enough to create two majority-Black House districts in the region. Bartlett, 556 U.S. at 20 (“[A] party asserting § 2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent.”). It is undisputed that the proposed House districts – Esselstyn

HD-145 and HD-149—have AP BVAP of 50.38% and 51.53%, respectively. Stip.

¶ 239, GX 1 ¶ 48 & tbl.5.

Table 5: Illustrative House plan majority-Black districts with BVAP percentages.

District	BVAP%	District	BVAP%	District	BVAP%	District	BVAP%
38	54.23%	69	62.73%	91	60.01%	137	52.13%
39	55.29%	74	53.94%	92	68.79%	140	57.63%
55	55.38%	75	66.89%	93	65.36%	141	57.46%
58	63.04%	76	67.23%	94	69.04%	142	50.14%
59	70.09%	77	76.13%	95	67.15%	143	50.64%
60	63.88%	78	51.03%	113	59.53%	145	50.38%
61	53.49%	79	71.59%	115	53.77%	149	51.53%
62	72.26%	84	73.66%	116	51.95%	150	53.56%
63	69.33%	85	62.71%	117	51.56%	153	67.95%
64	50.24%	86	75.05%	126	54.47%	154	54.82%
65	63.34%	87	73.08%	128	50.41%	165	50.33%
66	53.88%	88	63.35%	129	54.87%	177	53.88%
67	58.92%	89	62.54%	130	59.91%		
68	55.75%	90	58.49%	132	52.34%		

Thus, the Court finds that the Grant Plaintiffs have met their burden with respect to the numerosity prong of the first Gingles precondition for the additional two majority-Black House districts that Mr. Esselstyn proposed in the Macon-Bibb region.

(b) compactness

The Court also finds that Mr. Esselstyn drew two additional majority-Black districts in the Macon-Bibb region that are sufficiently compact and that comply with traditional redistricting principles.

i) Esselstyn HD-145

The Court finds that the Grant Plaintiffs have shown that it is possible to draw a legislative district consistent with traditional redistricting principles in the area encompassed by Esselstyn HD-145.

((a)) empirical measures

((1)) *population equality*

The Court finds that Esselstyn HD-145 achieves population equality better than Enacted HD-145. Esselstyn HD-145 has a population deviation of -0.26%, whereas Enacted HD-145 has a population deviation of +0.59%. GX 1, attaches. I, J. Accordingly, the Court finds that Esselstyn HD-145 achieves relative population equality better than the Enacted HD-145 and complies with the General Assembly's population equality guidelines and traditional redistricting principles.

((2)) *contiguity*

The Parties stipulated that Esselstyn HD-145 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn HD-145 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

The Court finds that Enacted HD-145 and Esselstyn HD-145 are comparably the same under empirical compactness measures. Enacted HD-145 has a Reock score of 0.38 and a Polsby-Popper score of 0.19. GX 1, Attach. L. Esselstyn HD-145 has a Reock score of 0.34 and a Polsby-Popper score of 0.21. Id. Accordingly, Enacted HD-145 performs better on the Reock measure (by 0.04 points) and Esselstyn HD-145 performs better on the Polsby-Popper measure (by 0.02 points). The Court finds that Enacted HD-145 and Esselstyn HD-145 are therefore comparably compact based on these objective compactness measures.

((4)) *political subdivisions*

The Court finds that Esselstyn HD-145 demonstrates respect for political subdivisions. Esselstyn HD-145 contains portions of Bibb and Houston Counties. GX 1 ¶ 51 & fig.16. Enacted HD-145 contains portions of Bibb, Houston, Monroe, and Peach Counties. GX 1, Ex. L. As such, Esselstyn HD-145 contains two fewer county splits than Enacted HD-145. Moreover, Esselstyn HD-145 splits two VTDs

(one in Houston and one in Bibb Counties)⁸⁴ while Enacted HD-145 splits four VTDs (one in Bibb and three in Houston Counties). GX 1, Ex. L. Accordingly, Esselstyn HD-145 splits fewer VTDs than Enacted HD-145, a factor that supports a finding that Esselstyn HD-145 exhibits respect for political subdivisions based on objective metrics.

((b)) eyeball test

The Court finds that Esselstyn HD-145 is visually compact:

⁸⁴ The statistics for the VTD splits can be found on pages 7 and 13 of subdivision of the Political Subdivisions Chart entitled GA House Enacted and pages 8 and 13 of Political Subdivisions Chart entitled GA House Illustrative. GX 1, Attach. L.

Esselstyn HD-145 does not have appendages or tentacles. Vera, 517 U.S. at 962–63. Using the mapping tool, Esselstyn HD-145 is less than 20 miles in length at its most distant points. There is no evidence in the Record that suggests that Esselstyn HD-145 is not visually compact. Accordingly, the Court concludes that Esselstyn HD-145 is visually compact.

((c)) communities of interest

The Court also finds that Esselstyn HD-145 demonstrates respect for communities of interest. Mr. Esselstyn testified that HD-145 preserves communities of interest because it combines populations from adjacent counties in communities that are highly developed. Tr. 578:22–579:10. For example, Esselstyn HD-145 keeps an entire Air Force base intact. Tr. 578:4–7.

Commenting on Mr. Esselstyn’s HD-145, Ms. Fenika Miller, a lifelong Houston County resident and community organizer, identified several needs and interests shared by the Black residents in this area. Tr. 644:3–646:3. Ms. Miller observed that North Houston County and South Bibb County both lack certain public services and accommodations. Tr. 654:16–655:6. North Houston County has one grocery store, no public transportation, and lacks parks and recreation services. Tr. 654:16–22. “And for South Bibb, that would be the same . . . It used to be a thriving community and now most of those businesses have shuttered. And, typically, most of the shopping and the growth have moved.” Tr. 654:23–655:2.

The Court finds that Esselstyn HD-145 is a small district contained in and around Macon. The communities share the same infrastructural concerns. Additionally, the Court finds that Esselstyn HD-145 is not long and sprawling, and, as is evidenced by the size of the district and the trial testimony, preserves communities of interest.

((d)) conclusions of law

The Court finds that the Grant Plaintiffs have carried their burden in establishing that the Black community is sufficiently numerous and compact in Esselstyn HD-145 to constitute an additional majority-Black district. The Court finds that Esselstyn HD-145 complies with the traditional redistricting principles of population equality, contiguity, compactness scores, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, it is relatively small in size and does not contain any appendages or tentacles. Accordingly, the Court finds that the Grant Plaintiffs have carried their burden in meeting the first Gingles precondition in the area drawn by Esselstyn HD-145.

i) Esselstyn HD-149

The Court finds that the Grant Plaintiffs have shown that it is possible to draw a legislative district consistent with traditional redistricting principles in the area of Esselstyn HD-149.

((a)) empirical measures

((1)) *population equality*

The Court finds that Esselstyn HD-149 performs significantly better on population equality than Enacted HD-149—Esselstyn HD-149’s population deviation is -0.20%, whereas Enacted HD-149’s population deviation is -1.04%. GX 1 ¶¶ 46, 53 & attaches. I, J. Thus, the Court finds that Esselstyn HD-149 complies with the principle of population equality.

((2)) *contiguity*

The Parties stipulated that Esselstyn HD-149 is a contiguous district. Stip. ¶ 258. Hence, the Court finds that Esselstyn HD-149 complies with the traditional redistricting principle of contiguity.

((3)) *compactness scores*

Esselstyn HD-149 is also more compact on both compactness measures than Enacted HD-149. Esselstyn HD-149 has a Reock score of 0.44 and a Polsby-

Popper score of 0.28. GX 1, Attach. L. Enacted HD-149 has a Reock score of 0.32 and a Polsby-Popper score of 0.22. Id. Accordingly, the Court finds that Esselstyn HD-149 is reasonably compact as it compares to Enacted HD-149 under the objective compactness measures.

**((4)) *political
subdivisions***

The Court finds that Esselstyn HD-149 respects political subdivisions. Esselstyn HD-149 includes all of Twiggs and Wilkinson Counties and portions of Baldwin and Bibb Counties⁸⁵. GX 1 ¶ 51 & fig.16. Enacted HD-149 includes all of Wilkinson, Twiggs, Bleckley, and Dodge Counties and a portion of Telfair County. GX 1, Attach. I. Thus, both plans are primarily made up of whole counties – Esselstyn HD-149 splits two counties and Enacted HD-149 splits one.

However, Esselstyn HD-149 has more VTD splits than Enacted HD-149 – Esselstyn HD-149 splits three VTDs in Baldwin and one in Bibb, whereas there

⁸⁵ The Court notes that although Esselstyn HD-149 splits Bibb County, this split does not show less respect for communities of interest than the Enacted House Plan. Both the Enacted and Esselstyn House Plans split Bibb County four ways (Enacted HD-142, Hd-143, HD-144, and HD-145) and (Esselstyn HD-142, HD-143, HD-145, and HD-149). GX 1, Attach. L.

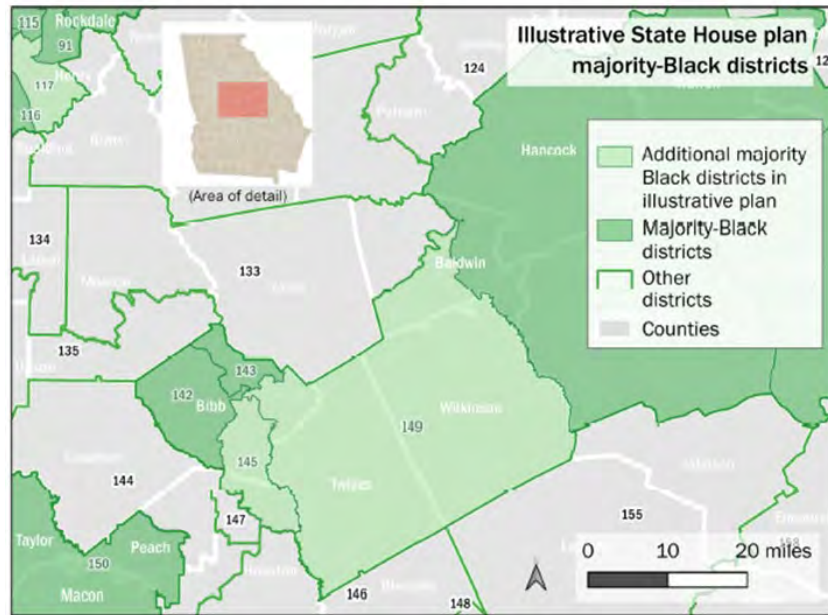
are no VTD splits in Enacted HD-149. GX 1, Attach. L.⁸⁶ Mr. Esselstyn testified that these splits can be partially explained by his decision to keep Mercer University mostly intact (with an exception for one portion excluded because it would have split another VTD), as well as keeping the core of Milledgeville, Georgia College, and a Native American historical site intact. Tr. 491:3–13, 580:7–11. Although Esselstyn HD-149 contains more VTD splits than Enacted HD-149, the Court finds Mr. Esselstyn’s explanations for keeping other specific subdivisions intact (i.e., colleges, landmarks, the cores of towns) to be credible. Accordingly, the Court finds that Mr. Esselstyn generally respected political subdivisions when he drafted Esselstyn HD-149.

((b)) eyeball test

The Court also finds that Esselstyn HD-149 is visually compact:

⁸⁶ The statistics for the VTD splits can be found on pages 7–8 of Political Subdivisions Chart entitled GA House Illustrative.

Figure 16: Map of central Black Belt region of illustrative plan with majority-Black House districts indicated.



GX 1 ¶ 51 & fig.16.

Visually, the Court finds that Esselstyn HD-149 does not have appendages or tentacles. Using the mapping tool, Esselstyn HD-149 is approximately 50 miles long at its most distant points. Although generally a larger district than others at issue in this Order, Esselstyn HD-145 is still significantly smaller than Enacted

HD-149, which is, at its most distant points, approximately 80 miles apart. GX 1, Attach. I.⁸⁷

There is no evidence in the Record disputing the visual compactness of Esselstyn HD-149 and thereby the Court finds Esselstyn HD-149 is visually compact.

((c)) communities of interest

The Court finds that Esselstyn HD-149 respects communities of interest. Mr. Esselstyn testified that one commonality between all the individuals in Esselstyn HD-149 is that they are within the same Enacted Senate District (Enacted SD 25). Tr. 582:9–16. Additionally, a prior State House candidate from the area, Ms. Miller, testified that Esselstyn HD-149 contains rural communities that have few shopping areas, food security concerns, and no hospitals (individuals have to drive to either Macon or Milledgeville to go to the hospital).

⁸⁷ The Court measured the distance using the diagonal beginning at the top of Wilkinson County to the portion of Telfair County that borders Ben Hill County. GX 1, Attach. I. This measurement cuts across part of Laurens County in the neighboring district, Enacted HD-155. If the Court were to take the same measurement and avoid cutting across Enacted HD-155, however, the length of Enacted HD-149 would be longer.

Tr. 653:18–25. This district also contains two places of higher education: Mercer University at one end of the district (in Bibb County) and Georgia College at the other (in Baldwin County, i.e., Milledgeville). Tr. 491:3–7, 579:21–58:7; see also Tr. 1898:2–16.

The Court finds that Esselstyn HD-149 adequately preserves communities of interest. The majority of the district is rural and shares the same infrastructure concerns. The district is not long and sprawling. Accordingly, Esselstyn HD-149 preserves communities of interest for purposes of the first Gingles precondition.

((d)) conclusions of law

The Court finds that the Grant Plaintiffs have carried their burden in establishing that the Black community in Esselstyn HD-149 is sufficiently numerous and compact to create an additional majority-Black district. The Court finds that Esselstyn HD-149 complies with the traditional redistricting principles of population equality, contiguity, compactness, respect for political subdivisions, and preservation of communities of interest. Additionally, when visually inspecting the district, does not contain any appendages or tentacles.

Accordingly, the Court finds that the Grant Plaintiffs have carried their burden in showing the first Gingles precondition in the area drawn by Esselstyn HD-149.

e) Southwest Georgia region

(1) Alpha Phi Alpha: Cooper HD-171

The Court finds that Alpha Phi Alpha Plaintiffs have not carried their burden with respect to establishing that an additional compact majority-Black district in southwest Georgia could be drawn. To begin, the Court notes that following the preliminary injunction hearing, the Court concluded that the Alpha Phi Alpha Plaintiffs had a substantial likelihood of success in proving a Section 2 violation in this area of the State. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1293–1302. “A substantial likelihood of success on the merits requires a showing of only *likely* or probable, rather than *certain* success.” Schiavo Ex. rel. Schindler v. Schiavo, 403 F.3d 1223, 1232 (11th Cir. 2005). At trial, conversely, the plaintiffs have the higher burden of proving every aspect of their case by *a preponderance of the evidence*. See Mo. State Conf. of the NAACP v. Ferguson-Florissant Sch. Dist., 894 F.3d 924, 930 (8th Cir. 2018).

In conducting a thorough and sifting analysis of the evidence provided at the trial, the Court finds that while the Alpha Phi Alpha Plaintiffs met the lower

threshold of proof at the preliminary injunction phase, they were unable to clear the hurdle of preponderance of the evidence at the trial. Accordingly, the Court finds that with the evidence currently before it, Alpha Phi Alpha Plaintiffs were unable to show by a preponderance of the evidence that an additional compact majority-Black district could be drawn in southwest Georgia.

(a) numerosity

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in showing that the Black voting age population in southwest Georgia is large enough to create an additional majority-Black House district. It is undisputed that Cooper HD-171 has an AP BVAP of 58.06%. APAX 1, AA-1. Accordingly, the Court finds that the Black population is sufficiently numerous to constitute an additional majority-Black district in southwest Georgia.

(b) compactness

The Court finds that the Alpha Phi Alpha Plaintiffs have not shown that it is possible to draw an additional majority-Black House district in the area drawn by Cooper HD-171 consistent with traditional redistricting principles. As an initial note, Mr. Cooper explained that the district is drawn in the same general area as Enacted HD-153 and HD-171. APAX 1, ¶ 176 & fig.32. This differs from

the preliminary injunction, where it was only compared to House District 153. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1295–96. Thus, the Court considers the differences between the districts proposed by the Alpha Phi Alpha Plaintiffs in its instant compactness analysis.

i) empirical measures

((a)) population equality

The Court finds that Cooper HD-171 achieves relative population equality. As stated above, the General Assembly did not enumerate the deviation range for the State House Districts. However, using the Enacted House Plan as a guide, the Enacted House Plan has a population deviation range between $\pm 1.40\%$. Stip. ¶ 302. In comparison, Cooper HD-171 has a population deviation of $+1.38\%$, which is within the population deviation of the Enacted House Plan. APAX 1, Ex. AA-1. However, of any of Mr. Cooper’s illustrative districts, this district departs the most from the population deviation in the Enacted Plan. Enacted HD-171 has a population deviation of -0.46% , meaning that it is almost 1 percentage point closer to achieving perfect population deviation than Cooper HD-171. APAX 1, Ex. Z-1. Although Cooper HD-171’s population deviation is within the acceptable

range of, the Court finds that its wide disparity in comparison to the Enacted Plan is of concern.

Thus, while HD-171 district is consistent with the population deviations in Enacted House Plan, the Court finds that it does not respect population equality nearly to the same degree as Enacted HD-171.

((b)) contiguity

The Parties stipulated that Cooper HD-171 is a contiguous district. Stip. ¶ 300. Hence, the Court finds that Cooper HD-171 complies with the traditional redistricting principle of contiguity.

((c)) compactness scores

The Court finds that Enacted HD-171 performs better on both compactness measures than Cooper HD-171. Enacted HD-171 has a Reock score of 0.35 and a Polsby-Popper score of 0.37. APAX 1, Ex. AG-2. Cooper HD-171 has a Reock score of 0.28 and a Polsby-Popper score of 0.20. APAX 1, Ex. AG-1.

At the preliminary injunction, the Court found that Mr. Cooper's illustrative district in this region had comparable compactness scores to its corollary. Alpha Phi Alpha Fraternity, 587 F. Supp. 3d at 1296. However, at the preliminary injunction, Mr. Cooper submitted an illustrative district that

compared to Enacted HD-153, not HD-171. Id. Enacted HD-153 has a Reock score of 0.30 and a Polsby-Popper score of 0.30, which are higher, but much closer to Cooper HD-171's scores of 0.28 and 0.20, respectively. Id., APAX 1, Exs. AG-1, AG-2. However, Mr. Cooper has now changed the configuration of his illustrative district in this region, and now it correlates with Enacted HD-171, which has higher compactness scores in comparison.

Accordingly, the Court finds that Cooper HD-171 is not as compact as Enacted HD-171, nor are the compactness scores as comparable to its corollary district as they were on the preliminary injunction evidence.

((d)) political subdivisions

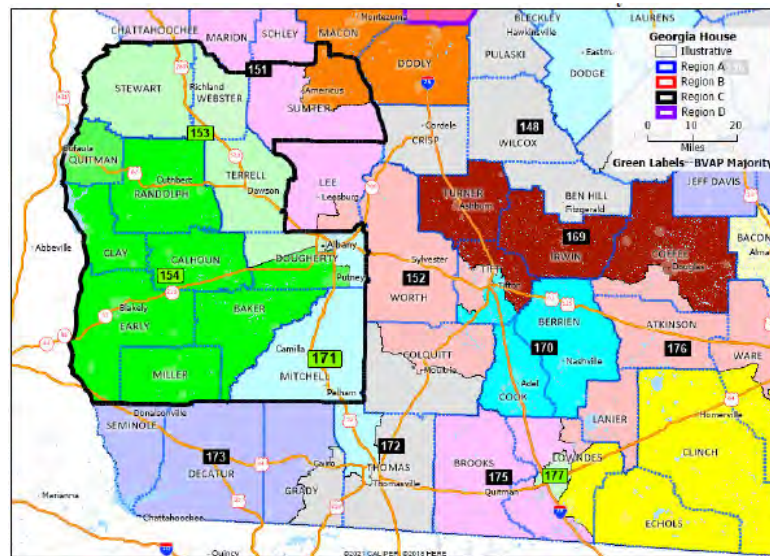
The Court finds that Cooper HD-171 does not respect political subdivisions as well as Enacted HD-171. Cooper HD-171 splits two counties (Dougherty and Thomas) and keeps Mitchell County whole; whereas, Enacted HD-171 only splits Grady County and keeps Decatur and Mitchell Counties whole. APAX 1 ¶¶ 175, 177 & figs.32, 33. Cooper HD-171 splits seven VTDs, but Enacted HD-171 splits only one. APAX 1, Exs. AH-1, AH-3. Additionally, in drawing Cooper HD-171,

Mr. Cooper created a split in neighboring Lee County, which was kept whole in the Enacted House Plan. Tr. 290:23–291:12.⁸⁸

Accordingly, the Court finds that Cooper HD-171 fails to respect political subdivisions as well as Enacted HD-171.

ii) eyeball test

The Court finds that Cooper HD-171 is visually compact under the eyeball test:



⁸⁸ Mr. Cooper testified that the split of Lee County was to eliminate a four way split of Dougherty County. Tr. 290:10–12. Under the Cooper House Plan, Dougherty County is split between three districts (Cooper HD-153, HD-154, and HD-171).

APAX 1 ¶ 177 & fig.33.

Using the mapping tool, the Court finds that at its most distant points, Cooper HD-171 is less than 60 miles long, which is consistent with the surrounding districts in the Enacted House Plan. Id. Ms. Wright testified that because of the decreases in population in the southern portion of the State, the map drawers had to collapse (i.e., consolidate) the prior districts to account for the population changes. Tr. 1623:17-12.

Cooper HD-171 does not contain any tentacles or appendages. In reviewing Cooper HD-171 the Court finds that it is visually compact, and thus passes the eyeball test.

iii) communities of interest

The Court finds Cooper HD-171 preserves communities of interest. Mr. Cooper offered extensive testimony regarding the connections between the communities included in Cooper HD-171, and the Court also received documentary evidence on point. Mr. Cooper pointed out that US-19 and the historic Dixie Highway run as a corridor through Mitchell County between Albany and Thomasville. APAX 1 ¶ 178. The communities along that corridor,

such as Albany, Camilla, Pelham, Meigs, and Thomasville, work together under the auspices of the Southwest Georgia Regional Commission, including to designate the Dixie Highway as a state-recognized scenic byway. Tr. 128:18-129:19, 294:23-295:4; APAX 54 (Corridor Management Plan); APAX 325 (Designation of Historic Dixie Highway Scenic Byway).

Mr. Cooper testified further about the connection between Thomasville and Albany: “there are commonalities between the Black population in Thomasville and the Black population in Albany. The two towns are only about 60 miles apart. It takes you about an hour to get there along Highway 9. They’re in the same high school football leagues.” Tr. 128:22-129:1. Bishop Reginald T. Jackson of the Sixth District AME also testified that Dougherty, Mitchell, and Thomas Counties—all included in Cooper HD-171—share certain similarities, including more “rural and agrarian” communities, similar education attainment levels, and income levels “at the lower end of middle class.” Tr. 382:12-19, 383:11-384:2. Further evidencing the connections between the communities in Cooper HD-171, Plaintiff Janice Stewart lives in Thomasville, but attends church

at Saint Peter AME Church in Camilla, Georgia (in Mitchell County). Stip. ¶¶ 64, 80-81.

Thus, the Court finds that there is sufficient testimony and evidence to show the Black community in Cooper HD-171 interacts with one another and shares a number of similar concerns. Mr. Cooper testified extensively about the communities that are contained within the district, the shared socio-economic factors, and the characteristics that unite them and Plaintiffs submitted lay witness testimonial evidence of the same. Accordingly, the Court finds that Cooper HD-171 preserves communities of interest.

iv) conclusions of law

Ultimately, the Court concludes that the Alpha Phi Alpha Plaintiffs have not met their burden in showing that a compact majority-Black district could be drawn in southwest Georgia. Although the Alpha Phi Alpha Plaintiffs were able to show that the district preserved communities of interest and was visually compact, the district fared far worse on all the objective measures of compactness than Enacted HD-171. Cooper HD-171 had the greatest population deviation disparity of any of Mr. Cooper's illustrative districts. The district is significantly

less compact on both compactness measures. Additionally, the district split more counties than Enacted HD-171 and had the most political subdivision splits of any of Mr. Cooper's new majority-Black districts.

Of all of the illustrative districts submitted in these cases, no other illustrative district performed worse on all objective measures. Even Esselstyn HD-74 and Esselstyn SD-23, in the companion Grant case, and Cooper SD-23, Cooper HD-133, and Cooper HD-145 performed equally or better on at least one objective measure. Moreover, the disparity in the performance on objective measures is stark here and does not lend to a finding that Cooper HD-171 is a reasonably compact district, consistent with traditional redistricting principles. Accordingly, the Court concludes that in southwest Georgia, the Alpha Phi Alpha Plaintiffs did not meet their burden under the first Gingles precondition.

* * * *

In sum, the Court makes the following conclusions with respect to the first Gingles preconditions.

The Alpha Phi Alpha Plaintiffs have proven by a preponderance of the evidence that Black community is sufficiently numerous and compact to create:

- Two additional majority-Black Senate districts in south-metro Atlanta, and
- One additional majority-Black House district in south-metro Atlanta, in the area depicted in Cooper HD-74.

The Grant Plaintiffs have proven by a preponderance of the evidence that the Black community is sufficiently numerous and compact to create:

- Two additional majority-Black Senate districts in south-metro Atlanta,
- One additional majority-Black House district in south-metro Atlanta, in the area depicted in Esselstyn HD-117,
- One additional majority-Black House district in west-metro Atlanta, and
- Two additional majority-Black house districts in the Macon-Bibb region.

Conversely, the Alpha Phi Alpha Plaintiffs have **NOT** proven by a preponderance of the evidence that the Black community is sufficiently numerous and compact to create:

- One additional majority-Black Senate district in the eastern Black Belt region,
- One additional majority-Black House district in south-metro Atlanta, in the area depicted in Cooper HD-117,

- One additional majority-Black House district in the eastern Black Belt region,
- One additional majority-Black House district around the Macon-Bibb region, or
- One additional majority-Black district in southwest Georgia.

The Grant Plaintiffs have **NOT** proven by a preponderance of the evidence that the Black community is sufficiently numerous and compact to create:

- One additional majority-Black Senate district in the eastern Black Belt region, or
- One additional majority-Black House district in south-metro Atlanta, in the area depicted in Esselstyn HD-74.

The Court now determines whether the Alpha Phi Alpha and Grant Plaintiffs have satisfied the remaining two Gingles preconditions, in the areas where they successfully proved the first Gingles precondition.

2. Second Gingles Precondition

The Court finds that the Alpha Phi Alpha and Grant Plaintiffs have each proven the second Gingles precondition for all their remaining proposed majority-Black districts.

a) Alpha Phi Alpha

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in establishing the second Gingles precondition in the relevant areas. Dr. Handley evaluated 16 recent (2016-2022) general and runoff statewide elections, including for U.S. Senate, Governor, School Superintendent, Public Service Commission, and Commissioners of Agriculture, Insurance, and Labor. APAX 5, 5; Stip. ¶¶ 316-317. She also looked at 54 recent (2016-2022) State legislative elections in the areas of interest, including 16 State Senate contests and 38 State House contests. Tr. 890:2-12; APAX 5, 7-8; Stip. ¶ 324.

All 2022 State legislative contests in the Enacted Plans identified as districts of interest were analyzed, even if the contest did not include at least one Black candidate. APAX 5, 7-8. In addition, because there has only been one set of State legislative elections under the Enacted Plans (in 2022), Dr. Handley also analyzed biracial State legislative elections held between 2016 and 2020 in the State

legislative districts under the previous State House and State Senate plans in the seven areas of interest. Id.

Dr. Handley focused on elections that include at least one Black candidate, an approach that multiple courts have endorsed in other cases because they are the most probative for measuring racial polarization. Tr. 871:3-6, 872:11-14; see also id. at 871:10-14 (“[I]f I have enough contests that include Black candidates, I focus on those, because the courts have made it clear and because we want to make sure that Black voters are able to elect Black candidates of choice and not just white candidates of choice, if that’s what they choose to do.”); Robinson, 605 F. Supp. 3d at 801 (crediting Dr. Handley’s opinion that “courts consider election contests that include minority candidates to be more probative than contests with only White candidates, because this approach recognizes that it is not sufficient for minority voters to be able to elect their preferred candidate only when that candidate is White”); United States v. City of Eastpointe, 378 F. Supp. 3d 589, 610 (E.D. Mich. 2019) (“These [white-only] elections are, however, less probative because the fact that black voters also support white candidates acceptable to the majority does not negate instances in which a white voting majority operates to

defeat the candidate preferred by black voters when that candidate is a minority.”); United States v. City of Euclid, 580 F. Supp. 2d 584, 598 (N.D. Ohio 2008) (“These contests are probative of racial bloc voting because they . . . featured African–American candidates.”).

Courts, including the Eleventh Circuit, agree that reviewing biracial elections is probative of the polarization inquiry. Davis, 139 F.3d at 1417 n.5 (“[E]vidence drawn from elections involving black candidates is more probative in Section Two cases[.]”); Wright, 301 F. Supp. 3d at 1313 (“While still relevant, elections without a black candidate are less probative in evaluating the Gingles factors.”); see also Tr. 871:5-6; Tr. 2222:11-15. However, the Court wants to make clear, that a Section 2 violation does not require Black voters to vote for Black candidates and white voters to vote in opposition to Black candidates. See DeGrandy, 512 U.S. at 1027 (explaining that this assumption is empirically false).

As the Court addressed in its credibility determinations, the Court agrees with the Alabama State Conference of the NAACP court that although elections with Black and white candidates may be the most helpful in determining polarization, the manner in which Dr. Handley chose her data set makes her

findings less reliable. Ala. State Conf. of NAACP, 612 F. Supp. 3d at 1274. However, the Court notes that the Parties stipulated to her findings and Defendants' expert did not take issue with her data set. Stip. ¶¶ 318-341; 2199:11-2200:4

That Black voters in the seven areas of interest are politically cohesive is not contested. In fact, Defendant stipulated that in the 16 recent statewide general and general runoff elections from 2016-2022, Black voters were "highly cohesive" in their support for their preferred candidate. Stip. ¶¶ 320 ("In these 16 statewide general and general runoff elections from 2016-2022, Black voters were highly cohesive in their support for their preferred candidate."), 330 ("In the seven areas of interest, Black voters were very cohesive in supporting their preferred candidates in general elections for statewide offices."). As Dr. Handley concluded and Defendant stipulated, Black-preferred candidates typically received 96.1% of the Black vote in statewide races in these areas and only 11.2% of the White vote. Stip. ¶¶ 321, 322.

Dr. Handley's analysis of State legislative general elections in the areas of interest also found "starkly racially polarized" voting. Tr. 862:4-6; APAX 5, 7. As

with the statewide general elections, “Black voters were very cohesive in support of their preferred candidates and white voters bloc voted against these candidates.” Tr. 890:19-21. Again, this is not contested—the Parties stipulated that, in State legislative general elections, Black voters were highly cohesive in their support for their preferred candidate. Stip. ¶¶ 326 (“In these 54 State legislative elections, Black voters were highly cohesive in their support for their preferred candidates.”), 335 (“In the seven areas of interest, Black voters exhibit cohesive support for a single candidate in State legislative general elections.”).

In all but one of the 54 State legislative elections that Dr. Handley analyzed (i.e., 98.1%) were starkly racially polarized, with Black candidates receiving a very small share of the white vote and the overwhelming support of Black voters. See Tr. 890:16-21; APAX 5, 7. As Dr. Handley concluded and the Parties stipulated, on average, over 97% of Black voters supported their preferred Black State Senate candidates and over 91% supported their preferred Black State House candidates. Stip. ¶ 327.

Defendant’s expert, Dr. Alford, agreed “with [Dr. Handley’s] analysis that Black voters in general elections in the areas of Georgia that she analyzed are very

cohesive in their support for a single preferred candidate.” Tr. 2224:14-18. Consistent with the uncontested evidence, the Court finds that Black voters in the seven areas of Georgia that Dr. Handley analyzed are highly cohesive in supporting a single preferred candidate.⁸⁹ Moreover, the Black voter cohesion is stronger in the relevant areas (between 91 and 98%) than in the voter cohesion in Alabama (92.3%), which the Supreme Court agreed with the three-judge court was “very clear.” Allen, 599 U.S. at 22. Accordingly, the Alpha Phi Alpha Plaintiffs have satisfied the second Gingles precondition in the relevant areas.

b) Grant

The Court finds that the Grant Plaintiffs have proven the second Gingles precondition as well. The Grant Plaintiffs’ expert in racial polarization, Dr. Palmer, determined that Black voters had a clearly identifiable candidate of

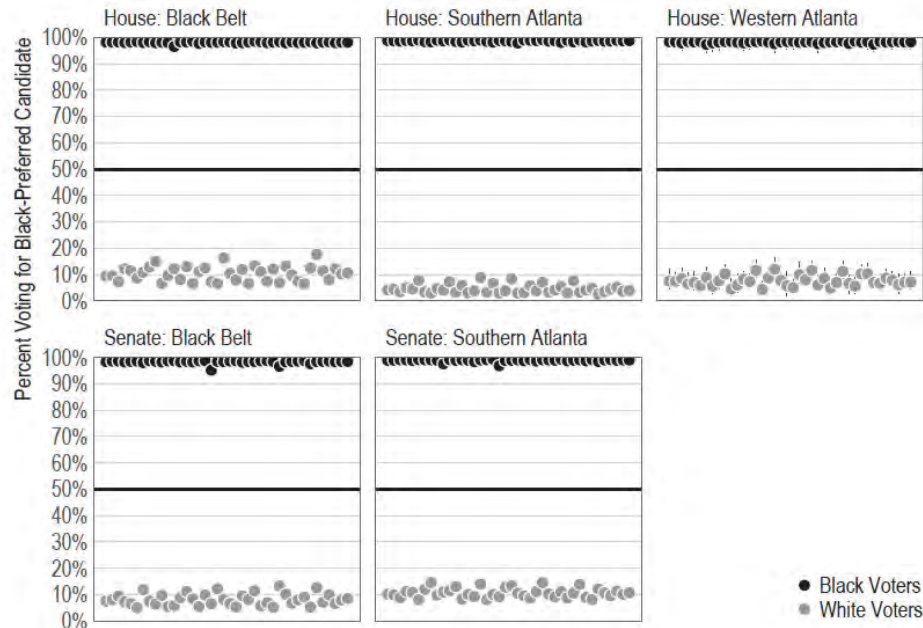
⁸⁹ The Court notes that Dr. Alford opined that the Black preferred candidate was always the Democrat. See, e.g., Tr. 2144:11-25; see also Stip. ¶¶ 319, 325, 331. As noted above and in the Court’s summary judgment order (APA Doc. No. [268]), the Court found that partisan affiliation is not relevant to the second and third Gingles preconditions. Accordingly, Dr. Alford’s conclusions regard partisanship are not relevant, here. However, the Court will consider his conclusions as a part of Senate Factor Two. See Section (D)(4)(b)(3) *infra*.

choice in every election examined, across the focus areas and in each State Senate and House district. Stip. ¶¶ 268, 270; GX 2 ¶ 18, tbl.1 & figs.2-4. On average, Black voters supported their candidates of choice with 98.5% of the vote. Stip. ¶ 269; GX 2 ¶ 18.

Table 1: Average Support for Black-Preferred Candidates by Voters' Race

	Focus Area	Black Voters	White Voters
House	Black Belt	98.1%	10.4%
	Southern Atlanta	98.7%	4.6%
	Western Atlanta	98.2%	7.7%
Senate	Black Belt	98.4%	8.2%
	Southern Atlanta	98.9%	10.7%

GX 2 ¶ 18 & tbl. 1.



GX 2 ¶ 18 & fig.2.

Defendants' racially polarized voting expert, Dr. Alford, does not dispute Dr. Palmer's conclusions as to the second Gingles precondition. DX 8, 2-5; Tr. 2251:2-5. However, Dr. Alford notes that in all of the races examined by Dr. Palmer, the Black voters' candidate of choice was the Democrat candidate. DX 8, 4. As the Court discussed extensively in its Order on the cross-motions for summary judgment, the second and third Gingles preconditions are results based inquiries that do not require plaintiffs to prove that race cause the polarization or

disprove that party caused the polarization. See Grant Doc. No. [229], 51–57. Thus, Dr. Alford’s suggestions about the cause and effect of racial polarization are not persuasive for the Gingles preconditions.

As the data above shows, Black voters in south-Metro and west-Metro Atlanta support the same candidate more than 98% of the time and in the Macon-Bibb region, Black voters supported the same candidate 98.1% of the time. GX 2 ¶ 18 & tbl.1. “Bloc voting by [B]lacks tends to prove that the [B]lack community is politically cohesive, that is, it shows that [B]lacks prefer certain candidates whom they could elect in a single-member, [B]lack majority district.” Gingles, 478 U.S. at 68. As was noted above, Dr. Palmer’s data shows that Black voter cohesion is greater in these areas than it is in Alabama (92.3%), where the Supreme Court credited the lower court’s finding of “very strong” Black voter cohesion. Allen, 599 U.S. at 22. Accordingly, the Court finds that the Grant Plaintiffs have satisfied their burden on the second Gingles precondition. Based on the stipulated facts, expert reports, and testimony provided in this case, the Court concludes that Black voters in the focus areas are politically cohesive.

3. *Third Gingles Precondition*

The Court also finds that the Alpha Phi Alpha and Grant Plaintiffs have proven the third Gingles precondition for all the legislative districts remaining.

a) Alpha Phi Alpha

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in establishing the third Gingles precondition in their remaining proposed legislative districts. Dr. Handley concluded that the starkly racially polarized voting in the areas that she analyzed “substantially impedes” the ability of Black voters to elect candidates of their choice to the Georgia General Assembly unless districts are drawn to provide Black voters with this opportunity. See APAX 5, 22; see also Tr. 892:15-21.

Specifically, in the seven areas of interest, white voters consistently bloc voted to defeat the candidates supported by Black voters. See APAX 5, 21-22. Indeed, Dr. Handley testified that, in general elections, due to White bloc voting, candidates preferred by Black voters were consistently unable to win elections and will likely continue to be unable to win elections outside of majority-Black districts. See Tr. 890:16-21 (noting that in 53 out of 54 State legislative contests, “Black voters were very cohesive in support of their preferred candidates and

white voters bloc voted against these candidates); cf. Tr. 863:9-11 (“In each of the areas, the districts that provided Black voters with an opportunity to elect were districts that were at least 50 percent Black in voting age population.”).

Dr. Handley testified that white voters voted as a bloc against Black-preferred candidates in all the 16 general elections that she analyzed. Tr. 862:4-14, 877:14-21. As Dr. Handley concluded and Defendant stipulated, Black-preferred candidates typically received only 11.2% of the white vote. Stip. ¶¶ 321, 322. Similarly, in the State legislative elections Dr. Handley analyzed, the Black-preferred candidate on average secured the support of only 10.1% of white voters in State Senate races and 9.8% of white voters in State House races. Stip. ¶ 328.

This pattern of white bloc voting against Black-preferred candidates is not contested. In fact, the Parties stipulated that white voters were “very cohesive” in their support for their preferred candidates in both statewide and State legislative general elections (Stip. ¶¶ 332, 336), and that the candidates preferred by white voters in the seven areas of interest are voting against the candidates preferred by Black voters (Stip. ¶ 337).

Defendant's expert, Dr. Alford, similarly agreed that "with small exceptions, white voters are highly cohesive" in "the general elections that Dr. Handley analyzed across the areas of interest in Georgia," and that, in these general elections, "large majorities of Black and white voters are supporting different candidates." Tr. 2224:25-2225:9; see also DX 8, 6.

Due to the low level of white support for Black-preferred candidates, Dr. Handley found that blocs of white voters in the areas of interest were able to consistently defeat Black-preferred candidates in State legislative general elections, except where the districts were majority Black. APAX 5, 22; Tr. 891:5-7 ("Black-preferred Black candidates were successful only in districts that were majority Black in the elections that I looked at."). As Dr. Handley testified and Defendant stipulated, all but one of the successful Black State legislative candidates in the contests that Dr. Handley analyzed were elected from majority Black districts – the one exception being a district that was majority minority in composition. Stip. ¶ 329; Tr. 891:13-21.

"Because voting is starkly polarized in general elections," Dr. Handley concluded that "without drawing districts that provide Black voters with an

opportunity to elect [their candidate of choice] districts in the areas examined will not elect Black-preferred candidates.” Tr. 906:5-8. The Court finds that the uncontested evidence shows white voters in the relevant areas only vote for the Black-preferred candidate between 9.8% to 11.2% of the time. White voters in Georgia vote in opposition to the Black-preferred candidate at a higher rate than in Alabama (where 15.4% of white voters supported the Black-preferred candidate) where the Supreme Court affirmed the three-judge court’s finding of “very clear” racial polarization. Allen, 599 U.S. at 22. Accordingly, the Court finds that the Alpha Phi Alpha Plaintiffs have met their burden and proved that white voters bloc vote in opposition to the Black-preferred candidate. In other words, in the relevant areas, the Black-preferred candidate will typically be defeated by white voters in majority-white districts.

b) Grant

The Court also finds that the Grant Plaintiffs carried their burden on the third Gingles precondition. The Grant Plaintiffs’ expert, Dr. Palmer, demonstrated that white voters in the legislative focus area usually vote as a bloc to defeat Black-preferred candidates. This too has been stipulated by the Parties.

Stip. ¶¶ 271–74. In each legislative district examined and in the focus areas as a whole, white voters had clearly identifiable candidates of choice for every election examined. GX 2 ¶ 18 & fig.2; Tr. 404:20–405:18.

In the elections Dr. Palmer examined, white voters were highly cohesive in voting in opposition to the Black-preferred candidate. Stip. ¶ 271. On average, Dr. Palmer found that white voters supported Black-preferred candidates with only 8.3% of the vote. Id. ¶ 272; see also GX 2 ¶ 18. In other words, on average, 91.7% of the time white voters voted against the Black-preferred candidate.

Dr. Palmer then calculated in the success of Black preferred candidates in districts under the Enacted Plan. GX 2 ¶ 21. In the races examined, Dr. Palmer concluded that the Black-preferred candidate was only successful in majority-Black districts. GX 2 ¶ 21 & fig.4.

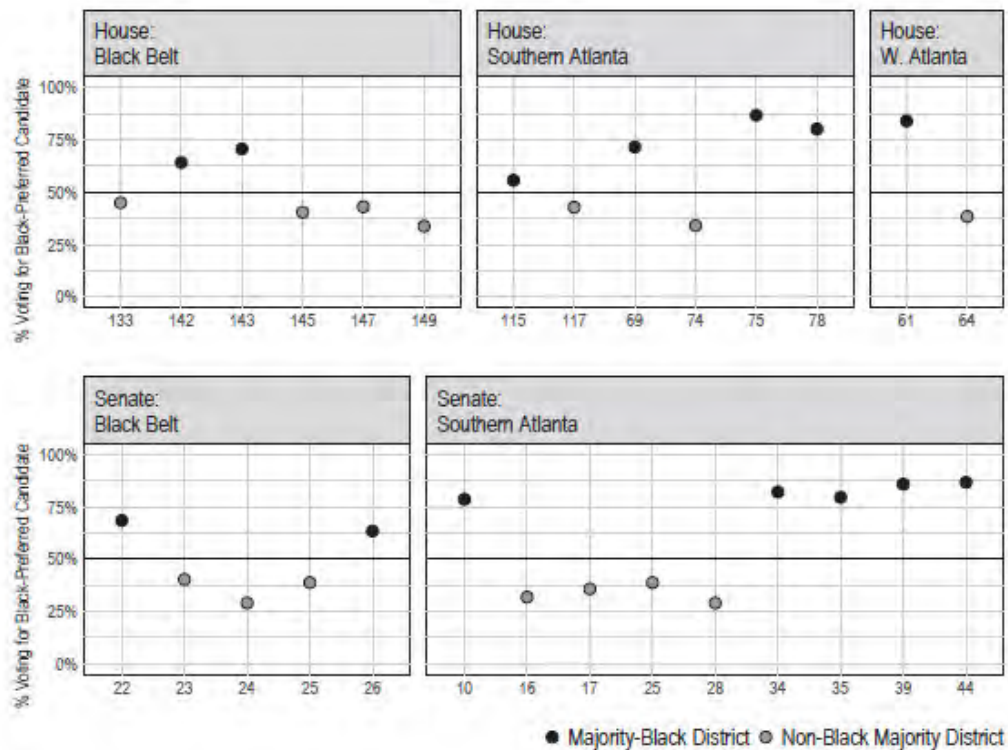


Figure 4: Average Performance of Black-Preferred Candidates by District

GX 2 ¶ 18 & fig.4. When he performed the same analysis with Mr. Esselstyn's illustrative majority-Black districts, he found that the Black-preferred candidate would have been successful in all of the elections that he analyzed. GX 2 ¶¶ 23, 25 & fig.5.

Overall, Dr. Palmer found “strong evidence of racially polarized voting across the areas . . . examined.” GX 2 ¶ 7; see also GX ¶¶ 18–19; Tr. 398:10–16, 407:17–21. As a result of this racially polarized voting, candidates preferred by Black voters have generally been unable to win elections in the focus areas if not in a majority-Black district. Tr. 408:9–409:12; GX 2 ¶¶ 20–21 & fig.4. Dr. Palmer concluded that “Black-preferred candidates win almost every election in the Black-majority districts, but lose almost every election in the non-Black-majority districts.” GX 2 ¶ 21. Defendants’ expert Dr. Alford does not dispute Dr. Palmer’s conclusions as to the third Gingles precondition. DX 8, 2–3; Tr. 2251:6–9. However, Dr. Alford opined once more that in all of the elections that Dr. Palmer reviewed, the Black-preferred candidate was a Democrat and the white-preferred candidate was a Republican. DX 8, 3–5. The Court does not find Dr. Alford’s conclusion relevant to the Gingles preconditions because it relates to the *causes* and not the *effects* of voter behavior. See Section II(D)(1)(b)(2) *supra*.

Using the returns from the 31 statewide elections, Dr. Palmer also analyzed whether Black voters in Mr. Esselstyn’s additional majority-Black State Senate and House districts could elect their candidates of choice. GX 2 ¶¶ 22, 24, 25. He

specifically concluded that “[i]n House Districts 64, 74, and 149, and Senate Districts 23, 25, and 28, the Black-preferred candidate won a larger share of the vote in all 40 statewide elections. In House District 117, the Black-preferred candidate won all 19 elections since 2018.” GX 2 ¶ 24 & tbl.9. Dr. Alford does not dispute Dr. Palmer’s performance analysis of Esselstyn’s Legislative Plan. Tr. 2250:20–22.

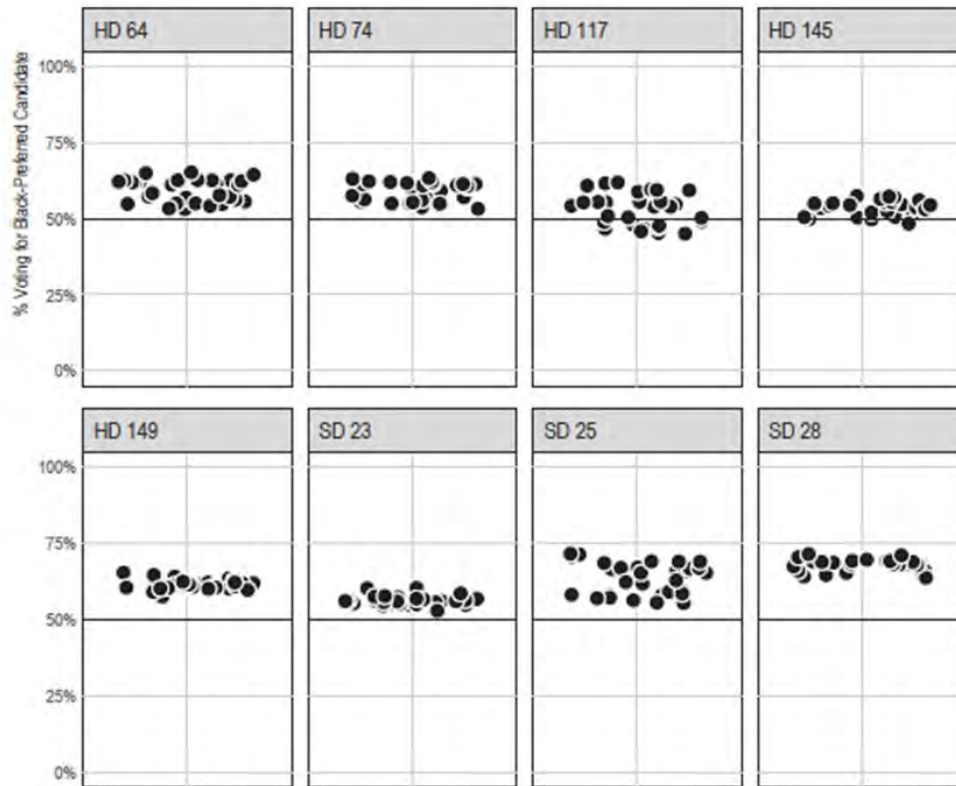


Figure 5: Vote Shares of Black-Preferred Candidates in Under the Illustrative Maps

PX 2 ¶ 25 & fig.5.

Again, the evidence of polarization is stronger in this case than it was in Allen: in the focus areas the highest average support of white voters for the Black-preferred candidate was 10.7%, whereas in Alabama 15.4% of white voters

supported the Black-preferred candidates—which was “very clear” evidence of racially polarized voting. Allen, 599 U.S. at 22. Based on the stipulated facts, expert reports, and testimony provided in this case, the Court concludes that white voters in Esselstyn SD-25, SD-28, HD-64, HD-74, HD-145, and HD-149 “very clearly” vote as a bloc to defeat Black-preferred candidates. Accordingly, the Court finds that the Grant Plaintiffs have satisfied their burden in proving the third Gingles precondition.

* * * *

The Court finds that in Cooper SD-17, SD-28, HD-74, HD-117 and Esselstyn SD-25, SD-28, HD-64, HD-117, HD-145, and HD-149, the Alpha Phi Alpha and Grant Plaintiffs, respectively, have proven all three Gingles preconditions by a preponderance of the evidence. Thus, the Court will evaluate whether, under the totality of the circumstances, the political process is equally open to Black voters in these areas.

4. Totality of the Circumstances

The Court now turns to the totality of the circumstances inquiry to determine if Georgia’s political process is equally open to the affected Black

voters. Wright, 979 F.3d at 1288 (“[I]n the words of the Supreme Court, the district court is required to determine, after reviewing the ‘totality of the circumstances’ and, ‘based upon a searching practical evaluation of the past and present reality, whether the political process is equally open to minority voters.’” (quoting Gingles, 478 U.S. at 79)).

For the proposed districts where Plaintiffs satisfied the Gingles preconditions, the Court must now determine if the electoral system is equally open to them. Put differently, the Court must determine if the Black voters in these areas have less of an opportunity to elect a candidate of their choice based on race. Wright, 979 F.3d at 1288.

Again, the Court notes that Georgia has made great strides since the passage of the Voting Rights Act to give Black voters more of an equal opportunity to participate in the political process. For example, Georgia’s current congressional delegation has five Black representatives to the U.S. House of Representatives and one Black senator. However, the Court acknowledges that as far as the State General Assembly’s representation is concerned, the numbers

are less proportional.⁹⁰ See GX 1 ¶¶ 22 (indicating the Enacted State Senate Plan contains 14 majority-Black districts out of 56 districts, or 25%), 45 (indicating the Enacted State House Plan contains 49 majority-Black districts out of 180 districts,⁹¹ or approximately 27.2%).

Like the Pendergrass case, however, the whole of the evidence in the Alpha Phi Alpha and Grant Plaintiffs' case for the totality of the circumstances inquiry shows that, while promising gains have been made in the State of Georgia, the political process is not currently *equally* open to Black Georgians. When evaluating the Senate Factors, the evidence shows that Black voters have *less* of opportunity to partake in the political process than white voters. Thus, the Court determines that the totality of the circumstances inquiry supports finding a Section 2 violation in the Alpha Phi Alpha and the Grant Plaintiffs' case.

⁹⁰ The Court's reference to proportionality here is only to support a general observation regarding the trajectory of minority voters' equal access to the political system in Georgia.

⁹¹ The Georgia Legislative Black Caucus, however, only has 41 members in the Georgia House of Representatives. Stip. ¶ 348.

a) Alpha Phi Alpha

The Court finds that the Alpha Phi Alpha Plaintiffs have proven that, under the totality of the circumstances, Georgia's electoral system is not equally open to Black voters in the districts meeting the Gingles preconditions (i.e., Cooper SD-17, SD-28, SD-74).

(1) *Totality of circumstances inquiry: purpose and framework*

To reiterate, for a Section 2 violation to be found, the Court must conduct “an intensely local appraisal” of the electoral mechanism at issue, as well as a “searching practical evaluation of the ‘past and present reality.’” Allen, 599 U.S. at 19 (citing Gingles, 478 U.S. at 79). The purpose of this appraisal is to determine the “essential inquiry” of a Section 2 case, which is “whether the political process is *equally open* to minority voters.” Ga. State Conf. of the NAACP, 775 F.3d at 1342 (emphasis added) (quoting Gingles, 478 U.S. at 79). Put differently, the totality of the circumstances inquiry ensures that violations of Section 2 may only be found when “members of the protected class have *less opportunity* to participate in the political process.” Chisom, 501 U.S. at 397 (emphasis added).

The legal framework for the totality of the circumstances inquiry is the same applied in the Pendergrass case. In short, in this analysis the Court considers the relevant Senate Factors—Georgia’s history of discrimination and its voting practices enhancing the opportunity for discrimination, racial polarization in elections, socioeconomic factors, use racial appeals, Black-candidate success in elections, elected officials’ responsiveness to the Black community, and the State’s policy justification for the enacted map. Gingles, 478 U.S. at 44–45. The Court also considers the proportionality achieved by the Enacted Legislative Plans. The Court ultimately concludes that the totality of the circumstances’ inquiry weighs in favor of finding a Section 2 violation in the Alpha Phi Alpha case.

(2) *Senate Factors One and Three: historical evidence of discrimination and State’s use of voting procedures enhancing opportunity to discriminate*

The Court first turns to Georgia electoral practices, both past and present, that bear on discrimination against Black voters under Senate Factors One and

Three.⁹² Senate Factor One focuses on “[t]he extent of any history of official discrimination in the state . . . that touched the right of the members of minority group to register, to vote, or otherwise to participate in the democratic process[.]” Gingles, 478 U.S. at 36–37. Senate Factor Three “considers ‘the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting.’” Wright, 979 F.3d at 1295 (quoting Gingles, 478 U.S. at 44–45).

The Court finds that the Alpha Phi Alpha Plaintiffs have presented evidence of both past and present history in Georgia that the State’s voting practices disproportionately effect Black voters. Like in the Pendergrass case, the Court is careful in this analysis to assess both past *and present* efforts that have caused a disproportionate impact on Black voters. Allen, 599 U.S. at 19. Both

⁹² Like in the Pendergrass case, the Court considers both Senate Factors One and Three together because there is significant overlap in the trial evidence for the two factors. Cf., e.g., Singleton, 582 F. Supp. 3d at 1020 (considering Senate Factors One, Three, and Five together).

types of evidence are relevant because certainly “past discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful.” Greater Birmingham Ministries, 992 F.3d at 1325 (quoting Bolden, 446 U.S. at 74). But past discrimination and disproportionate effects cannot be completely overlooked. See Allen, 599 U.S. at 14, 19 (assessing a history of discrimination in Alabama following Reconstruction); League of Women Voters, 81 F.4th at 1333 (asserting that “[p]ast discrimination *is relevant*” and citing to Allen). Accordingly, taking these statements from recent Supreme Court and Eleventh Circuit cases, the Court and evaluates Georgia’s practices of discrimination *past and present* as relevant evidence in the totality of the circumstances inquiry.

(a) historical evidence of discrimination broadly

Courts have continuously found that Georgia has a history of discrimination. Wright, 301 F. Supp. 3d at 1310 (“Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather

than the exception.”); Cofield, 969 F. Supp. at 767 (“African-Americans have in the past been subject to legal and cultural segregation in Georgia[.]”); id. (“Black residents did not enjoy the right to vote until Reconstruction. Moreover, early in this century, Georgia passed a constitutional amendment establishing a literacy test, poll tax, property ownership requirement, and a good-character test for voting. This act was accurately called the ‘Disfranchisement Act.’ Such devices that limited black participation in elections continued into the 1950s.”).

During the trial, Defendant stipulated that “up until 1990 we had historical discrimination in Georgia.” Tr. 1524:14–15. Alpha Phi Alpha Plaintiffs’ experts conclusions are consistent with this assertion. Plaintiffs’ expert Dr. Ward concluded that “Georgia has a long history of state-sanctioned discrimination against Black voters that extended beyond written law to harassment, intimidation and violence.” APAX 4, 1.⁹³ Another expert in these cases,

⁹³ The numbering in Dr. Ward’s report resets after the first two pages. As the substance of Dr. Ward’s report starts on the second page 1, the Court intends for its citations to refer to the pages of Dr. Ward’s substantive findings and conclusions.

Dr. Burton⁹⁴ opined that “[t]hroughout the history of the state of Georgia, voting rights have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state has passed legislation, and often used extralegal means, to disenfranchise minority voters.” PX 4 at 10; see also Tr. 1428:3–24. The Alpha Phi Alpha Plaintiffs’ expert, Dr. Jones, also testified that Georgia has “used basically every expedient . . . associated with Jim Crow to prevent Black voters from voting in the state of Georgia.” Tr. 1162:9–11.

This un rebutted testimony and the extensive accounts of Georgia’s history of discrimination in Alpha Phi Alpha Plaintiffs’ expert reports demonstrate that Georgia’s history—including its voting procedures— spans from the end of the Civil War onward. See, e.g. Tr. 1431:13–17; APAX 2, 7; APAX 4, 3–13. This history has uncontrovertibly burdened Black Georgians. Id.

⁹⁴ The Parties agreed and the Court permitted Alpha Phi Alpha Plaintiffs to incorporate Dr. Burton’s trial testimony and portions of his expert report that were directly testified about into the Alpha Phi Alpha case. Tr. 1464:11–25.

(b) Georgia practice from the passage of the VRA to 2000

Congress enacted the Voting Rights Act of 1965 to address these discriminatory practices. One of the Voting Rights Act's provisions was the preclearance requirement, which mandated certain jurisdictions with well-documented practices of discrimination (including Georgia) to get approval from the federal government before making changes to their voting laws. 52 U.S.C. § 10304 .

The Voting Rights Act, however, did not instantly translate into equal voting in Georgia. In fact, Dr. Jones opined that “Georgia resisted the VRA from its inception.” APAX 2, 8. In the early years following the passage of the VRA, “Georgia refused to submit new laws for preclearance.” Id. Specifically, between 1965 and 1967, Georgia submitted only one proposed change to DOJ for preclearance. Id. Among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens in 1976. Tr. 1437:10–1438:3. These continued disparities following the VRA were at least caused because “Georgia resisted the Voting Rights Act [and] for a period, it refused to comply.” Tr. 1163:9–17. Even still, from

1965 to 1981, the Department of Justice objected to more than 200 changes submitted by Georgia, which accounted for almost one-third of DOJ's objections for *all* states during that period. APAX 2, 8–9.

Georgia's history of discrimination against Black voters did not end in 1981. When the VRA was reauthorized in 1982, the Senate Report specifically cited to Georgia's discriminatory practices that diminished the voting power of Black voters. S. Rep. 97-417, 9th Cong. 2d Sess. 10, 13 (1982). During the 2006 reauthorization process of the Voting Rights Act, Georgia legislators "took a leadership position in challenging the reauthorization of the [A]ct." Tr. 1164:2–17. As Dr. Jones reminds us, "Georgia's resistance to the VRA is consistent with its history of resisting the expansion of voting rights to Black citizens at every turn." APAX 2, 9. Even following the 2000 Census, the district court in the District of Columbia refused to preclear the General Assembly's Senate plan because the court found "the presence of racially polarized voting" and that "the State ha[d] failed to demonstrate by a preponderance of the evidence that the reapportionment plan for the State will not have a retrogressive effect." Ashcroft, 195 F. Supp. 2d at 94.

(c) more recent voting practices with a disproportionate impact on Black voters

The Court moreover concludes that the Alpha Phi Alpha Plaintiffs submitted evidence of more recent practices in Georgia which disproportionately impact Black voters and have resulted in a discriminatory effect. These practices include county at-large voting systems, polling place closures, voter purges, and the Exact Match requirement. The Alpha Phi Alpha Plaintiffs also rely on the Georgia General Assembly's passage of SB 202 following the 2020 presidential election as evidence of recent and present practice disproportionately affecting Black voters.⁹⁵

⁹⁵ The Court reiterates that Dr. Burton clearly denied that the General Assembly or Georgia Republicans are racist. Tr. 1473:18-1474:9. As articulated by Dr. Burton, "I am not saying that the legislature is [racist]—I am saying that some of the legislation that comes out has a disparity—it affects Black citizens differently than white citizens to the disadvantage on Black citizens, but I am not saying that they are racist. But the effect has a disparate impact among whites and Blacks and other minorities." Tr. 1474:4-9. Section 2 of the VRA does not require the Court to find that the General Assembly passed the challenged maps to discriminate against Black voters, or that the General Assembly is racist in any way. Nothing in this Order should be construed to indicate otherwise.

As in *Pendergrass*, the evidence in the Alpha Phi Alpha case shows that following Shelby County and the end of pre-clearance, the U.S. Commission on Civil Rights found that Georgia had adopted five of the most common restrictions that impose roadblocks to the franchise for minority voters: (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting⁹⁶, and (5) widespread polling place closures. Tr. 1442:3-12 (referencing PX 4, 48-49). No other State has engaged in all five practices. *Id.* (referencing PX 4, 48-49).

The Court ultimately weighs the evidence submitted and determines that the evidence of Georgia's present voting practices disproportionately impact Black voters. The Court proceeds by assessing the Alpha Phi Alpha Plaintiffs' evidence of (i) at-large voting practices, (ii) Georgia's practice of closing polling places, (iii) Georgia's Exact Match requirement, (iv) the General Assembly's passage of SB 202, and (v) the State's rebuttal evidence of open and fair election

⁹⁶ While it may have been true at the time of this report that Georgia had made cuts to early voting, the Court acknowledges Mr. Germany's trial testimony was that SB 202 increased early voting opportunities by adding two mandatory Saturdays and expressly permitted counties to hold early voting on Sundays at their discretion. Tr. 2269:8-21.

procedures.⁹⁷ The Court finally (vi) renders its conclusion of law on this Senate Factor.

i) at-large voting

One example of a recent discriminatory practice that Dr. Jones relied on was recent use of at-large voting systems in Georgia. APAX 2, 10-12. It is undisputed that as a state, Georgia does not use at-large voting systems. However, some counties do. In fact, as recently as 2015, a federal court, under Section 2, enjoined Fayette County's use of at-large voting methods for electing members to the Fayette County Board of Commissioners and Board of Education. Id. (citing Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs, 118 F. Supp. 3d 1338, 1339 (N.D. Ga. 2015)). Following the enactment of the remedial maps, a Black candidate was elected for the first time to the Fayette County Board

⁹⁷ The Court may evaluate statewide evidence to determine whether Black voters have an equal opportunity in the election process. LULAC, 548 U.S. at 438 ("[S]everal of the [] factors in the totality of circumstances have been characterized with reference to the State as a whole."); see also Allen, 599 U.S. at 22 (crediting the three-judge court's finding lack of equal openness with respect to state wide evidence (citing Singleton, 582 F. Supp. 3d at 1018-24); Gingles, 478 U.S. at 80 (crediting district court's findings of lack of equal opportunity that was supported by statewide evidence)).

of Commissioners. APAX 2, 11. This evidence was un rebutted. The Court notes that Cooper SD-28 even contains a portion of Fayette County. APAX 1 ¶ 99. The Court finds that the 2015 district court opinion finding that Fayette County's use of at-large voting violated Section 2 is particularly persuasive in showing recent discriminatory practices in voting given that this county is a part of one of the challenged areas.

ii) polling place closures

The Court finds that there is also compelling evidence that Georgia's recent closure of numerous polling places disproportionately impacts Black voters. Between 2012 and 2018, Georgia closed 214 voter precincts, "decreasing the number of precincts in many minority majority neighborhoods." APAX 2, 29 (citing Patrik Jonsson, "Voting After Shelby: How a 2013 Supreme Court Ruling Shaped the 2018 Election," Christian Science Monitor, November 21, 2018, <https://www.csrnmonitor.com/USAIJustice/2018/1121/Voting-after-Shelby-How-a-2013-Supreme-Court-ruling-shaped-the-2018-election>; The Leadership Conference on Civil and Human Rights, "Democracy Diverted: Polling Place Closures and the Right to Vote," at 32, September 2019,

<https://civilrights.org/democracy-diverted/>). In five of the counties where the polls were closed Black turnout was under 50% in 2020, when it had been between 61.36% and 77.50% in the 2018 election. APAX 2, 29-30 (citing Mark Niesse and Maya T. Prabhu, "Voting Locations Closed across Georgia after Supreme Court Ruling," The Atlanta Journal-Constitution, April 31, 2018, <https://www.ajc.com/news/state--regional-govt--politics/votingprecincts-closed-across-georgia-since-election-oversight-1iftedJbBkHxpflirn0Gp9pKu7dfrN/>; Georgia Secretary of State, "Elections," 2018. <https://sos.ga.gov/index.php/elections>.)

A 2020 study found that "about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state's polling places." APAX 2, 30 (citing Stephen Fowler, "Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?," ProPublica (Oct. 17, 2020), <https://www.propublica.org/article/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled>). Additionally, on average, the "wait time after 7 p.m.

across Georgia was 51 minutes in polling places that were 90% or more nonwhite, but only 6 minutes in polling places that were 90% white.” Id. The study that Dr. Jones cited for these statements is the same as the one cited by Dr. Burton that found that “[i]n 2020, the nine counties in metro Atlanta that had nearly half of the registered voters (and the majority of the Black voters in the state)[, but] had only 38% of the state’s polling places.” PX 4, 50 n.173. Notably, at trial, both Drs. Jones and Burton testified consistently about polling place closures and that they disproportionately impacted Black voters. Tr. 1432:21–25; 1440:16–1441:21; 1347:10–1348:9.

The Court concludes that the Alpha Phi Alpha Plaintiffs’ evidence of polling place closures—and, notably, in metro-Atlanta where some of the challenged districts are located—is recent evidence of a voting practice with a disproportionate impact on Black voters.

iii) exact match

The Alpha Phi Alpha Plaintiffs’ evidence also shows Georgia’s voting practices include roadblocks to the voting efforts of minority voters in the form

of the Exact Match system and the State's purging of voter registration lists.⁹⁸ APAX 2, 23–28.

These practices, however, have been determined in prior decisions by the Court to *not* be illegal under federal law. The prior decisions upholding the Exact Match requirement and registration list purges certainly impact the weight to afford these voting practices. However, in this case, the evidence shows—without contradicting the prior legal determinations—that these practices have a *disproportionate effect* on Black voters for purposes of the instant totality of the circumstances' inquiry. Specifically, when these prior decisions are considered in the light of the legal frameworks at issue, the Court finds that these practices can be used as evidentiary support of a disproportionate discriminatory impact on Black voters in Georgia without contradicting or minimizing the prior decisions upholding Georgia's laws.

⁹⁸ In light of the Court's ruling allowing Dr. Burton's testimony and specific references to his report to be incorporated into the Alpha Phi Alpha case (1464:11-25), the Court may rely on Dr. Burton's report's analysis of the Commission's report in the Alpha Phi Alpha case. See Tr. 1441:25–1442:15 (Dr. Burton referencing his report and testifying about the U.S. Commission on Civil Rights, An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report (Washington, 2018), 369).

Specifically, Georgia’s Exact Match procedure was determined to not violate VRA’s Section 2 because when the burden on voters, the disparate impact, and the State’s interest in preventing fraud were considered together, the weighing of these considerations counseled against finding a violation. Fair Fight Action, 634 F. Supp. 3d at 1246. The Exact Match ruling in Fair Fight relied on the Brnovich decision and emphasized that “the modest burdens allegedly imposed by [the Exact Match law], the small size of the disparate impact, and the State’s justifications” did not support a Section 2 violation. Id. at 1245–46 (quoting Brnovich, 141 S. Ct. at 2346). Even without a Section 2 violation, however, the Court found that the Exact Match requirement disproportionately impacted Black voters given that: Black voters were a smaller portion of the electorate but as of January 2020, 69.4% of individuals flagged as “missing identification required” were African American, and 31.6% of the voters flagged for pending citizenship 31.6% were African American, whereas white voters only accounted for 20.9%. Fair Fight Action, 634 F. Supp. 3d at 1160, 1162; Tr. 1283:3–10. Thus, the Court’s decision in Fair Fight itself acknowledged that the Exact Match practice in Georgia has a *discriminatory impact* on Black voters—which is the

inquiry specifically at issue here. When the Court considers Fair Fight's determination in the light of the Civil Rights' Commission's report that generally Exact Match practices are a roadblock to minority voters, the Court concludes that this modern practice in Georgia supports that Georgia's modern voting practices have a discriminatory effect on Black voters.

iv) SB 202's disproportionate impact

The Alpha Phi Alpha Plaintiffs also cite to Georgia's passage of SB 202 as evidence of modern discrimination. The General Assembly passed SB 202 following the 2020 Presidential election. APAX 2, 28–29; Tr. 1182:1–9. A challenge to SB 202 is pending in the Northern District of Georgia and has not been resolved at the time the Court enters this Order.⁹⁹ In re SB 202, 1:21-mi-55555 (N.D. Ga.

⁹⁹ The Court notes that on October 11, 2023, the district court assigned the SB 202 case ruled on a pending motion for preliminary injunction that involves Section 2 and constitutional challenges to several provisions in SB 202. In re SB 202, 1:21-mi-55555, ECF No. 686 (N.D. Ga. Oct. 11, 2023). The court denied the plaintiffs' motions for preliminary injunction and found that there was not a substantial likelihood of success on the merits of any of their claims. Id. at 61. No rulings in that case are binding on this Court. McGinley, 361 F.3d at 1331 (“[A] district judge’s decision neither binds another district judge[.]”). However, the Court is cautious in its discussion of SB 202 to avoid inconsistent rulings and creating confusion.

Dec. 23, 2021). The Court acknowledges that the evidence presented in that case is not presently before this Court.¹⁰⁰ Given this pending challenge to SB 202, the Court proceeds cautiously in an effort of judicial restraint, which counsels against the Court preemptively making any findings that could lead to inconsistent rulings with decisions already made or implicating the ultimate determination of the legality of the law.

With these qualifications in mind, the Court cannot ignore that evidence on SB 202 has been presented by the Plaintiffs as proof of present discriminatory practices in Georgia's treatment of Black voters. See, e.g., APAX 2, 28-29.¹⁰¹ Defendants likewise provided rebuttal testimony. See generally Tr. 2261-2307. The Court, treading cautiously, tethers its findings regarding SB 202 to the

¹⁰⁰ To be abundantly clear, this Court does not have a challenge to SB 202 before it. Plaintiffs' experts have provided evidence regarding potential motivations behind SB 202 and the impact that its passage had on Black voters. See APAX 2, PX 4, GX 4. And Defendants provided counter evidence. See generally Tr. 2261-2307 (testimony of Ryan Germany). The Court evaluates solely the evidence adduced in this case.

¹⁰¹ Drs. Burton and Jones concluded that certain portions of SB 202 have an actual or perceived negative impact on Black voters. See Tr. 1185:17-1186:16 (Dr. Jones opining that Black voters increased use of absentee ballots and their use of drop boxes correlated with the passage of SB 202); Tr. 1445: 1-25 (Dr. Burton opining that certain provisions of SB 202 were put in place because of the gains made by Black voters in the electorate).

testimony and evidence advanced by the Alpha Phi Alpha Plaintiffs' experts *for purposes of the totality of the circumstances inquiry on the Senate Factors*. Namely, the Court considers the passage of SB 202, once again, as some evidence of practices with a disproportionate impact on Black voters. This conclusion is made with the expert conclusion of Dr. Burton in mind that "in Georgia [it] was the pattern that every time . . . that Black citizens made gains in some way or another or were being successful, that the party in power in the state, whether it's Democrat or Republican, found ways or came up with ways to either disenfranchise, but particularly dilute or in some way make less effective the franchise of Black citizens than those of white citizens." Tr. 1428:9–21. Dr. Burton specifically cites the passage of SB 202 as evidence of this pattern in his trial testimony (Tr. 1442:16–1444:25), which was incorporated by the Alpha Phi Alpha Plaintiffs in their case (Tr. 1464:10–25).

Accordingly, the Court considers SB 202 as evidence of a current manifestation of a historical pattern that following an election, the General Assembly responsively passes voting laws that disproportionately impact Black voters in Georgia.

(d) Defendant's rebuttal evidence

The Court now turns to Defendants' rebuttal evidence. Defendants do not affirmatively rebut the Alpha Phi Alpha Plaintiffs' expert evidence with their own expert evidence. Instead, Defendants cross-examined Drs. Jones and Burton on the prior legal determinations upholding some of the voting practices raised. See, e.g., Tr. 1251:16–19. The Court, however, has already determined that it is not inconsistent with these prior rulings to now find that these voting practices have a discriminatory impact on Black voters for purposes of the instant totality of the circumstances. See Section II(D)(4)(a)(2)(iii) *supra* exact match section.

Defendants instead, through lay witness testimony, submitted that Georgia has implemented legislation to make it easier for all voters to participate.¹⁰² In favor of Defendants on these factors, the Court considers Mr. Germany's testimony about SB 202. Mr. Germany indicates that the motive

¹⁰² The Court notes that on cross-examination Mr. Germany explained that SB 202 received numerous complaints; however, he is unable to quantify whether those complaints primarily came from Black voters because the Secretary of State's Office does not analyze the impact of the legislation on particular categories of voters—i.e., white voters v. Black voters. In his opinion, that analysis is not helpful to the overall goal to “make it easy for everyone, regardless of race.” Tr. 2283:2–2285:5.

for passing the law was to alleviate stress on the electoral system and increase voter confidence. Tr. 2265:3–23. Moreover, SB 202, among other things, expanded the number of early voting days in Georgia. Tr. 1476:7–9, 2269:8–21. Mr. Germany testified that Georgia employs no-excuse absentee voting (Tr. 2268:9–16) and was the second state in the country to implement automatic voter registration through the Department of Driver Services, which also allows voters to register the vote using both paper registration and online voter registration (Tr. 2263:12–20). Georgia furthermore offers free, state-issued, identification cards that voters can use to satisfy Georgia’s photo ID laws. Tr. 2264:15–22.

The Court has also been presented additional evidence that immediately prior to Shelby County, the DOJ precleared Georgia’s 2011 Congressional Plan. Tr. 1471:14–20. Moreover, following the passage of SB 202, Georgia experienced record voter turnout in the 2022 midterm election cycle. Tr. 1480:3–8.

(e) **conclusion on Senate Factors One and Three**

In sum, the majority of the evidence before the Court shows that Georgia has a long history of discrimination against Black minority voters. This history

has persisted in the wake of the VRA and even into the present through various voting practices that disproportionately affect Black voters. The Alpha Phi Alpha Plaintiffs have provided concrete recent examples of the discriminatory impact of recent Georgia practices, some specifically in the area of the districts proposed.

Defendants conversely have submitted some recent evidence of Georgia increasing the access and availability of voting. The evidence even shows that *overall* voter turnout has increased in the most recent national election.¹⁰³ These efforts are commendable, and the Court encourages these developments. In the Court's view, however, it is insufficient rebuttal evidence. Thereby, *in toto*, the Court concludes that Georgia has a history—uncontrovertibly in the past, and extending into the present—of voting practices that disproportionately impact Black voters. Thus, Senate Factors One and Three on the whole weigh in favor of finding a Section 2 violation.

¹⁰³ As discussed in greater detail, *infra*, Black voter turnout rate decreased by 15 points from the 2020 election cycle to the 2022 election cycle and recorded the lowest voter turnout rate in a decade. See Section II(D)(4)(e)(1) *infra*.

(3) *Senate Factor Two: racial polarization*

The second Senate Factor assesses “the extent to which voting in the elections of the State or political subdivision is racially polarized.” Wright, 979 F.3d at 1305 (quoting LULAC, 548 U.S. at 426). As indicated in the Alpha Phi Alpha Summary Judgment Order, polarization is a factor to be considered in the totality of circumstances inquiry, in addition to the second and third Gingles preconditions. Alpha Phi Alpha Doc. No. [268], 44. Pursuant to persuasive authority, the Court finds that when a Defendant has raised a race-neutral reason for the polarization, the Court must look beyond the straight empirical conclusions of polarization. See Nipper, 39 F.3d at 1524 (plurality opinion) (finding that Defendants may rebut evidence of polarization by showing racial bias is based on nonracial circumstances); Uno, 72 F.3d at 983 (asserting the evidence of racial polarization on the second and third Gingles preconditions “will endure *unless* and *until* the defendant adduces credible evidence tending to prove the detected voting patterns can most logically be explained by factors unconnected to the intersection of race with the electoral system.”).

Defendants have consistently argued that partisanship is a race-neutral explanation for polarization of voters in Georgia. See, e.g., Tr. 2410:18–2411:14. In an intentional discrimination context, the Eleventh Circuit cautioned courts “against conflating discrimination on the basis of party affiliation with discrimination on the basis of race [e]vidence of *race-based* discrimination is necessary to establish a constitutional violation.” League of Women Voters, 66 F.4th at 924.

The Court acknowledges that whether voter polarization is on account of partisanship or race is a difficult question to disentangle. During an extended colloquy with the Court, Dr. Alford testified that “voting behavior is very complicated” and that in his view democracy is about “voting for a person that follows their philosophy or they think is going to respond to their needs.” Tr. 2182:4–5; 2183:4–8. He went on to clarify that party identity and affiliation is exceptionally strong in this country and starts at a young age. Tr. 2183:8–2184:6.

Dr. Alford concluded that, from the empirical evidence presented by the Alpha Phi Alpha Plaintiffs, one cannot causally determine whether the data is best explained by party affiliation or racial polarization. He specifically testified:

[T]he kind of data that we use here, which is, you know ecological and highly abstract data, cannot demonstrate cohesion in sort of its natural form.

Much of the work on things like individual-level surveys, exit polls, et cetera, also make it very difficult in a non-experimental setting to demonstrate causation. It really takes an experimental setting. So there is some work done in experimental settings, but this is not an area of inquiry that is – scientific causation in the social sciences is very difficult to establish. This is not an area where there has been any work that’s established that.

Tr. 2226:7–18.

The Court is not in a position to resolve the global question of what causes voter behavior. Such question is empirically driven, and one in which expert political scientists and statisticians do not agree. The Court can, however, assess the *evidence* of polarization presented at trial. In doing so, the Court determines that the Alpha Phi Alpha Plaintiffs have shown sufficient evidence of racial polarization in Georgia voting for this factor to weigh in favor of finding a Section 2 violation.

First, the Alpha Phi Alpha Plaintiffs present Dr. Handley’s report, indicating strong evidence of racial polarization in voting. APAX 5. Plaintiffs also offered testimony about the strong connection between race and partisanship as

it currently exists in Georgia. Dr. Handley testified that Black and white voters have, for over decades, realigned their partisan affiliations based on the political parties' positions with respect to racial equality and civil rights. See Tr. 885:1-886:7. See also APAX 10, 4 ("Researchers have traced Southern realignment – the shift of white voters from overwhelming support for the Democratic party to nearly equally strong support for the Republican party – to the Democratic party's support for civil rights legislation beginning in the 1960s.").

This testimony was supported by various experts in the case. Dr. Burton testified that in the 1960s there was a "huge shift of African-Americans from the party of Lincoln, the Republican party, to the Democratic party and the shift of white conservatives from the Democratic party to the Republican party." Tr. 1445:4-7. Dr. Ward testified that race has consistently been the best predictor of partisan preference since the end of the Civil War. Tr. 1343:14-25. Dr. Ward explained that racially polarized voting has "been the predominant trend through political eras and political cycles" and even though "Black party preference has shifted dramatically from reconstruction to the present, [] more

often than not, that party preference is dramatic and demonstrable.” Tr. 1343:17-20.

Moreover, Dr. Ward described how the composition and positions of political parties in Georgia were forged in response to the history of Black political participation. APAX 4, 3, 19-20. Dr. Burch’s testimony regarding political science studies of the Black Belt is consistent: “living in Black belt areas with . . . legacies of slavery predict white partisan identification and racial attitudes.” APAX 6, 33.

Empirically, Dr. Burton testified about the success of Black candidates in the light of the percentage of white voters in the district.¹⁰⁴ The following chart was displayed during the trial and presents his findings:

¹⁰⁴ Race of a candidate is not dispositive for a polarization inquiry. DeGrandy, 512 U.S. at 1027 (“The assumption that majority-minority districts elect only minority representatives, or that majority-white districts elect only white representatives, is false as an empirical matter. And on a more fundamental level, the assumption reflects the demeaning notion that members of the defined racial groups ascribe to certain minority views that must be different from those of other citizens.” (Kennedy, J, concurring in part) (citation omitted)). The Court, however, finds that an assessment of the success of Black candidates in reference to different percentages of white voters, is good evidence that partisanship is not the best logical explanation of racial voting patterns in Georgia.

Winning Candidates in 2020 in Georgia House of Representatives

Percentage white registered voters in district	White Republicans ¹⁹⁷	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Winning Candidates in 2020 in Georgia State Senate

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

PX 4, 56 (footnote content omitted).

Clearly there is a meaningful difference in Black candidate success depending on the percentage of white voters in a district. When the white voter

Cf. Johnson, 196 F.3d at 1221–22 (“We do not mean to imply that district courts *should* give elections involving [B]lack candidates more weight; rather, we merely note that in light of existing case law district courts may do so without committing clear error.”).

percentage is lowest, Black Democratic candidates have the most success. This effect inverts as the percentage of white voters increases, culminating in *no* Black Democrat candidate success (regardless of party) when the white voter percentage reaches 47% (for the State Senate) or 55% (for the State House). PX 4, 56. These findings are consistent with Dr. Palmer's unrebutted findings about the challenged districts: Black voters voted for the same candidate, on average, 98.4% of the time and white voters voted for a different candidate, on average, 87.6% of the time. Stip. ¶¶ 219, 223.

In contrast to this evidence, Defendants' expert, Dr. Alford, provided the Court with data from the most recent Republican primary election where Herschel Walker was a candidate and received 60% of both Black and white voters votes. DX 8, 9 & tbl. 1; Tr. 2209:3-13. He qualified that the number of Black voters who voted in the Republican primary was small, therefore, he could not conclude that Mr. Walker was the Black-preferred candidate. Tr. 2237:18-19. But rather, the data showed that white voters did not vote as a bloc to defeat Walker's candidacy. Tr. 2237:19-21. His remaining analysis involved descriptive conclusions based on Dr. Handley's data set and, most importantly, did not offer

additional support for a conclusion that voter behavior caused by partisanship rather than race. See generally DX 8.

In light of the foregoing evidence, the Court finds that Senate Factor Two weighs heavily in favor of finding a Section 2 violation.

(4) *Senate Factor Five:* ¹⁰⁵ *socioeconomic disparities*

Senate Factor Five considers socioeconomic disparities between Black and white voters and these disparities' impact on Black voter participation. The Eleventh Circuit recognized in binding precedent that "disproportionate educational, employment, income level, and living conditions arising from past discrimination tend to depress minority political participation." Wright, 979 F.3d at 1294 (quoting Marengo Cnty. Comm'n, 731 F.2d at 1568). "Where these conditions are shown, and where the level of black participation is depressed, plaintiffs need not prove any further causal nexus between their disparate socioeconomic status and the depressed level of political participation." Id. (quoting

¹⁰⁵ Senate Factor Four—a history of candidate slating—is not at issue because Georgia does not use a slating process. Alpha Phi Alpha Fraternity, Inc., 587 F. Supp. 3d at 1317.

Marengo Cnty., 731 F.2d at 1568-69); Dallas Cnty. Comm’n, 739 F.2d at 1537 (“Once lower socio-economic status of [B]lack has been shown, there is no need to show the causal link of this lower status on political participation.”)).

(a) Black voter participation

The Court finds that the Alpha Phi Alpha Plaintiffs have shown that Black voters have lower voter turnout rates than white voters. Dr. Burch testified that in the 2020 statewide general election that white voters had a turnout rate of 67.4%. Tr. 1051:7-12. Depending on whether she calculated the voting age population for SR Black¹⁰⁶ or Black alone and in combination¹⁰⁷, or registered Black voter turnout¹⁰⁸ ranged between 53.7% to 55.8%. Meaning, that that the disparity between white and Black voter turnout ranged from 11.6 to 13.7%. APAX 6, 6-7; Tr. 1051:7-18. Specifically, in the metro Atlanta clusters, Dr. Burch calculated that in the 2020 election, the east Atlanta cluster had a voter turnout

¹⁰⁶ Voter turnout for SR BVAP is 55.8%. APAX 6, 6-7. The white voting age population’s turnout rate was 67.4%; thus, there was a 11.6% turnout gap. Id.; Tr. 1051:13-16.

¹⁰⁷ Voter turnout for SR BVAP is 53.7%. APAX 6, 6-7. The white voting age population’s turnout rate was 67.4%; thus, there was a 13.7% turnout gap. Id.

¹⁰⁸ Black registered voter turnout was 60.0% and white registered voter turnout was 72.6%; thus, there was a 12.6% turnout gap. Id.; Tr. 1051:16-18.

gap between 11.8% and 14.6%, the southwest Atlanta cluster had a voter turnout gap between 9.2% and 12.4%, and southeast Atlanta cluster had a voter turnout gap between 10.1% and 13.0%. APAX 6, 10 & figs. 1-3.

In the 2022 general election, again, statewide white voter turnout exceeded Black voter turnout between 11.1% and 13.3%.¹⁰⁹ Tr. 1052:6-13. Dr. Burch determined that the turnout gap also persisted across the county clusters at issue in this case for both 2020 and 2022 general election data. Tr. 1051:22-1052:2 (“So with respect to the county clusters, I saw a pretty sizable turnout gap in 2020 for almost all of the county clusters that I analyzed no matter how I calculated it. And I think the lowest gap was I think – in 2020 was 8.9 percentage points. So even with those county clusters it was a sizable gap.”); id. at 1052: 16-18 (“Again, in 2022, we still see gaps even in all of the turnout clusters—in all of the county

¹⁰⁹ Voter turnout for SR BVAP was 42.3%. APAX 6, 10. The white voting age population’s turnout rate was 53.4%; thus, there was a 11.1% turnout gap. Id. Voter turnout for SR BVAP was 41.4%. Id. The white voting age population’s turnout rate was 53.4%; thus, there was a 12.0% turnout gap. Id. Black registered voter turnout was 45.0% and white registered voter turnout was 58.3%; thus, there was a 13.3% turnout gap. Id.

clusters, Black voters still vote less than white voters in those clusters.”)¹¹⁰; APAX 6, 7–10, 11–13.

Defendants did not put forth rebuttal evidence contesting that Black voter participation in the political process was lower than white voters. Defendants also did not challenge or rebut the accuracy of Dr. Burch’s findings on voter turnout, but rather questioned the choices that she made when considering which elections to consider and what counties were included in which clusters. Tr. 1106:16–1115:6. On cross-examination, Defendant did not rebut that there is a voter turnout gap between white and Black voters in Georgia.

The Court also understands Defendant to argue that Black voter turnout is, at least, in part motivated by voter excitement for the candidate. Tr. 1114:1–22. The Court is not persuaded by this argument. Even assuming that Defendant’s theory of voter mobilization could be a valid legal argument rebutting statistical

¹¹⁰ Specifically, in the metro Atlanta clusters, Dr. Burch calculated that in the 2022 election, the east Atlanta cluster had a voter turnout gap between 10.8% and 13%, the southwest Atlanta cluster had a voter turnout gap between 3.2% and 9.1%, and southeast Atlanta cluster had a voter turnout gap between 5.7% and 10.1%. APAX 6, 11–13 & figs. 4–6.

evidence of depressed Black voter turnout, Defendants submitted no evidence connecting lower Black voter turnout to a lack of motivation to vote. Some nonempirical testimonial evidence on cross examination that the candidates on a ballot impact voter turnout is insufficient to rebut the expert statistical evidence presented by the Alpha Phi Alpha Plaintiffs that Black voter turnout is, on the whole and across elections, disproportionately lower than white voter turnout, and that Black voters participate less in the political process than white voters. Thus, the Court concludes that the Alpha Phi Alpha Plaintiffs submitted evidence that Black Georgians participate in the political process, both generally and in voter turnout, less than white voters.

(b) socio-economic disparities

The Court also concludes that there is sufficient evidence in the Record to show disproportionate educational, employment, income level, and living conditions arising from past discrimination. Black Georgians suffer disparities in socioeconomic status, including in the areas of education, employment, and income. APAX 6, 13-21. As Defendant acknowledged, with respect to “[s]ocioeconomic disparities[,] I don’t think you’ll find a lot of disagreement from

the parties here. The census numbers are what they are.” Tr. 49:4-6. According to Census estimates, the unemployment rate among Black Georgians is 8.7% and the unemployment rate among white Georgians is 4.4%. Stip. ¶ 342.

The Census estimates that 21.5% of Black Georgians are living below the poverty compared to 10.1% of white Georgians. Stip. ¶ 344. Black Georgians also receive SNAP benefits at a higher rate than white Georgians, with 22.7% of Black Georgians receiving SNAP benefits compared to 7.7% of white Georgians. Id. ¶ 345.

According to Census estimates, 13.3% of Black adults in Georgia lack a high school diploma, compared to 9.4% of white adults in Georgia. Stip. ¶ 346. 35% of white Georgians over the age of 25 have obtained a bachelor’s degree or higher, compared to only 24% of Black Georgians over the age of 25. Id. ¶ 347. The rate of poverty for Black Georgians is more than twice that of white Georgians. Tr. 1059:2-4. The median income for Black Georgian households is about \$25,000 less than that of white Georgian households. Tr. 1059:4-6. Black Georgians experience poverty rates more than double those of white Georgians. APAX 6, 19.

Black Georgians fare worse than white Georgians in terms of various health outcomes, such as infant mortality, hypertension, diabetes, obesity, overall mortality rates, and cancer. APAX 6, 31–33; Tr. 1063:22–1064:7. Black Georgians between the age of 19–64 years old are more likely to lack health insurance than white Georgians in the same age demographic, which affects access to health care and health outcomes. APAX 6, 32; Tr. 1064:11–16.

The Court concludes that the Alpha Phi Alpha Plaintiffs have adduced sufficient evidence to show that socio-economic disparities between white and Black Georgians, where Black Georgians are generally impacted more negatively than white Georgians on a number of metrics.

(c) conclusions on Senate Factor Five

Under binding precedent, the Alpha Phi Alpha Plaintiffs have proven that rates of Black voter political participation are depressed as compared to white voters participation. The aforementioned evidence also shows that Black Georgians suffer from significant socioeconomic disparities, including educational attainment, unemployment rates, income levels, and healthcare access. When both of these showings have been made, the law does not require a

causal link be proven between the socioeconomic status and Black voter participation. Wright, 979 F.3d at 1294.¹¹¹ Accordingly, the Court concludes that the socioeconomic evidence and the lower rates of Black voter participation support a finding that Senate Factor Five weighs heavily in favor of a Section 2 violation.

(5) *Senate Factor Six: racial appeals in Georgia's political campaigns*

Senate Factor Six “asks whether political campaigns in the area are characterized by subtle or overt racial appeals.” Wright, 979 F.3d at 1296. Courts have continually affirmed district courts’ findings of “overt and blatant” as well as “subtle and furtive” racial appeals. Gingles, 478 U.S. at 40; see also Allen, 599 U.S. at 22–23. However, in the Alabama district court proceedings, preceding the Allen appeal, the trial court assigned less weight to the evidence of racial appeals because the plaintiffs had only shown three examples of racial appeals in recent campaigns, but did not submit “any systematic or statistical evaluation of the

¹¹¹ While not required as a matter of law, as a matter of social science, Dr. Burch’s report indicates that the academic literature demonstrates a strong and consistent link between socioeconomic status and voter turnout. Tr. 1055:4–10.

extent to which political campaigns are *characterized* by racial appeals” and thus the court could not be evaluate if these appeals “occur frequently, regularly, occasionally, or rarely.” Singleton, 582 F. Supp. 3d at 1024 (emphasis added).

Similarly here, the Court finds that there is evidence of isolated racial appeals in recent Georgia statewide campaigns. However, there is no evidence for the Court to determine if these appeals *characterize* political campaigns in Georgia. Thus, while the Alpha Phi Alpha Plaintiffs submitted evidence of discrete instances¹¹² in recent elections where racial appeals were invoked—

¹¹² The Alpha Phi Alpha Plaintiffs have provided the following evidence of racial appeals used in recent Georgia elections across the past few election cycles:

In the 2018 gubernatorial election, then-Secretary of State Kemp, (now twice-elected Governor) used a social media campaign to associate Stacey Abrams with the Black Panther Party and ran a commercial advertisement where he discussed rounding up illegal immigrants in his pickup truck. APAX 2, 38; Tr. 1364:12-16.

In the 2020 U.S. Senatorial election, then-Senator Kelly Loeffler ran a campaign ad against “a dangerous Raphael Warnock,” whose skin had been darkened, and who was also associated with communism, protests, and civil unrest. Tr. 1193:19-1195:5; APAX 31; APAX 2, 39.

In 2022, during the senatorial race between Senator Warnock and Herschel Walker, Mr. Walker ran an advertisement that aimed to distinguish “between the Black candidate and himself” as the Republican candidate, in order to “associate himself with the white voter [and] mak[e] the Black candidate look menacing and problematic”

which is “some evidence” of political campaigns being characterized by racial appeals—the Court cannot meaningfully evaluate whether these appeals “occur frequently, regularly, occasionally, or rarely” and thereby does not afford great weight to this factor. Singleton, 582 F. Supp. 3d at 1024.

(6) *Senate Factor Seven: minority candidate success*

Senate Factor Seven “focuses on ‘the extent to which members of the minority group have been elected to public office in the jurisdiction.’” Wright, 979 F.3d at 1295 (quoting LULAC, 548 U.S. at 426). Unlike the second and third Gingles preconditions, the Court now must specifically look at the success of *Black* candidates, not just the success of Black preferred candidates. Assessing the results of Georgia’s recent elections, the Court finds that Black candidates have achieved little success, particularly in majority-white districts.

Tr. 1198:9–1199:4; APAX 2, 43–44.

Also in 2022, in the Republican primary for governor, former Senator David Purdue stated in an interview, that Abrams was “demeaning her own race” and to let her “go back where she came from.” APAX 2, 38 (quoting Reid J. Epstein, “David Perdue Makes Racist Remarks about Stacey Abrams as He Ends a Lackluster Campaign, N.Y. Times, (May 23, 2022), <https://www.nytimes.com/2022/05/23/us/politics/david-perdue-staceyabrams-racist-remarks.html>).

As a population, Black Georgians have historically been and continue to be underrepresented by Black elected officials across Georgia's statewide offices. Georgia has never elected a Black governor (Stip. ¶ 349) and Black candidates have otherwise only had isolated success in statewide partisan elections in the last 30-years. Specifically, in 2000, David Burgess was elected Public Service Commissioner, in 2002 and 2006 Mike Thurmond was elected to Labor Commissioner, and in 1998, 2002, and 2006 Thurbert Baker was elected Georgia Attorney General.¹¹³ Stip. ¶ 361. Most recently, after 230 years of exclusively white Senators, Senator Raphael Warnock was twice elected to U.S. Senate and in his most recent election he defeated a Black candidate. APA Doc. No. [284], 11. Finally, nine Black individuals have been elected to statewide nonpartisan office in Georgia. Stip. ¶ 362.

In Georgia's congressional elections, only 12 Black candidates have ever been elected to the Congress. Tr. 1201:1-5. Five Black individuals serve in the

¹¹³ The Court takes judicial notice of the specific elections that each candidate successfully won. See Scott, 2019 WL 4200400, at *3 n. 4 (taking judicial notice of the publicly filed election results); see also n.65 *supra*.

United States House of Representatives from Georgia's current congressional districts. Stip. ¶ 359. Four of these Black congresspersons are elected in majority-Black districts. PX 1, K-1. The other Black Representative, congresswoman Lucy McBath, represents Congressional District 7.

In State legislative districts, the Georgia Legislative Black Caucus has only 14 members in the Georgia State Senate (25%) and 41 members in the Georgia House of Representatives (less than 23%).¹¹⁴ Stip. ¶ 348. As incorporated in the Alpha Phi Alpha case, Dr. Burton's testimony referred to the 2020 and 2022 legislative elections, where Black candidates had little to no success when they did not make up the majority of a district.¹¹⁵ Specifically, Black candidates in the 2020 legislative elections did not have any success when they did not make up at least 45.1% of a House District or 53.8% of a Senate District.

¹¹⁴ The Enacted Senate Plan contains 14 majority-Black districts. Stip. ¶¶ 176, 186; APAX 1, M-1. The Enacted House Plan contains 49 majority-Black districts. Stip. ¶¶ 183, 186, APAX 1, Z-1.

¹¹⁵ Erick Allen was elected to Georgia House District 40 in 2018 and re-elected in 2020, even though House District 40 was not a majority-Black district in 2018 or 2020. Tr. 1012:2-12.

Winning Candidates in 2020 in Georgia House of Representatives

Percentage white registered voters in district	White Republicans ¹⁹⁷	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Winning Candidates in 2020 in Georgia State Senate

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

PX 4, 56.

Although the Court finds that Black candidates have achieved some success in statewide elections following 2000, the Court ultimately concludes Senate Factor Seven weighs heavily in favor of the Alpha Phi Alpha Plaintiffs. The Supreme Court in Gingles, when discussing the success of a select few Black

candidates, cautioned courts in conflating the success of a few minority candidates as dispositive. Gingles, 478 U.S. at 76.

In short, since Reconstruction, Georgia has only elected *four* Black candidates in statewide partisan elections: Mike Thurmond, Thurbert Baker, David Burgess, and Raphael Warnock. Stip. ¶ 361. For statewide non-partisan elections, Georgia has elected nine successful Black candidates: Robert Benham, Leah Ward-Sears, Harold Melton, Verda Colvin, John Ruffin, Clarence Cooper, Herbert Phipps, Yvette Miller, Clyde Reese. Stip. ¶ 362. Georgia has sent twelve successful Black candidates to the U.S. House of Representatives. Tr. 1201:1–5. Currently, there are 55 members of the Georgia General Assembly that are in Georgia’s Legislative Black Caucus (of 236 total members), and all are elected from majority-minority districts. Stip. ¶ 348; APA Doc. No. [284], 8–9. The Court concludes that these isolated successes of Black candidates show that the Black population is underrepresented in Georgia’s statewide elected offices. This conclusion is even stronger in majority-white districts.

To be sure, Dr. Burton acknowledged, and even affirmed that some academic scholarship indicates that “the future electoral prospects of African-

American statewide nominees in growth states such as Georgia are indeed promising.” Tr. 1470:2–24. The Court likewise is hopeful about the prospects increased enfranchisement of all voters and for the potential success of minority candidates in Georgia. However, Dr. Burton also emphasized that, specifically in Georgia, dating back to Reconstruction increased minority success led to “more legislation from whichever party is in power [to] disenfranchise or at least dilute or make the vote count less.” Tr. 1470:14–16. Accordingly, the optimism about Georgia’s future elections does not rebut the contrary evidence of the present success of Black candidates; accordingly, the Court finds that Senate Factor Seven weighs heavily in favor of finding a Section 2 violation.

(7) *Senate Factor Eight: responsiveness to Black residents*

Senate Factor Eight considers whether elected officials are responsive to the particularized needs of Black voters. A lack of responsiveness is “evidence that minorities have insufficient political influence to ensure that their desires are considered by those in power.” Marengo Cnty. Comm’n, 731 F.2d at 1572. The Eleventh Circuit noted that “although a showing of unresponsiveness might have some probative value a showing of responsiveness would have very little.”

Id. Alpha Phi Alpha Plaintiffs' expert, Dr. Burch, discussed the existence of significant socioeconomic disparities between Black and white Georgians, which he concluded contributed to the lower rates at which Blacks engage their elected representatives. APAX 6, 36. Id.

The Court cannot from the evidence before it find that its passage was due to the responsiveness or lack thereof to Black voters. There is no evidence that shows that a particular legislator received a complaint about pieces of legislation and ignored it. Accordingly, the Court finds that evidence about legislation is not persuasive.

Dr. Burch also concluded that socioeconomic disparities such as: education, residential conditions, incarceration rates, and healthcare concerns demonstrate that the Georgia legislature is not responsive to the Black community. APAX 6, 34. A number of lay witnesses testified about socioeconomic issues affecting Black voters. Tr. 639:24-640:25, Eric Woods Dep. Tr. 53:8-54:1; Phil Brown Dep.

Tr. 67:12-68:1.¹¹⁶ However, there is evidence that concerns about healthcare access, education, property taxes, and gun safety are not unique to Black citizens.

Tr. 639:24-640:25.

The Court finds that the arguments regarding socioeconomic disparities are not particularly helpful in determining whether Georgia's elected officials are responsive to Black Georgians. The Court finds that although there is evidence about concerns that Black voters have, there is not sufficient evidence that their representatives are not responsive to their needs.¹¹⁷

¹¹⁶ The Parties submitted designations, counter designations, and objections to the named Plaintiffs' depositions to the Court prior to the start of the Trial. APA Doc. No. [275], Pendergrass Doc. No. [223], Grant Doc. No. [232]. At the Pretrial Conference, the Parties agreed to the admission of these depositions following the Court's ruling on the objections. APA Doc. No. [285], Pendergrass Doc. No. [274], Grant Doc. No. [247]. The Court issued rulings on the deposition objections and they are part of the Record. APA Doc. No. [292], Pendergrass Doc. No. [243], Grant Doc. No. [254].

¹¹⁷ The Court notes that Dr. Evans testified that she attempted to call her State Senator, Representative, and county commissioner about redistricting concerns and her calls were generally unanswered. Tr.637:7-19. The Court acknowledges that Dr. Evans's representatives were unresponsive in this instance; however, the Court cannot extrapolate from this isolated occurrence that, as a whole, Georgia's elected officials are unresponsive to Black voters.

Ultimately, there is an absence of evidence regarding the level of responsiveness of Georgia's elected representatives to Black voters and white voters. Due to the lack of evidence, the Court finds that Senate Factor Eight does not weigh in favor of finding a Section 2 violation. See Greater Birmingham Ministries, 992 F.3d at 1334 (finding that failure to consider amendments to a particular piece of legislation does not show that legislatures were unresponsive to the needs of minority voters).

(8) *Senate Factor Nine: justification for the Enacted Congressional Plan*

The Court finds that the State's justification for the Enacted State Legislature Plans factor favors Defendants and thus weighs against finding a Section 2 violation.

At the trial, Ms. Wright testified that the Enacted Congressional Plan began with the creation of a blank map that largely balanced population that then could be modified based on input from legislators. Tr. 1622:11–13. Ms. Wright also relied on information obtained from the public hearings on redistricting. Tr. 1668:24–1670:5. Political performance was an important consideration in the design of the Enacted Congressional Plan. Tr. 1669:20–23. In Enacted CD-6

specifically, Ms. Wright justified that the four-way split of Cobb County by asserting that Cobb County was better able to handle a split of a congressional district than a smaller nearby county. Tr. 1672:9–1673:4. She further testified that the inclusion of parts of west Cobb County in Enacted CD-14 was because of population and political considerations, namely putting a democratic area into District 14 instead of District 11 (which was more political competitive). Tr. 1674:6–1675:2.

Similarly, for the Enacted House Plan, Ms. Wright started with a blank map and the ideal district size given the population changes. Tr. 1642:7–23. Initially, she did not consider incumbency and instead drew a map based solely on population. Tr. 1642:15–18. Ms. Wright then integrated information from public hearings regarding the public’s preferences. Tr. 1643–46. In the Macon-Bibb area, specifically, she testified that there were comments about wanting to keep House Districts 142 and 143, majority-Black districts, in Macon-Bibb because the representatives were well-liked in the community. Tr. 1659:6–15. Eventually, she drafted the maps to avoid incumbency pairings and county splits. Tr. 1448:9–21. Ms. Wright testified that the growth in Georgia was concentrated

in the north (i.e., metro-Atlanta), which caused districts to be moved from the south into that area. Tr. 1469:16–19. Again, political performance was an important consideration in drafting the Enacted State House Plan. Tr. 1468:5–8.

The Alpha Phi Alpha Plaintiffs do not challenge that this is the process the State used to draw the Enacted Legislative Plans. Accordingly, the Court finds Defendants’ evidence that the Enacted Legislative Plans were drawn to further partisan goals to be a sufficient, non-tenuous justification. Accordingly, Senate Factor Nine does not weigh in favor of a Section 2 violation.¹¹⁸

(9) Proportionality

Finally, the Court determines that proportionality does not weigh against finding a Section 2 violation in the Alpha Phi Alpha Plaintiffs’ case. Currently, 25% of the State Senate and 27.2% of the State House elect members from majority-Black districts and the AP Black population is 33.03% of the State. APAX 1 ¶¶ 15, 17, 41

¹¹⁸ As in the Pendergrass case, however, this factor will be accorded less weight given that, in Alpha Phi Alpha Plaintiffs’ Section 2 case, a legislature’s intent in drawing map is irrelevant.

Defendant argued, however, that Black voters have proportional representation in the General Assembly because 43% of the State House and 41% of the State Senate are Democrats, which is the Black-preferred candidate. Tr. 36:16–23. The Court categorically rejects Defendant’s argument. First, the Court finds that there is no empirical evidence to suggest that every Democrat member of the General Assembly is a Black-preferred candidate.¹¹⁹ This suggestion, absent supporting empirical evidence, leans dangerously close to “the demeaning notion that members of the defined racial group ascribes to certain minority views that must be different from those of other citizens.” DeGrandy, 512 U.S. at 1027.

Furthermore, the number of Black-preferred candidates who are successfully elected is not the proper consideration for proportionality. As the Court’s summary judgment order in the Pendergrass case reflects, the proper metric for determining proportionality is the number of majority-Black districts

¹¹⁹ Although the Black-preferred candidate in all of the races examined by Dr. Handley were Democrats, Dr. Handley’s research was confined to specific areas of the State and she did not evaluate whether all current Democrat members of the General Assembly were the Black-preferred candidate. Stip. ¶¶ 309–15.

in proportion to the Black population, *not* the number of Black-preferred candidates elected. Pendergrass Doc. No. [215], 72; see also De Grandy, 512 U.S. at 1014 n.11 (“‘Proportionality’ as the term is used here links the number of majority-minority voting districts to minority members’ share of the relevant population . . . This proviso speaks to the success of minority candidates, as distinct from the political or electoral power of minority voters.”).

Here, therefore, the relevant numbers to consider in the proportionality analysis are the number of majority-minority districts in the Enacted Legislative Plans. Only 25% of the State Senate districts are majority-Black (14 districts of 56 districts total). APAX 1 ¶ 15. In the State House, 27.2% of the districts are majority-Black (49 districts of the 180 districts total).¹²⁰ APAX 1 ¶ 17. The Alpha Phi Alpha Plaintiffs’ additional two State Senate districts that survive the Gingles preconditions bring the proportion of majority-Black Senate districts only to 28.6% of the total districts.¹²¹ And the Alpha Phi Alpha Plaintiffs’ additional one

¹²⁰ However, the Georgia Legislature’s Black Caucus has only 41 members in the State House. Stip. ¶ 348.

¹²¹ $16/56 = \text{approximately } 28.6\%$.

House district similarly only increases the proportion of majority-Black districts to be 27.8% of the total.¹²² These proportions fall below both the AP Black population in the State (33.03% (Stip. ¶ 97)) and the AP Black voting age population (31.73% (Stip. ¶ 104)). Thus, proportionality is not achieved in the State House or State Senate, under the Enacted Plan or with the addition of two State Senate districts and one State House district. Thus, the Court concludes that proportionality does not weigh against the Alpha Phi Alpha Plaintiffs.

(10) Conclusions of law

The Court finds that the Alpha Phi Alpha Plaintiffs have met their burden in establishing that (1) the Black community in south-metro Atlanta is sufficiently numerous and compact to constitute two additional majority-Black Senate districts and one additional majority-Black House district; (2) the Black community is politically cohesive in this area; and (3) that the white majority votes as a bloc to typically defeat the Black communities' preferred candidate in these areas. The Court also finds that in evaluating the Senate Factors, Georgia's

¹²² 50/180 = approximately 27.8%

electoral system is not equally open to Black voters in these regions of the State. Specifically, the Court finds that Senate Factors One, Two, Three, Five, and Seven weigh in favor of showing the present realities of a lack of opportunity for Black voters. The Court also finds that Senate Factor Six weighs slightly in favor finding a Section 2 violation. Thereby, only Senate Factors Four, Eight¹²³ and Nine did not weigh in favor of finding a Section 2 violation. The Court also found that proportionality does not weigh against the Alpha Phi Alpha Plaintiffs. In sum, the Court finds that a majority of the totality of the circumstances evidence weighs in favor of finding a Section 2 violation in the proposed districts in metro Atlanta. Because the Alpha Phi Alpha Plaintiffs have carried their burden of proof on all of the legal requirements, the Court concludes that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act.

¹²³ Senate Factor Eight is given little weight. Marengo Cnty. Comm'n, 731 F.2d at 1572.

b) Grant

(1) *Totality of circumstances inquiry standards and incorporation of the Pendergrass Case's Analysis on Senate Factors One, Three, Five¹²⁴, Six, Seven, and Eight*

The standards governing the Court's totality of the circumstances inquiry are the same in Grant Plaintiffs' case as they were in Pendergrass Plaintiffs' case. See Section II(C)(4) *supra*. Hence, the Court considers the aforementioned Senate Factors to determine if Grant Plaintiffs met their burden to show that the political process is not equally open to minority voters in Georgia.

Moreover, the totality of the circumstances evidence in both the Pendergrass case and the Grant case is largely the same. The expert reports

¹²⁴ The evidence on Senate Factor Five is largely the same for the Atlanta and Macon-Bibb region. However, Dr. Collingwood did provide specific evidence that he concluded that the "trend" in the Black Belt region "is very similar to the overall statewide trend for both the 2020 and 2022 general elections." Rep at 20. Dr. Collingwood furthermore determined that "whites vote at higher rates than [] Blacks in the clear majority of the precincts." Rep at 22. These findings are consistent with his findings in the metro Atlanta region where Black voters, generally, had lower turnout rates than white voters. Accordingly, the Court finds that Senate Factor Five weighs in favor of a Section 2 violation in Macon-Bibb region with the same force as the districts in the metro Atlanta region.

submitted (i.e., Dr. Burton¹²⁵ and Dr. Collingwood¹²⁶) are identical in the two cases. At trial, Pendergrass Plaintiffs and Grant Plaintiffs simultaneously questioned and cross-examined the totality of circumstances witnesses. For a number of the Senate Factors, moreover, the evidence submitted would be considered by the Court in an identical manner. Accordingly, to avoid needless duplication, the Court hereby incorporates *in toto* its analysis in the Pendergrass case, *supra*, on Senate Factors Three, Five¹²⁷, Six, Seven, and Eight.¹²⁸

The Court also incorporates Senate Factor One, see Section II(C)(4)(a) *supra*, with the following alterations to its analysis regarding polling place closures:

¹²⁵ In Pendergrass, Dr. Burton's report is designated PX 4. In Grant, it is designated GX 4. The report's content and page numbers, however, do not change between the cases.

¹²⁶ In Pendergrass, Dr. Collingwood's report is designated PX 5. In Grant, it is designated GX 5. Again, the content and pages numbers in the report are identical in the cases.

¹²⁷ As noted in the Pendergrass case, for Senate Factor Five's consideration of minority voter participation in the political process, in 2022, voter turnout in Clayton, Henry, and Rockdale counties "slightly exceeded" white voter turnout. GX 5, 16. While these counties are directly implicated in the districts satisfying the Gingles preconditions in Grant Plaintiffs' Illustrative plan, the Court does not find this "slight" evidence to outweigh the strong evidence otherwise that Black Georgians participate less than white Georgians in the political process. See Section II(C)(4)(d) *supra*.

¹²⁸ Again, Senate Factor Four — a history of candidate slating for elections — is not at issue because Georgia's elections do not use a slating process.

With respect to the legislative districts in the metro Atlanta region, the Court in Pendergrass credited Dr. Burton's findings discussing polling place closures in Union City, Georgia. GX 4, 51. Union City, Georgia is located in the southwestern portion of the Fulton County. Both Esselstyn HD-64, and SD-28 have portions of their districts that are in southwest Fulton County. GX 1 ¶ 31 & fig.7; ¶ 49 & fig.14. Unlike Illustrative CD-6, which clearly shows city designations, Esselstyn HD-64 and SD-28 do not delineate which cities are contained within a specific district. Compare PX 1 ¶ 46 & fig.10, with GX 1 ¶ 31 & fig.7; ¶ 49 & fig.14. Thus, the Court will not rely on the specific evidence of polling place closures in Union City as evidence of discrimination in the specific districts. However, this evidence is relevant because it shows disproportionate impact of polling place closures in the vicinity of the illustrative districts. Thus, the evidence of the polling place closures in Union City is relevant, but less persuasive with respect to Mr. Esselstyn's Atlanta districts than it was with respect to Illustrative CD-6.

The Court also finds that there is evidence that 38% of the State's polling places are in metro Atlanta, meanwhile nearly half of Georgia's voters and the majority of Black voters are registered to vote in metro Atlanta. GX 4, 51.

In the Macon-Bibb region, Dr. Burton discusses the number of polling places dropping in Macon-Bibb county from forty to thirty-two. GX 4, 49. These closures took place in primarily Black neighborhoods. Id. He also cites to a 2020 study that found that "about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state's polling places." GX 4, at 50 (citing Fowler, "Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?"). Defendants did not rebut this evidence.

The Court finds that a reasonable inference can be drawn to find that within the last decade that polling place closures, like those in Macon-Bibb County disproportionately impacted Black voters. Macon-Bibb closed 20% of their polling places, primarily in majority-Black neighborhoods. Also, in the June 2020 primary, polling places that were in predominately Black neighbors disproportionately were forced to stay open late.

Accordingly, the Court finds that there is evidence supporting the reasonable inference that the large number of closed polling places in the metro Atlanta and the Macon-Bibb regions disproportionately impacts Black voters. Thus, the Court finds that the evidence of polling place closures supports a conclusion that there are present realities of discrimination in voting for Senate Factor One.

The Court will separately address Senate Factors Two (racial polarization) and Nine (justification for the Enacted State House and Senate Plans) as well as the proportionality analysis, because the evidence presented on these factors differ, even if ever-so-slightly, between the cases. Ultimately, like in the Pendergrass case, the Court concludes that the totality of the circumstances inquiry weighs in favor of finding a Section 2 violation in the Grant Plaintiffs' case.

(2) *Senate Factor Two: racial polarization*

The evidence presented in Grant Plaintiffs' case on racial polarization again draws on the *cause* of polarization: race or partisanship. Defendants have consistently argued that partisanship is a race-neutral explanation for

polarization of voters in Georgia. See, e.g., Tr. 2410:18–2411:14. Like in the Pendergrass case, the Court acknowledges that whether voter polarization is on account of partisanship and race is a difficult question to answer and again the Court focuses on the evidence before it of polarization in the Grant Plaintiffs’ case. See Section II(C)(4)(b) *supra*.

Grant Plaintiffs’ polarization expert indicated that “there is . . . strong evidence of racially polarized voting within the districts comprising the five focus areas [(i.e., the areas near-and-around the proposed Illustrative districts)].” GX 2 ¶ 19; see also id. (“There is consistent evidence of racially polarized voting in every House district analyzed, and in 12 of the 14 Senate districts. Voting is generally less polarized in Senate District 44, and not polarized in Senate District 39.”).

In addressing Defendants’ polarization argument, Plaintiffs also offered testimony about the strong connection between race and partisanship as it

currently exists in Georgia.¹²⁹ Tr. 424:5–8 (affirming that “race and party cannot be separated for the purpose of [Dr. Palmer’s] racial polarization analysis”); 1460:11–15 (“[O]ne party is highly supporting . . . issues that are most important to minorities, particularly African Americans. And another party is not getting a good grade on how they’re voting for them.”); GX 4, 75–76 (indicating the “opposing positions that members of Georgia’s Democratic and Republican parties take on issues inexplicably linked to race.”).

In contrast to Grant Plaintiffs’ evidence, Defendants’ expert, Dr. Alford, only rendered descriptive conclusions based on Dr. Palmer’s data set and, most importantly, did not offer additional support for a conclusion that voter behavior was caused by partisanship rather than race. DX 8. To be sure, Defendants did not offer any quantitative or qualitative evidence to support their theory that partisanship, not race, is controlling voting patterns in Georgia. Based on this

¹²⁹ The Court also finds Dr. Burton’s assessment that the success of Black candidates depends on the percentage of white voters in a district to be persuasive in Grant Plaintiffs’ case on this Senate Factor. See supra Pendergrass.

evidence, the Court finds that Senate Factor Two weighs in favor of finding a Section 2 violation.

(3) *Senate Factor Nine: justification for the Enacted Legislative Plans*

The Court finds that the State's justification for the Enacted State Legislature Plans factor weighs in favor of Defendants and thus weighs against finding a Section 2 violation.

At the trial, Ms. Wright testified that she began drawing the Enacted Senate Plan by determining the new ideal district size given the population changes and then starting with a blank map. Tr. 1621. She used a visual layer of existing districts in an attempt to retain the core districts. Tr. 1621. From here, Ms. Wright collapsed and built districts based on the population changes. Tr. 1623. She did not pair incumbents seeking reelection and avoided county splits. Tr. 1627. She tried to accommodate elected officials' requests. Tr. 1631. Admittedly, political performance was an important consideration in drafting the Enacted State Senate Plan. Tr. 1626.

Similarly, for the Enacted House Plan, Ms. Wright started with a blank map and the ideal district size given the population changes. Tr. 1641. Initially,

she did not consider incumbency and instead drew a map based solely on population. Tr. 1641. Ms. Wright then integrated information from public hearings regarding the public's preferences. Tr. 1643-46. In the Macon-Bibb area, specifically, she testified that there were comments about wanting to keep House districts 142 and 143, majority-Black districts, in Macon-Bibb because the representatives were well-liked in the community. Tr. 1658:6-15. Eventually, she drafted the maps to avoid incumbency pairings and county splits. Tr. 1467. Ms. Wright testified that the growth in Georgia was concentrated in the north (i.e., metro-Atlanta), which caused districts to be moved from the south into that area. Tr. 1468. Again, political performance was an important consideration in drafting the Enacted State House Plan. Tr. 1467.

Grant Plaintiffs do not contest Ms. Wright's testimony on the process the State used to draw the Enacted maps and the Court has found Ms. Wright to be highly credible. Accordingly, the Court finds Defendants' evidence that the Enacted State House and Senate Plans were drawn to further partisan goals to be

a sufficient, non-tenuous justification. Accordingly, Senate Factor Nine does not weigh in favor of a Section 2 violation.¹³⁰

(4) Proportionality

Finally, the Court determines that, even more so than in Pendergrass Plaintiffs' case, proportionality does not weigh against finding a Section 2 violation in Grant Plaintiffs' case. In the Grant case, Defendants focus on the representation of Black *preferred* candidates as part of their proportionality analysis, submitting that both of Georgia's U.S. Senators are Black-preferred (and one himself is Black) and that 35.7% of the U.S. House of Representatives from Georgia are Black and Black-preferred. In the Georgia General Assembly, 43% of the members of the House of Representatives are Black-preferred (i.e., Democrats) and 41% of the Senators are Black-preferred (i.e., Democrats).

The argument about proportionality and the evidence submitted relate equally to Alpha Phi Alpha and Grant. Accordingly, the Court incorporates its analysis of proportionality in Alpha Phi Alpha (Section II(D)(4)(a)(9)) as fully set

¹³⁰ As in the Pendergrass case, however, this factor will be accorded less weight given that, in Grant Plaintiffs' Section 2 case, a legislature's intent in drawing map is irrelevant.

forth herein. Ultimately, the Court concludes that proportionality does not weigh against a Section 2 violation in the Grant Plaintiffs' case.

(5) *Conclusions of Law*

The Court finds that Grant Plaintiffs have met their burden in establishing that (1) the Black community in the western-Atlanta metro area is sufficiently numerous and compact to constitute an additional majority-Black House district, in the Black community in southwestern Atlanta metro area is sufficiently numerous and compact to create one additional majority-Black House districts and two additional majority-Black Senate districts, and the Black community in the Macon-Bibb region is sufficiently numerous and compact to create two additional majority-Black House districts; (2) the Black community is politically cohesive in these areas; and (3) that the white majority votes as a bloc to typically defeat the Black communities' preferred candidate in these areas. The Court also finds that in evaluating the Senate Factors, Georgia's electoral system is not equally open to Black voters in these regions of the State. Specifically, the Court finds that Senate Factors One, Two, Three, Five, and Seven weigh in favor of showing the present realities of lack of opportunity for Black voters. The Court

also finds that Senate Factor Six weighs slightly in favor finding a Section 2 violation. Accordingly, only Senate Factors Four, Eight¹³¹ and Nine did not weigh in favor of finding a Section 2 violation. The Court also found that proportionality does not weigh against Grant Plaintiffs. In sum, the Court finds that a majority of the totality of the circumstances evidence weighs in favor of finding a Section 2 violation in the proposed districts in the metro Atlanta and Macon-Bibb regions. Because Grant Plaintiffs have carried their burden of proof on all of the legal requirements, the Court concludes that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act.

E. Injunction Factors

To obtain a permanent injunction, Plaintiffs must demonstrate (1) that they have suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for that injury; (3) that, considering the balance of hardships between Plaintiffs and Defendants, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

¹³¹ The Eleventh Circuit found that Senate Factor Eight is given little weight. Marengo Cnty. Comm'n, 731 F.2d at 1572.

eBay Inc. v. MercExchange, LLC, 547 U.S. 388, 391 (2006). “[W]hether a permanent injunction is appropriate . . . turns on whether [Plaintiffs] can establish by a preponderance of the evidence that this form of equitable relief is necessary.” Sheely v. MRI Radiology Network, P.A., 505 F.3d 1173, 1182 n.10 (11th Cir. 2007). “The decision to grant or deny permanent injunctive relief is an act of equitable discretion by the district court.” eBay Inc., 547 U.S. at 391. However, the Supreme Court has held that “[a]n injunction should issue only if the traditional four-factor test is satisfied.” Monsanto Co. v. Geertson Seed Farms, 561 U.S. 139, 157 (2010).

1. *Irreparable Harm and Inadequate Remedies at Law*

The Eleventh Circuit has explained that an injury is irreparable “if it cannot be undone through monetary remedies.” Cunningham v. Adams, 808 F.2d 815, 821 (11th Cir. 1987) (citation omitted). It has also been held that “[a]bridgement or dilution of a right so fundamental as the right to vote constitutes irreparable injury.” Cardona v. Oakland Unified Sch. Dist., 785 F. Supp. 837, 840 (N.D. Cal. 1992); see also League of Women Voters of N.C. v. North Carolina, 769 F.3d 224,

247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights irreparable injury.”) (citations omitted).

In view of this Court’s finding, *supra*, that the Enacted Plans violate Section 2 of the Voting Rights Act,¹³² this Court further finds that Plaintiffs have met their burden of establishing by the preponderance of the evidence that the resulting injury of having to vote under unlawful plans cannot be undone through any form of monetary or post-election relief. *See League of Women Voters*, 769 F.3d at 247 (“[O]nce the election occurs, there can be no do-over and no redress.”). Defendants also do not contend that adequate legal remedies are available.

2. *Balance of Hardships and Public Interest*

The last two requirements for a permanent injunction involve a balancing of the equities between the Parties and the public. *eBay Inc.*, 547 U.S. at 391.

“Where the government is the party opposing the . . . injunction, its interest and harm—the third and fourth elements—merge with the public

¹³² *See generally* Section II(D)–(F) *supra*.

interest.” Florida v. Dep’t of Health & Hum. Servs., 19 F.4th 1271, 1293 (11th Cir. 2021). (citation omitted).¹³³ All Defendants in each of the cases at issue were named in their official capacities as governmental actors and oppose the permanent injunction. Therefore, the Court will address the third and fourth permanent injunction factors together in a merged format in accordance with applicable authority. See Swain v. Junior, 961 F.3d 1276, 1293 (11th Cir. 2020) (indicating that the balance of the equities and public interest factors “‘merge’ when, as here, ‘the Government is the opposing party’” (quoting Nken v. Holder, 556 U.S. 418, 435 (2009))).

¹³³ The Court recognizes that the Florida case, cited above, involved a preliminary injunction determination and that a permanent, rather than preliminary injunction is at issue in the cases *sub judice*. Nevertheless, considering the overlapping language in the permanent injunction and preliminary injunction standards (as set forth in the Court’s preliminary injunction order), it appears to the Court that this principle of merging the government’s interest and harm with the public interest applies equally in the permanent injunction context. See Amoco Prod. Co. v. Vill. of Gambell, AK, 480 U.S. 531, 546 n.12 (1987) (“The standard for a preliminary injunction is essentially the same as for a permanent injunction with the exception that the plaintiff must show a likelihood of success on the merits rather than actual success.”).

Thus, the Court proceeds to the issue of whether the threatened injuries to Plaintiffs outweigh the harm that the permanent injunction would cause Defendants and the public.

As an initial matter, the Court notes that Defendants offered little to no evidence or argument at trial regarding what harm, if any, the public would suffer if a permanent injunction were to be issued. The State also offered no evidence or argument of what hardships it would suffer if it was enjoined from using the redistricting plans at issue. However, it is without doubt that the State would have to endure the cost of a special session of the General Assembly to create new redistricting plans. Nevertheless, placing an actual value on the monetary hardship would be a matter of speculation because the State has not specified its anticipated costs.

At the preliminary injunction phase, the State did offer specific evidence of harm and hardship. “More specifically, the evidence at the preliminary injunction hearing showed that elections are complex and election calendars are finely calibrated processes, and significant upheaval and voter confusion can result if changes are made late in the process.” Alpha Phi Alpha Fraternity, 587

F. Supp. 3d at 1324. This Court found that based upon that evidence “the public interest of the State of Georgia would be significantly undermined by altering the election calendar and unwinding the electoral process at this point.” Id. Similar temporal concerns are not at issue at the present stage of these cases.

This Court acknowledges that the Supreme Court has held that court orders affecting elections “can themselves result in voter confusion and consequent incentive to remain away from the polls[.]” and that “[a]s an election draws closer, that risk will increase.” Purcell, 549 U.S. at 4–5 (per curiam). But even by issuing an injunction in October 2023 in these three cases, this Court is not “alter[ing] the election rules on the eve of an election” for the Congressional, State House, and Senate districts subject to elections set for November 2024. Republican Nat’l Comm. v. Democratic Nat’l Comm., 598 U.S. ----, 140 S. Ct. 1205, 1207 (2020). Therefore, the risk articulated in the Purcell jurisprudence is *de minimis* where, as here, the State has not alleged any harm which would result due to a shortly impending election. The Court also notes when the Court inquired as to if there is a “cutoff date” for the Secretary of State to prepare for the 2024 General Election in the event of an injunction, Defense Counsel

represented in a pretrial conference call that there is no “magic day.” Grant Doc. No. [255], Tr. 16:15–16. Counsel further indicated that to give the “county officials time to get information entered into the voter registration database,” the new maps should be in place by “late January, early February.” APA Doc. No. [293], Tr. 16:15–22; see also Doc. No. [285], Pendergrass, Doc. Nos. [285], [296], Grant Doc. Nos. [247], [255].

Where, as here, a permanent injunction would require a government defendant merely to comply with federal law, both the balance of hardships between the parties and the public interest weigh in favor of its issuance. See, e.g., Project Vote/Voting For Am., Inc. v. Long, 813 F. Supp. 2d 738, 744 (E.D. Va. 2011), aff’d and remanded, 682 F.3d 331 (4th Cir. 2012) (“The balance of hardships does not weigh in favor of the defendants, as a permanent injunction will simply compel the defendants to comply with their responsibilities under the NVRA and, thus, will prevent them from denying the public of a statutory right.”).

Further, an injunction issued to prevent the continuous denial by the State of a statutorily-guaranteed right is necessarily in the public interest. “[I]t would not be equitable or in the public’s interest to allow the state to violate the

requirements of federal law, especially when there are no adequate remedies available.” Montana Med. Ass’n v. Knudsen, 591 F. Supp. 3d 905, 917 (D. Mont. 2022) (cleaned up); see also id. (noting that “it is inherently against the public interest” to allow any State’s laws to violate federal law).

Congress has also recognized that the public is benefitted when voting rights are enforced. Cf. Torres v. Sachs, 69 F.R.D. 343, 347 (S.D. N.Y. 1975) (construing 42 U.S.C. § 1973l(e), voting rights enforcement proceedings).

Lacking direct evidence of how the State faces a legally cognizable hardship, or how its enjoinder would be contrary to the public interest, the balance of the final two factors weighs in favor of permanently enjoining the State’s usage of the redistricting plans at issue in these three cases.

F. Affirmative Defenses

In this section, the Court addresses Defendants’ affirmative defenses. While these defenses were not specifically argued by Defendants during the bench trial, they were set forth in the Pretrial Order. Grant Doc. No. [243], 26; Pendergrass Doc. No. [231], 28-29; APA Doc. No. [280], 23-24. The affirmative defenses raised in each case are the same: (1) that Eleventh Amendment and

sovereign immunity bars these cases, (2) that there is no private right of action under Section 2, (3) that these cases should be heard by a three-judge court, and (4) that to afford the Plaintiffs the requested relief requires interpreting the VRA in a way that violates the Constitution.¹³⁴ As notated below, the Court has previously rejected Defendants' affirmative defenses regarding Section 2's private right of action and that a three-judge court is required in these cases. APA Doc. No. [65], 6-34; Grant Doc. No. [43], 7-33; Pendergrass Doc. No. [50], 6-20. The Court now considers each of these affirmative defenses below.

1. *Eleventh Amendment Immunity and Sovereign Immunity*

The Eleventh Amendment to the United States Constitution prohibit suits against a State by a citizen of that State. Hans v. Louisiana, 134 U.S. 1, 10-15 (1890)). Under the Fourteenth and Fifteenth Amendments, however, Congress can abrogate States' sovereign immunity to redress discriminatory state action when Congress unequivocally expresses the intent to do so. Ala. State Conference

¹³⁴ Defendants also raised affirmative defenses regarding constitutional and statutory standing. Grant Doc. No. [243] at 26; Pendergrass Doc. No. [231] at 28; APA Doc. No. [280] at 23. However, these issues have been addressed above. See Section I(A)*supra*.

of the Nat'l Ass'n for the Advancement of Colored People v. Alabama, 949 F.3d 647, 649–50, 654–55 (11th Cir. 2020), judgment vacated as moot, 141 S. Ct. 2618 (2021) (hereinafter “Alabama NAACP”). The Eleventh Circuit held that the VRA does just that:

By design, the VRA was intended to intrude on state sovereignty to eradicate state-sponsored racial discrimination in voting. Because the Fifteenth Amendment permits this intrusion, [the State] is not immune from suit under § 2 of the VRA. Nor is § 2 any great indignity to the State. Indeed, “it is a small thing and not a great intrusion into state autonomy to require the [S]tates to live up to their obligation to avoid discriminatory practices in the election process.”

Id. at 655 (footnote omitted) (second alteration in original) (quoting Marengo Cnty. Comm’n, 731 F.2d at 1561).

Alabama NAACP also noted that the Fifth and Sixth Circuits, and a three-judge panel in this district, have reached the same conclusion. Id. at 651 (citing OCA-Greater Houston v. Texas, 867 F.3d 604, 614 (5th Cir. 2017); Mixon v. Ohio, 193 F.3d 389, 398–99 (6th Cir. 1999); Ga. State Conf. of NAACP v. Georgia, 269 F. Supp. 3d 1266, 1274–75 (N.D. Ga. 2017)).

Of course, the Court recognizes that Alabama NAACP is no longer controlling because the judgment was ultimately vacated as moot. Ala. State Conf. of the NAACP, 141 S. Ct. 2618. Nevertheless, the analysis contained in the opinion is persuasive. See, e.g., Friends of the Everglades v. S. Fla. Water Mgmt. Dist., 570 F.3d 1210, 1218 (11th Cir. 2009) (“We are free to give statements in a vacated opinion persuasive value if we think they deserve it.”); Tallahassee Branch of NAACP v. Leon Cnty., 827 F.2d 1436, 1440 (11th Cir. 1987) (noting that court was free to consider a vacated opinion as persuasive even though not binding).

In Kimel v. Florida Board of Regents, the Supreme Court held that, to abrogate a State’s sovereign immunity, Congress must (1) make its intention to do so “unmistakably clear in the language of the statute” and (2) act pursuant to a valid Grant of constitutional authority. 528 U.S. 62, 73 (2000) (cleaned up); accord Alabama NAACP, 949 F.3d at 650 (citing Bd. of Trs. of Univ. of Ala. v. Garrett, 531 U.S. 356, 363 (2001)). However, “an express abrogation clause is not required. Instead, a court may look to the entire statute, and its amendments, to determine whether Congress clearly abrogated sovereign immunity.” Alabama

NAACP, 949 F.3d at 650 (citing, inter alia, Kimel, 528 U.S. at 76 (“[O]ur cases have never required that Congress make its clear statement in a single section or in statutory provisions enacted at the same time.”)).

Alabama NAACP concluded that the first part of this test was met because the VRA explicitly permits private parties to sue to enforce its provisions, which prohibit States and political subdivisions from imposing practices or procedures that abridge a citizen’s right to vote on account of race. 949 F.3d at 651–52. Specifically, the Eleventh Circuit stated:

The VRA, as amended, clearly expresses an intent to allow private parties to sue the States. The language of § 2 and § 3, read together, imposes direct liability on States for discrimination in voting and explicitly provides remedies to private parties to address violations under the statute. . . . It is implausible that Congress designed a statute that primarily prohibits certain state conduct, made that statute enforceable by private parties, but did not intend for private parties to be able to sue States.

Id. at 652. This Court agrees.

As to the second part of the Kimel test, Alabama NAACP concluded that Congress can abrogate a State’s sovereign immunity pursuant to its powers under the Fourteenth Amendment to “redress discriminatory state action.” 949

F.3d at 649; see also id. at 654 (“While Congress may not abrogate a State’s immunity when acting pursuant to its Article I powers, it may do so under its enforcement powers pursuant to § 5 of the Fourteenth Amendment. . . . [I]f § 5 of the Fourteenth Amendment permits Congress to abrogate state sovereign immunity, so too must § 2 of the Fifteenth Amendment.”).

Notably, even though no longer controlling, Alabama NAACP was not the first Eleventh Circuit case to conclude that Congress acted pursuant to a valid Grant of authority under the Fourteenth and Fifteenth Amendments in adopting Section 2. In determining that Section 2 was a proper exercise of that Grant of authority, Alabama NAACP relied on the prior Eleventh Circuit decision in Marengo County. In Marengo County, the United States and private citizens challenged a county’s at-large system of electing commissioners under the Fourteenth and Fifteenth Amendments, as well as Section 2. 731 F.2d at 1552. In considering the Section 2 claims, the Eleventh Circuit made clear that “[t]he Civil War Amendments overrode state autonomy apparently embodied in the Tenth and Eleventh Amendments.” Id. at 1560–61 (citations omitted). The Fourteenth and Fifteenth Amendments thus provided direct authority for Congress to

abrogate any sovereign immunity to which States might otherwise have been entitled under the Eleventh Amendment.

Given the aforementioned, the Court comfortably concludes that Section 2 is a valid expression of congressional enforcement power under the Fourteenth and Fifteenth Amendments. Hence Defendants affirmative defenses asserting sovereign immunity and Eleventh Amendment immunity are without merit.

2. Section 2 Private Right of Action

In adjudicating Defendants' Motions to Dismiss, the Court rejected their contentions that there is no private right of action under Section 2 of the VRA. APA Doc. No. [65], 31-34; Grant Doc. No. [43], 30-33; Pendergrass Doc. No. [50], 17-20. Defendants maintain their contentions to perfect the record on appeal, but otherwise have offered no new arguments or evidence in favor of this defense. Thereby, the Court incorporates in this Order its prior conclusions of law from the Orders on Defendants' Motions to Dismiss. APA Doc. No. [65], 31-34; Grant Doc. No. [43], 30-33; Pendergrass Doc. No. [50], 17-20. The Court also acknowledges that recently, the Supreme Court affirmed an Alabama three-judge court's preliminary injunction, which found that the private plaintiffs had a

substantial likelihood of success in proving that Alabama congressional map violated Section 2. Allen, 143 S. Ct. 1487.¹³⁵ Accordingly, the Court rejects Defendants' argument and affirmative defense that Section 2 does not contain a private right of action.

3. 28 U.S.C. § 2284: Three-Judge Court

In the Court's Orders denying Defendants' Motions to Dismiss the Court also addressed in great detail Defendants' affirmative defenses that Plaintiffs' claims require adjudication by a three-judge court. APA Doc. No. [65], 6-31; Grant Doc. No. [43], 7-28; Pendergrass Doc. No. [50], 6-17. Defendants maintain their assertions for purposes of appeal, but again have not raised new arguments or evidence in support of this affirmative defense. Thus, the Court incorporates its prior analysis from its Orders on the Motions to Dismiss into this Order and rejects Defendants' contentions and affirmative defense that these cases ought to

¹³⁵ Although the Supreme Court did not comment on the private right of action issue, it affirmed a preliminary injunction order that analyzed whether Section 2 created a private right of action. Allen, 143 S. Ct. at 1517; Singleton, 582 F. Supp. 3d at 1031-32.

have been heard by a three-judge court. APA Doc. No. [65], 6-31; Grant Doc. No. [43], 7-28], Pendergrass Doc. No. [50], 6-17.

4. *Section 2's Constitutionality*

In Attachment D to the Pretrial Order, Defendants assert as an affirmative defense in each case that “[t]o Grant the relief Plaintiffs seek, the Court must interpret the Voting Rights Act in a way that violates the U.S. Constitution.” APA Doc. No. [280], 24; Grant Doc. No. [243], 26; Pendergrass Doc. No. [231], 29. Defendants offered no argument or support for this assertion through motion practice or at trial. To the extent that Defendants are arguing generally that Section 2 of the VRA is unconstitutional, the Supreme recently rejected the same argument urged by the State of Alabama in Allen v. Milligan, 599 U.S. 1, 41, (2023). Accordingly, the Court concludes that there is no merit to the affirmative defenses challenging the constitutionality of Section 2 in the cases pending in this Court.

G. Remedy

As correctly noted by Defense Counsel in his closing argument at trial, the parameters and the instructions around what the State of Georgia is supposed to do to comply with Section 2 of the VRA is a critical part of this Court’s order, now

that the Court has found in favor of Plaintiffs. Tr. 2394:1–14. The remedy involves an additional majority-Black congressional district in west-metro Atlanta; two additional majority-Black Senate districts in south-metro Atlanta; two additional majority-Black House districts in south-metro Atlanta, one additional majority-Black House district in west-metro Atlanta, and two additional majority-Black House districts in and around Macon-Bibb.¹³⁶

The Court is conscious of the powerful concerns for comity involved in interfering with the State’s legislative responsibilities. As the Supreme Court has repeatedly recognized, “redistricting and reapportioning legislative bodies is a legislative task with the federal courts should make every effort not to preempt.” Wise v. Lipscomb, 437 U.S. 535, 539 (1978). As such, it is “appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet” the requirements of Voting Rights Act “by adopting a substitute measure rather than for the federal court to devise . . . its own plan.” Id. at 540. The State cannot

¹³⁶ The Court notes that there is significant overlap in the metro Atlanta districts drawn by Mr. Cooper and Mr. Esselstyn. The Court **ORDERS** the above remedy collectively for Alpha Phi Alpha and Grant Plaintiffs.

remedy the Section 2 violations described herein by eliminating minority opportunity districts elsewhere in the plans.

The Court also recognizes that Plaintiffs and other Black voters in Georgia whose voting rights have been injured by the violation of Section 2 of the Voting Rights Act have suffered significant harm. Those citizens are entitled to vote as soon as possible for their representatives under a lawful apportionment plan. Therefore, the Court will require that new legislative maps be drawn forthwith to remedy the Section 2 violation.

The Court will provide the General Assembly the opportunity to adopt a remedial Congressional plan, Senate plan, and House plan by December 8, 2023, and consistent with, this Order.

This Court retains jurisdiction to determine whether the remedial plans adopted by the General Assembly remedy the Section 2 violations by incorporating additional legislative districts in which Black voters have a demonstrable opportunity to elect their candidates of choice.

An acceptable remedy must “completely remed[y] the prior dilution of minority voting strength and fully provide[] equal opportunity for minority

citizens to participate and to elect candidates of their choice.” United States v. Dallas Cnty. Comm’n, 850 F.2d 1433, 1437–38 (11th Cir. 1988) (quoting S.REP. No. 97-417, at 31 (1982)); see also Dillard v. Crenshaw Cnty., 831 F.2d 246, 252–53 (11th Cir. 1987) (“This Court cannot authorize an element of an election proposal that will not with certitude completely remedy the Section 2 violation.”). This will require the Court to evaluate a remedial proposal under the Gingles standard to determine whether it provides Black voters with an additional opportunity district. Id.

In the event that the State is unable or unwilling to enact remedial plans by December 8, 2023 that satisfy the requirements set forth above, the Court will proceed to draw or adopt remedial plans.

III. CONCLUSION

Having held a non-jury trial and considered the evidence and arguments of the Parties, based on the Court’s holistic analysis and searching local appraisal of the facts under the Section 2 standard of the Voting Rights Act, the Court finds and concludes that:

Pendergrass and Grant Plaintiffs lack standing to bring suit against the members of the State Election Board; thus, Sarah Tindall Ghazal, Janice W. Johnston, Edward Lindsey, and Matthew Mashburn are **DISMISSED** from this case.¹³⁷

Alpha Phi Alpha Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 34, 43, 44, and Enacted House Districts 74 and 78.¹³⁸ Alpha Phi Alpha Plaintiffs have not met their burden as to the remaining challenged districts.

¹³⁷ As stated herein, the Clerk is **DIRECTED** to terminate William Duffey, Jr. as a named party based upon his September 1, 2023 resignation from the State Election Board.

¹³⁸ These districts are derived from Alpha Phi Alpha Plaintiffs' Complaint (APA Doc. No. [141]) and Mr. Cooper's expert report (APAX 1).

Pendergrass Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plan, SB 2EX, as to the following enacted district/ areas: Enacted Congressional Districts 3, 6, 11, 13, and 14.

Grant Plaintiffs have carried their burden of demonstrating a lack of equal openness in Georgia's election system as a result of the challenged redistricting plans, SB 1EX and HB 1EX, SB 1EX and HB 1EX, as to the following enacted districts/areas: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 44, and Enacted House Districts 61, 64, 78, 117, 133, 142, 143, 145, 147, and 149.¹³⁹ Grant Plaintiffs have not met their burden as to the remaining challenged districts.

¹³⁹ These districts are derived from Grant Plaintiffs' Complaint (Grant Doc. No. [118]) and Mr. Esselstyn's expert report (GX 1).

This Court further concludes that declaratory and permanent injunctive relief are appropriate. The Court, therefore, **DECLARES** the rights of the parties as follows.

SB 2EX violates Section 2 of the Voting Rights Act as to the following districts/areas: Enacted Congressional Districts 3, 6, 11, 13, and 14.

SB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted Senate Districts 10, 16, 17, 25, 28, 30, 34, 35, 43, and 44.

HB 1EX violates Section 2 of the Voting Rights Act as to the following areas/districts: Enacted House Districts 61, 64, 74, 78, 117, 133, 142, 143, 145, 147, and 149.

The Court **PERMANENTLY ENJOINS** Defendant Raffensperger, as well as his agents and successors in office, from using SB 2EX, SB 1EX, and HB 1EX in any future election.

The Court's injunction affords the State a limited opportunity to enact new plans that comply with the Voting Rights Act by **DECEMBER 8, 2023**. This timeline balances the relevant equities and serves the public interest by providing

the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one—as the Court will not allow another election cycle on redistricting plans that the Court has determined on a full trial record to be unlawful.

The Court is confident that the General Assembly can accomplish its task by **DECEMBER 8, 2023**: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced nearly 22 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult.

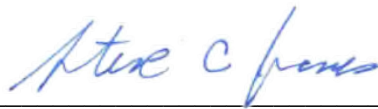
Pursuant to Federal Rule of Civil Procedure 58, the Clerk is **DIRECTED** to enter judgment in favor of the Alpha Phi Alpha Plaintiffs (in Civil Action No. 1:21-cv-05337), Pendergrass Plaintiffs (in Civil Action No. 1:21-cv-05339), and Grant Plaintiffs (in Civil Action No. 1:22-cv-00122) and against Brad Raffensperger. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988.

After entry of judgment, the Clerk is **DIRECTED** to close these three cases. The Court will retain jurisdiction over these matters for oversight and further remedial proceedings, if necessary.

* * * * *

The Court reiterates that Georgia has made great strides since 1965 towards equality in voting. However, the evidence before this Court shows that Georgia has not reached the point where the political process has equal openness and equal opportunity for everyone. Accordingly, the Court issues this Order to ensure that Georgia continues to move toward equal openness and equal opportunity for everyone to participate in the electoral system.

IT IS SO ORDERED this 26th day of October, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

APA Doc. 334

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

ALPHA PHI ALPHA FRATERNITY,
INC., et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of Georgia,

Defendant.

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

ANNIE LOIS GRANT, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION FILE

NO. 1:21-CV-5337-SCJ

CIVIL ACTION FILE

NO. 1:21-CV-5339-SCJ

CIVIL ACTION FILE

NO. 1:22-CV-0122-SCJ

JUDGMENT

This action having come before the Court for a bench trial on Plaintiffs' respective Complaints, the Honorable Steve C. Jones presiding, and the issues

having been tried and the Court having rendered its verdict in favor of the Plaintiffs,

It is **ORDERED AND ADJUDGED** that **JUDGMENT** is entered in favor of **PLAINTIFFS** and against remaining Defendants in accordance with this Court's Order of October 26, 2023. Attorneys' fees and costs are also awarded to each set of Plaintiffs pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988.

These civil actions are now **TERMINATED**, with the Court retaining jurisdiction for oversight and any necessary remedial proceedings.

Dated at Atlanta, Georgia this 26th day of October, 2023.

KEVIN P. WEIMER
CLERK OF COURT

By: s/Pamela Wright
Pamela Wright
Deputy Clerk

Prepared, filed and entered
in the Clerk's Office
October 26, 2023 .
Kevin P. Weimer
Clerk of Court

By: Pamela Wright
Pamela Wright
Deputy Clerk

APA Doc. 385

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

ALPHA PHI ALPHA FRATERNITY,) DAY 3 - P.M. SESSION
INC., ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-05337-SCJ
BRAD RAFFENSBERGER,)
DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-5339-SCJ
BRAD RAFFENSBERGER, ET AL.,)
DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:22-CV-00122-SCJ
BRAD RAFFENSBERGER, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
THURSDAY, SEPTEMBER 7, 2023

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RPR, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1 Democratic candidate.

2 THE COURT: So it's not necessarily the person, if
3 they're a Democrat, they vote for the Democrat?

4 THE WITNESS: Well, I mean, everybody who's voting in
5 the --

6 THE COURT: Speak into the mic.

7 THE WITNESS: I'm sorry.

8 First of all, you are not explaining why white voters
9 choose to vote for Republicans and Black voters choose to vote
10 for Democrats.

11 THE COURT: You say you're not explaining why. I'm
12 not quite following you there.

13 THE WITNESS: It -- I would say that race impacts the
14 decision on who you're going to vote for, what party you're
15 going to support. So to say that it is party instead of race
16 is ignoring the fact that actually race explains party in
17 part.

18 THE COURT: Okay. So the two are not one and the
19 same? In other words, could a non-Democrat -- did you find a
20 situation where a non-Democrat was supported by more than
21 50 percent in the south of Black voters in an election?

22 THE WITNESS: In my lifetime of doing this,
23 certainly. Here in Georgia in the elections that I looked
24 at --

25 THE COURT: With regard to this case.

1 THE WITNESS: In this case, I cannot think of an
2 instance in which Black voters did not support the Democrat.

3 THE COURT: Okay.

4 BY MS. LAKIN:

5 Q. And just to clarify, and that is with respect to the
6 general elections?

7 A. I'm sorry?

8 Q. With respect to the Judge's questions, that is -- your
9 answer, that you can't think of a situation in which the Black
10 voters did not support the Democrat, is specific to general
11 elections that you analyzed in this case?

12 A. Well, the other one was the Democratic primaries where
13 they're also Democrats, yes.

14 Q. Turning back to the -- the -- this particular first race
15 here. Would you -- would you -- is it fair to say that white
16 voters bloc voted against the Black-preferred candidate in
17 this election?

18 A. Yes.

19 Q. How would you characterize the remaining elections that
20 you evaluated in this table?

21 A. All of these contests are quite starkly polarized.

22 Q. Did you analyze voting patterns in the six other areas of
23 interest that you identified earlier?

24 A. That's correct, I did.

25 Q. And all of the analysis is in Appendix A of your

1 report in similar tables?

2 A. That's correct. All of general -- all the statewide
3 general elections are in Appendix A for the seven areas.

4 THE COURT: Let me interrupt again. In your analysis
5 were the white voters mainly supporting Democrats or
6 Republicans?

7 THE WITNESS: Well, in the Democratic primary they're
8 all supporting Democrats.

9 THE COURT: In the general election. The general
10 election.

11 THE WITNESS: In general elections, the majority of
12 white voters in all of these instances voted for Republican
13 candidates.

14 THE COURT: Now, here you have 96 percent. Did you
15 have a percentage of white voters that support Republicans?

16 THE WITNESS: Well, it -- it varies by area.

17 THE COURT: Let me change the question.

18 THE WITNESS: Okay.

19 THE COURT: If a Black voter was voting for a certain
20 preferred candidate, did you find that white voters usually
21 voted for that candidate or did they vote a higher percent
22 against that candidate?

23 In other words, here you have Warnock was the
24 Black-preferred candidate as you testified, yes?

25 THE WITNESS: Yes.

1 THE COURT: Okay. And you indicated that 10 percent
2 of the white voters voted for him, so that means 90 percent
3 voted against him; is that correct?

4 THE WITNESS: Yes.

5 THE COURT: Is that the trend, or was that unusual?

6 THE WITNESS: That is not unusual in most of these
7 areas that I looked at.

8 THE COURT: What were the exceptions? Were there any
9 exceptions?

10 THE WITNESS: Well, the degree of white crossover
11 vote was slightly variable. So, for example, I think it's in
12 the first area, you'll see a higher percentage of whites
13 supporting the Democratic candidate in some of the -- as
14 compared to some of these other areas.

15 So voting was still polarized, but there was
16 variability in the percentage of white voters who voted for
17 the Black-preferred Democratic candidates. More variability
18 among white voters than there is among Black voters.

19 THE COURT: Go ahead.

20 MS. LAKIN: And Your Honor's questions anticipates
21 something that we were going to get into a little bit later
22 that I would clarify goes, in our view, to the totality of the
23 circumstances.

24 BY MS. LAKIN:

25 Q. But, Dr. Handley, did you -- when -- you considered

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

ALPHA PHI ALPHA FRATERNITY,) DAY 4 - A.M. SESSION
INC., ET AL.,)

PLAINTIFFS,)

) DOCKET NO. 1:21-CV-05337-SCJ

-VS-)

BRAD RAFFENSPERGER,)

DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)

PLAINTIFFS,)

) DOCKET NO. 1:21-CV-5339-SCJ

-VS-)

BRAD RAFFENSPERGER, ET AL.,)

DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)

PLAINTIFFS,)

) DOCKET NO. 1:22-CV-00122-SCJ

-VS-)

BRAD RAFFENSPERGER, ET AL.,)

DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
FRIDAY, SEPTEMBER 8, 2023

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RPR, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1 to get out last night and I certainly wanted to accommodate
2 that. But at the time my cross-examination was running about
3 45 minutes, so I didn't think there was a way to even pull
4 that off, so we were obviously not going to squeeze that in.

5 However, as my colleague Mr. Tyson pointed out yesterday,
6 sometimes a break can shorten an examination of a witness, and
7 that's exactly what happened during the last break. So my
8 questions for you are relatively brief, actually, and on the
9 bright side we should be able to get you out of here pretty
10 quickly today.

11 I just want to turn to your expert report submitted in
12 this case. And it should still be in front of you.

13 Dr. Handley, you'd agree with me that nothing in this
14 report explains the voting patterns that you analyzed --
15 excuse me.

16 You'd agree with me that nothing in this report explains
17 why the voting patterns you analyzed are occurring; right?

18 A. I didn't hear the last part of the question.

19 Q. I'll just state the whole question again.

20 You'd agree with me that nothing in this report explains
21 why the voting patterns you analyzed are occurring; correct?

22 A. Are current?

23 Q. Occurring.

24 A. Occurring, sorry.

25 That's correct.

1 Q. And nothing in this report speaks to causation; correct?

2 A. That's correct.

3 Q. So I want to look at some of the primaries you examined.

4 Now I want to put it up on the screen here so we can visualize

5 your definition of racial polarization a little better than

6 you spoke about yesterday.

7 A. Okay.

8 MR. JACOUTOT: Would the Court like a copy?

9 BY MR. JACOUTOT:

10 Q. I'd like to direct your attention to the 2018 Democratic

11 primary for governor. And, Dr. Handley, just to clarify, this

12 is Appendix C6 of your report; correct?

13 A. Yes. I'm going to be looking here rather than there,

14 because when I turn my head --

15 Q. Yes. I am sure the Court and court reporter appreciate

16 that.

17 So in this contest -- in this contest --

18 A. I'm sorry, which contest?

19 Q. The 2018 Democratic primary for governor. In this

20 contest, we see Black voters here in your EI RxC metric

21 cohesively supporting Stacey Abrams; correct?

22 A. Yes.

23 Q. And white voters are slightly in support of Stacey Evans

24 here according to your EI RxC metric; correct?

25 A. Correct.

APA Doc. 387

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

ALPHA PHI ALPHA FRATERNITY,) DAY 5 - P.M. SESSION
INC., ET AL.,)
PLAINTIFFS,)
-VS-) DOCKET NO. 1:21-CV-05337-SCJ
BRAD RAFFENSPERGER,)
DEFENDANT.)

COAKLEY PENDERGRASS,)
ET AL.,)
PLAINTIFFS,) DOCKET NO. 1:21-CV-5339-SCJ
-VS-)
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

ANNIE LOIS GRANT, ET AL.,)
PLAINTIFFS,) DOCKET NO. 1:22-CV-00122-SCJ
-VS-)
BRAD RAFFENSPERGER, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
MONDAY, SEPTEMBER 11, 2023

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RPR, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1 across the state.

2 Moving to *Gingles* 2 and 3, Dr. Palmer didn't even
3 look at primaries. He doesn't believe race and party can be
4 separated.

5 As I already said, Dr. Burton testified he doesn't
6 believe race and party can be separated.

7 Dr. Collingwood didn't look at those issues either.

8 So, Your Honor, that gets us to the totality piece of
9 the puzzle. And this is where we've had a lot of discussion
10 the past few days. I'm just going to hit some high points
11 here on these.

12 On the history of discrimination we've had a lot of
13 older history. The primary recent history we've had is
14 SB 202. I'd be happy to stipulate on behalf of the State up
15 until 1990 we had historical discrimination in Georgia. But
16 looking at SB 202 there's no order from Judge Boulee regarding
17 intentional racial discrimination. Those issues are still
18 being litigated. And it does seem a little odd to try to kind
19 of have an mini trial on what Senate Bill 202 does or doesn't
20 do and whether it fits into a history of discrimination in
21 this case, especially when there's not been an order on that
22 front.

23 Under racial polarization, now we have the question
24 of what did the plaintiffs present here that is different.
25 And ultimately the plaintiffs haven't given you information

Cert of SVC

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2024, I electronically filed the foregoing Appellant's Appendix using the Court's CM/ECF System, which will automatically send e-mail notifications of such filing to all counsel of record in this case.

/s/ Bryan P. Tyson

Bryan P. Tyson

Counsel for Defendant-Appellant