

Grant, Annie Lois, et al.v. Raffensperger, Brad, Et Al.

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

4 ANNIE LOIS GRANT; QUENTIN T.
5 HOWELL; ELROY TOLBERT; THERON
6 BROWN; TRIANA ARNOLD JAMES; EUNICE
7 SYKES; ELBERT SOLOMON; DEXTER
8 WIMBISH; GARRETT REYNOLDS;
9 JACQUELINE FAYE ARBUTHNOT;
10 JACQUELINE BUSH; and
11 MARY NELL CONNER,
12 Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:22-CV-00122-SCJ

13 BRAD RAFFENSPERGER, in his official
14 capacity as the Georgia Secretary
15 of State; WILLIAM S. DUFFY, JR.,
16 in his official capacity as chair
17 of the State Election Board;
18 MATTHEW MASHBURN, in his official
19 capacity as a member of the State
20 Election Board; EDWARD LINDSEY,
21 in his official capacity as a
22 member of the State Election Board;
23 and JANICE W. JOHNSTON, in her
24 official capacity as a member of
25 the State Election Board,
 Defendants.

 TAKEN BY REMOTE VIDEO-CONFERENCE
 DEPOSITION OF DEXTER WIMBISH
 December 6, 2022, 9:31 a.m.

 Carolyn J. Smith, CCR, RPR, RMR, CCR-A-1361

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DESCRIPTION OF EXHIBITS

Defendant's

EXHIBITS

DESCRIPTION

PAGE

Exhibit 1

Defendant's Notice to Take
the Deposition of Dexter
Wimbish

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Exhibit 2

Second Amended Complaint

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By Mr. Jacoutot

5

1 APPEARANCES OF COUNSEL:

2
3 On behalf of the Plaintiffs:

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12 On behalf of the Defendants:

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14 DIANE LAROSS (Via Virtual)

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21 (Pursuant to Article 10(B) of the Rules
22 and Regulations of the Georgia Board of Court
23 Reporting, a written disclosure statement was
24 submitted by the court reporter to all counsel
25 present at the proceeding.)

1 THE COURT REPORTER: Due to the need for
2 this deposition to take place remotely, the parties
3 will stipulate that the court reporter may swear in
4 the witness telephonically or via Veritext Virtual
5 Video-conference, and that the witness has verified
6 that he is in fact Dexter Wimbish, Attorney at Law.

7 DEXTER WIMBISH,
8 having been first duly sworn, was examined and
9 testified as follows:

10 MR. JACOUTOT: We're on the record now?

11 THE COURT REPORTER: Yes, sir.

12 MR. JACOUTOT: Okay. Great. Well, hello,
13 Mr. Wimbish. Thank you for taking the time to join
14 us today virtually.

15 Um, for the record, this will be the
16 deposition of Dexter Wimbish, taken by Defendant,
17 Secretary of State Brad Raffensperger and Members of
18 the State Election Board for purposes of discovery
19 and all purposes allowed under the Federal Rules of
20 Civil Procedure. Uh, all objections except those
21 going to form of the question and the responsiveness
22 of the answer are reserved until trial or first use
23 of the deposition.

24 Are those stipulations agreeable to you?

25 MS. RUTAHINDURWA: Yes.

1 MR. JACOUTOT: Thank you. And I'm just
2 going to ask one more time so I get it right every
3 time. Uh, am I pronouncing -- pronouncing your last
4 name correctly? Rutahindurwa.

5 MS. RUTAHINDURWA: That's correct, thanks.

6 MR. JACOUTOT: Okay. Rutahindurwa. It is
7 very phonetic.

8 Um, okay. Moving on. Ms. Rutahindurwa,
9 how do you wish to handle the signature? Do you
10 want to review and sign?

11 MS. RUTAHINDURWA: Yeah, we'll, uh, review
12 it. Thanks.

13 MR. JACOUTOT: Okay. Great. And the
14 witness has already been sworn.

15 EXAMINATION

16 BY MR. JACOUTOT:

17 Q So, Mr. Wimbish, my name, as I said, is
18 Bryan Jacoutot. I represent the State Defendants in
19 this case. The purpose of this deposition is not to
20 confuse you. So if I ask you a question that you
21 don't understand or I -- or I phrased poorly, uh,
22 can we agree that you'll let me know? And I'll do
23 my best to kind of rephrase it.

24 A Yes.

25 Q Good. Um, for the court reporter, I'm not

1 sure if she mentioned this earlier, but, uh, given
2 this is virtual, we need you to speak very clearly
3 and loudly so she can hear you. Um, and be sure
4 when you're responding, uh, say yes or no audibly,
5 rather than an uh-huh, or uh-uh or nodding your
6 head.

7 And also, it's pretty important that we
8 don't speak at the same time so that she can get an
9 accurate record. Uh, so if you can just wait until
10 I complete my question before you answer -- I mean,
11 sometimes we won't be able to do that. But, uh, you
12 know, if you could do your best, I'd appreciate
13 that.

14 Is that agreeable?

15 A Yes.

16 Q Great. If you need a break at any time,
17 just let me know. Uh, the only thing I would ask is
18 that you answer the question that's been posed to
19 you before we go off and take the break.

20 Will that be agreeable to you as well?

21 A Yes.

22 Q Okay. And, lastly, we, uh -- we ask that
23 you don't have any electronic devices sort of
24 available and around you during your deposition,
25 including your cell phone or having your e-mail up

1 on your desktop or laptop.

2 Um, you are still going to need Zoom up
3 to -- to do this depo. But, uh, if you could keep
4 those for the side and confirm that for me, that
5 would be great.

6 A Yes. I agree. Put my phones away, and I
7 don't have my e-mail up.

8 Q Excellent. Thank you. Okay. Now, so I'm
9 going to go into the screen share real quick. And
10 this is how we are going to show depositions for the
11 purpose of this -- or, excuse me, uh, exhibits for
12 the purposes of this deposition. Um, and there
13 won't be many, so it shouldn't take very long. But
14 I got to find that one -- there it is.

15 Okay. Has the Notice to Take your
16 deposition appeared on your screen?

17 A Yes, it has.

18 Q Okay. And I'm just going to scroll
19 through to the second page here.

20 Um, does this look accurate to you in
21 the -- and is this a copy of the version that you
22 received as well?

23 A Yes.

24 Q Okay. Thank you. Stop screen share.

25 THE COURT REPORTER: Counsel, is that

1 going to be marked as Exhibit 1?

2 MR. JACOUTOT: Yes, thank you. We'll mark
3 that as Exhibit 1.

4 (Defendant's Exhibit 1 marked)

5 BY MR. JACOUTOT:

6 Q Mr. Wimbish, have you ever given any
7 testimony prior to this, whether at deposition or in
8 a trial?

9 A No, sir.

10 Q And when I ask that question, I -- I
11 understand that you're an attorney. So I'm asking
12 that more in your personal capacity, not as an
13 attorney.

14 A I understand. Um --

15 Q Okay. And so the answer is the -- the
16 same with the -- with respect to you in your
17 personal capacity?

18 A Uh, yes, (witness nodded head
19 affirmatively). I have not -- I don't remember
20 testifying in a personal capacity.

21 Q Okay. Great. Thank you. Have you taken
22 any medications today that might keep you from fully
23 or truthfully participating in today's deposition?

24 A No.

25 Q Do you have any medical conditions that

1 might keep you from fully and truthfully
2 participating in today's deposition?

3 A No.

4 Q Uh, have you ever filed any
5 election-related lawsuits in the past?

6 A On behalf of myself or someone else?

7 Q Uh, let's start with yourself.

8 A On behalf of myself, no.

9 Q Okay. Have you ever filed any
10 election-related cases on behalf of someone else?

11 A Yes.

12 Q And is that in your capacity as an
13 attorney?

14 A Yes.

15 Q Okay. How many would you say you've filed
16 as --

17 A One.

18 Q -- an attorney?

19 A One.

20 Q Do you remember the case cite of that
21 case?

22 A I don't remember the case cite. I
23 remember the -- it was in re: Athens versus, um,
24 Athens-Clarke County Election Board.

25 Q Okay. Thank you. And is that case, uh,

1 still pending?

2 A No, it was resolved.

3 Q Okay. And when was it filed?

4 A October 2022.

5 Q October 2022. And how did the case
6 resolve?

7 A Uh, we lost.

8 Q Okay. What -- uh, what court was that in?

9 A Athens-Clarke County Superior Court.

10 Q Great. Um, what sort of allegations
11 did -- well, let me rephrase that.

12 What were the allegations of that, uh,
13 case?

14 A It was a Writ of Mandamus. I filed the
15 action on behalf of the members of District 2 of
16 Clarke County. Their commissioner resigned. Uh,
17 the governor failed to appoint somebody to take her
18 place. A special election was set originally for
19 the general election. The Board made a decision to
20 move that election to March of 2023.

21 We filed based on the fact that that would
22 leave District 2 unrepresented by -- uh, for six
23 months. And we felt that was, uh, unconstitutional,
24 and it denied the Plaintiffs the right to have legal
25 representation.

1 Q Okay. Great. Thank you. Um, so I
2 understand that that's in your capacity as attorney,
3 and that you haven't personally filed any
4 election-related cases.

5 Um, have any direct family members of
6 yours filed any election-related cases?

7 A No.

8 Q Okay. Have you ever been charged with a
9 crime?

10 A Other than a traffic ticket, no.

11 Q Okay. So never arrested?

12 A Never.

13 Q And then I would assume never convicted of
14 a crime either, with the exception of motor vehicle
15 violations?

16 A Correct.

17 Q Have you discussed this -- this particular
18 case with anyone other than your lawyer?

19 A No.

20 Q Have you discussed this deposition with
21 anyone other than your lawyer?

22 A No.

23 Q Did you review anything to prepare for
24 your deposition today?

25 A No.

1 Q Do you have any documents or notes with
2 you today?

3 A No.

4 Q Do you have any notes or memos or other
5 documents that relate in any way to this particular
6 case?

7 A No.

8 Q Okay. Nice and easy. Mr. Wimbish, will
9 you, uh, just once again, state your -- your full
10 name for the record?

11 A Dexter Maynard Wimbish.

12 Q Okay. And what's your current address?

13 A [REDACTED], Griffin, Georgia

14 [REDACTED]

15 Q And could you say the -- the number again?
16 I missed that at the beginning.

17 A [REDACTED]

18 Q Okay. And is that in Spalding County?

19 A Yes.

20 Q And what city was it?

21 A Griffin --

22 Q Griffin?

23 A -- Georgia.

24 Q And how long have you lived at that
25 address?

1 A Six years.

2 Q So 2016, about?

3 A Correct.

4 Q Where did you live before that?

5 A [REDACTED], McDonough, Georgia

6 [REDACTED] I believe.

7 THE COURT REPORTER: Was that [REDACTED]

9 A [REDACTED]

10 THE COURT REPORTER: Thank you.

11 BY MR. JACOUTOT:

12 Q And is that -- is that also in Spalding
13 County?

14 A That is in Henry County.

15 Q Henry County. And how long did you, uh,
16 live at the [REDACTED] address?

17 A Two years.

18 Q 2014. All right. Let's go back a little
19 further. Um, where were you at -- where did you
20 live before that?

21 A [REDACTED]
22 [REDACTED] Madison, Georgia, Greene County.

23 Q Greene County. Thank you very much. You
24 anticipated my next question.

25 And how long were you at that address for?

1 A Two years.

2 Q Back to 2012. Have you lived in Georgia
3 your whole life?

4 A Yes. Well, actually, it was a two-year --
5 a four- -- a three-year break.

6 Q And what was that break for?

7 A Uh, law school, Des Moines, Iowa, Drake
8 University.

9 Q Okay. Okay. We might come back to that,
10 because I do want to go through, uh, your education
11 as well. Uh, but we can, I think, move on.

12 Let's see. And where are you testifying
13 from today, since we're virtual?

14 A [REDACTED], Griffin, Georgia.

15 Q And is your lawyer there with you, uh, or
16 anyone else?

17 A No.

18 Q Now, you've listed through your
19 residences, um, for the last about a decade or so.

20 Um, during that time, did you ever split
21 time between residences, or did you have multiple
22 residences?

23 A No.

24 Q Okay. Do you rent any property, apart
25 from -- or excuse me, strike that.

1 Do you rent any property at the -- at the
2 current time?

3 A Yes.

4 Q And what -- uh, what property is that?

5 A [REDACTED].

6 Q Okay. So you're not -- and that's your
7 current residence, so you're -- you're currently
8 renting?

9 A Yes.

10 Q Okay. Do you own any residential property
11 at the time -- at this time?

12 A No, no.

13 Q Okay. And any other rental properties at
14 this time?

15 A No.

16 Q Have you had any other rental properties
17 in the last two years?

18 A No.

19 Q Okay. And this [REDACTED]
20 residence is your sole residence at this time; is
21 that correct?

22 A Yes.

23 Q Okay. Great. Thank you. Uh, so we'll
24 move on to your educational background a little bit.
25 Um, did you, uh -- well, you said the law school.

1 So where you go to high school?

2 A Greene-Taliaferro, T-A-L-I-A-F-E-R-R-O,
3 Comprehensive High School, Greene County, Georgia.

4 Q Okay. And what, uh -- what was the, uh,
5 dates that you attended that school?

6 A 1983 to 1987.

7 Q And where did you -- or did you attend
8 undergrad?

9 A Morris Brown College, Atlanta, Georgia,
10 1987 to 1991.

11 Q And did you go directly into law school
12 from there?

13 A Yes.

14 Q And that was '91, to '94, I believe you
15 stated?

16 A Drake University, Des Moines, Iowa, 1991
17 through 1994.

18 Q Perfect. Thank you. Do you have any
19 other education?

20 A Drake University, 1992 to 1994, Master's
21 Public Administration. Grand Canyon University,
22 2017 to 2022, uh, doctorate in higher education.

23 Q Uh, you mentioned 2022. So have you
24 completed that Ph.D. work?

25 A Yes, (witness nodded head affirmatively.)

1 Q Okay. Did you have to write a thesis for
2 that -- for that degree?

3 A Dissertation.

4 Q Dissertation? Uh, what was the subject
5 matter of your dissertation?

6 A Um, the relationship between formal
7 mentoring programs for African-American faculty on
8 job satisfaction and engagement.

9 Q And when did, uh, you defend that
10 dissertation?

11 A February of 2022.

12 Q Okay. Is that dissertation publicly
13 available?

14 A It's published on ProQuest.

15 Q ProQuest? Do you have any other licenses
16 or certifications or vocational training -- let me
17 ask -- too many questions.

18 So I'll start with one. Do you have any
19 other licenses?

20 A Other than bar license, no. Georgia Bar
21 License, Bar Number 769908.

22 Q When did you, uh, receive that bar
23 license?

24 A November 1994.

25 Q '94. Have you been in good standing

1 throughout that time period?

2 A Yes.

3 Q Do you have any certifications?

4 A Georgia -- um, I've got a certification.

5 Um, just expired though. Uh, it was on

6 administrative -- education administration hearings.

7 Q Okay. I'm noticing just now a lot of, uh,
8 hardware on your wall. So this might take some
9 time. So I do apologize. It's a little longer than
10 usual. But you've got quite an accomplished career,
11 it sounds like.

12 A A little bit.

13 Q Uh, so we've got certifications. Any
14 particular vocational training that we haven't
15 mentioned yet?

16 A No.

17 Q Okay. And while you were a student, uh,
18 in Taliaferro Comprehensive High, were you involved
19 in any social organizations?

20 A Not social.

21 Q Okay. Uh, were you involved in any
22 political organizations at Taliaferro?

23 A No political organizations.

24 Q Okay. What about in undergrad? Were you
25 involved in any social organizations?

1 A Alpha Phi Alpha Fraternity, Incorporated.

2 Q Okay. Did you serve in any, uh,
3 particular leadership capacity in Alpha Phi Alpha?

4 A No.

5 Q Are you currently a member of Alpha Phi
6 Alpha?

7 A I'm a member. I am not financial.

8 Q Okay. And when you say you're not
9 financial, is -- is there a distinction between --
10 so is it -- is there a distinction between being a
11 nonfinancial member and a financial member in terms
12 of what you can do?

13 A No. There's no -- it just means I haven't
14 paid my dues for 2022.

15 Q Okay. Okay. But were you paying dues,
16 uh, previously?

17 A At some point, (witness nodded head
18 affirmatively,) yes.

19 Q Okay. And in law school, were you
20 involved in any social organizations?

21 A Black Law Students Association.

22 Q Okay. What about any political
23 organizations in law school?

24 A No.

25 Q Any activist organizations in law school?

1 A No.

2 Q Okay. Are you currently involved in any
3 political or activist organizations?

4 A Democratic Party of Spalding County.

5 Q Okay. And in what capacity do you serve
6 in the Democratic Party of Spalding County?

7 A Member.

8 Q And help me, uh, sort of understand what
9 being a member entails.

10 Is it similar to being a member of just
11 the Georgia Democratic Party or the National
12 Democratic Party? Or are there -- are there more,
13 um, activities in the -- in Spalding County?

14 A It means I gave them \$25, and I attend
15 Democratic meetings.

16 Q Got you. Thank you. And, um, we can just
17 go ahead and move on to your employment history.

18 Um, where do you currently work?

19 A I have -- um, I'm employed, self-employed
20 as a sole proprietor. Practice areas include
21 criminal law, personal injury, and general
22 litigation.

23 I am an adjunct professor for Mercer
24 University. I teach business ethics, uh, and
25 employment law. I've been there from 2013 to

1 current.

2 I am the general counsel for the Southern
3 Partners Fund in Atlanta, Georgia. I've been there
4 since June of 2022. I am the Municipal Court judge
5 for the City of Greensboro, Georgia. I've served in
6 that capacity from 2014 until now.

7 Q Okay. And you're an adjunct professor at
8 Mercer.

9 Uh, is that in the undergrad school or the
10 law school?

11 A The undergraduate.

12 Q Undergraduate? And you mentioned -- I
13 think it was in conjunction with your work at
14 Mercer, you teach -- uh, you teach employment law?

15 A Teach employment law, and I teach ethics.

16 Q And ethics. And both of those are in the
17 undergraduate university system?

18 A Yes, (witness nodded head affirmatively.)

19 Q Okay. When did you start your, uh -- your
20 sole prop law firm?

21 A November 1994.

22 Q Okay. So right out of law school?

23 A Yes.

24 Q And between the start of that firm and
25 your work on the municipal court in 2014, uh, did

1 you hold any other -- any other jobs, apart from
2 being the -- the attorney at that law firm?

3 A From 1996 to 2000, I was employed by the
4 Center for Democratic Renewal. From 2004 to 2006, I
5 was employed by Democracy South in Carrboro,
6 C-A-R-R-B-O-R-O, North Carolina. From 2000 -- hold
7 on, what did I leave out?

8 Q You said 2004?

9 A 2004. And then I went back to the Center
10 for Democratic Renewal from 2006 to 2008. Um, in
11 2009, I joined the Southern Christian Leadership
12 Conference, served there from 2009 until -- oh, no,
13 I'm sorry, not 2009 -- 2004 until 2010, as the
14 general counsel. Uh, and then went back full-time
15 as, uh, a sole practitioner after that.

16 Q And so you went back full-time as sole
17 practitioner roughly around 2010?

18 A Yes.

19 Q Okay.

20 A 2010, 2011.

21 Q Okay. Now, during that time period where
22 you were sort of both a sole practitioner and
23 working in these organizations you just described,
24 would you say your primary source of income was in
25 your capacity as a sole practitioner or through

1 these other organizations?

2 And if it varies, we can get into that,
3 but I'm just kind of curious generally.

4 A Um, probably half and half.

5 Q Okay. That's fine. Uh, have you ever run
6 for -- well, strike that.

7 Let me start with you mentioned that you
8 serve on municipal court. And in what, uh, location
9 is that again?

10 A Greensboro, Georgia.

11 Q Is that as an elected position?

12 A Appointed.

13 Q And who appoints that?

14 A Mayor and the city council.

15 Q Mayor and the city council. And to be
16 appointed, do you have to apply in any way to put
17 your -- sort of put your name in a hat, or is it
18 more informal?

19 A I was originally, um -- I originally
20 applied for the job. I was appointed in 2014. And
21 in 2018, I was reappointed, uh, automatically. I
22 didn't know I was even reappointed until my sister
23 told me it was in the newspaper.

24 Q So, um, what kind of -- what kind of cases
25 do you handle in that capacity?

1 A Uh, traffic tickets, minor possession
2 charges, and city ordinances.

3 Q And how many hours a week would you say
4 you devote to that job?

5 A Uh, four hours a month.

6 Q Four hours a month? Okay. Have you run
7 for any political office before?

8 A In 2021, I ran for the district attorney
9 for the Griffin Judicial Circuit, as a Democrat.

10 Q Okay, (nodded head affirmatively.) Did
11 you -- is there a primary process for that, or is it
12 a kind of -- a large pool regardless of party?

13 A It was a special runoff. Uh, it was a
14 special runoff that was held because the governor of
15 Georgia appointed the district attorney after the
16 previous district attorney, uh, moved up to a
17 Superior Court position.

18 Uh, it was a special -- it was a special
19 runoff that was mandated because of the Gonzales
20 decision in Athens-Clarke County where the governor
21 attempted to appoint a district attorney there
22 beyond, uh, the term, and the Supreme Court declared
23 that law to be unconstitutional.

24 Therefore, when our district attorney here
25 moved up to a Superior Court judge, a special

1 election was held. I decided to run because I did
2 not want the person who he had already appointed to
3 district attorney to run unopposed, because I feel
4 like every American has the right to participate in
5 the political process, and that district attorneys
6 are elected. And therefore we should have a choice
7 in an election.

8 Q Okay. Um, so it was -- in that election
9 was it just you and the other candidate who was --
10 let me just ask that way.

11 Was it just you and the other candidate?

12 A Republican incumbent was, (inaudible,
13 cutting out) --

14 THE COURT REPORTER: I'm sorry, can you
15 repeat your response, sir? I couldn't hear you.

16 A It was the Republican incumbent, Marie
17 Broder, B-R-O-D-E-R.

18 BY MR. JACOUTOT:

19 Q Thank you. And what -- what was the
20 result of that election?

21 A I got beat badly.

22 Q Okay. Any other political offices that
23 you've run for?

24 A No.

25 Q Have you served -- apart from the, uh,

1 Municipal Court work that you do, have you served in
2 any other politically appointed positions?

3 A Currently serve as a member of the
4 Spalding County Election Board.

5 Q And who appoints the Spalding County
6 Election Board?

7 A Interesting question. Let me answer it
8 this way -- let me answer it this way. Spalding
9 County is a test site for election board takeovers.
10 Prior to 2020, the five-person election board, you
11 had -- the Democratic Party appointed two
12 individuals, the Republican Party appointed two
13 individuals. The fifth and deciding vote was
14 decided by a coin toss, Republican or Democrat.

15 In 2021, uh, the law was passed that
16 effectively gave control of the election board to,
17 uh, the political power -- the political party, uh,
18 with the most power in that particular district.
19 Uh, because what happened was, now that fifth person
20 is selected by a committee of Superior Court judges.

21 In Spalding County, all of our Superior
22 Court judges -- or the vast majority of them are
23 Republicans, independents. Uh, and so they make the
24 selection. So, essentially, as long as Republicans
25 control the district here in Spalding County, they

1 will control the election board because they appoint
2 the fifth person.

3 Q Uh-huh (affirmative). And are the
4 Superior Court judges in Spalding County elected?

5 A Yes, they are. Although they run
6 nonpartisan.

7 Q Okay. Do they identify themselves as
8 Republican?

9 A In some cases, they do. In some cases,
10 they don't. The majority of them identify
11 themselves as Republican.

12 Q Well, um, you seem very well-versed in
13 this law.

14 Was the -- was the law that you're
15 referring to that changed that structure from a coin
16 flip to an appointment style, um, was that law
17 SB202?

18 A No, it -- uh, it was a house bill. I
19 don't know the number right offhand. Uh, but it was
20 a state bill, uh, that is now being used across
21 Georgia to identify Republican strongholds to
22 facilitate the election of local election boards by
23 Republican Party.

24 Q And what do you -- how do you feel about
25 the wisdom of that -- of that law?

1 A I think that the wisdom of that law, um,
2 reinforces what I've seen in the -- and how I've
3 seen in America currently and historically, and that
4 is the intent to disenfranchise African-American
5 voters and other minority voters who do not belong
6 to the Republican Party.

7 Q Would you change that law if you could?

8 A In a heartbeat.

9 Q Do you feel that law works to the
10 advantage of Democrats -- or, excuse me, to the
11 disadvantage of Democrats?

12 A I feel it works to the advantage of
13 Republicans, who are systematically attempting to
14 suppress the vote of African-Americans and other
15 minorities.

16 Q Do you -- do you -- but, um, I guess
17 the -- the more targeted question is do you feel
18 that that law works to disadvantage Democrat
19 candidates?

20 MS. RUTAHINDURWA: Objection, asked and
21 answered.

22 BY MR. JACOUTOT:

23 Q You can answer.

24 A I believe that law under-girds the white
25 supremacist model of disenfranchisement. Democrats

1 and Republicans have two very distinct ideologies.
2 The ideologies -- ideologies of Democrats are more
3 in line, I believe, with most African-Americans and
4 other minorities because the Democrats promote
5 exclusion [sic], while Republicans promote
6 exclusion.

7 Q Okay. I'll move on to your voter
8 registration and history.

9 Um, are you registered to vote in Georgia?
10 Sounds like a silly question, but I do have to ask
11 you.

12 A I have been registered to vote since 1987.
13 Um, and in that time, that vote was -- our
14 registration was automatic. Uh, as I graduated --
15 when I turned high school -- turned 18 and graduated
16 high school.

17 And so I registered in 1987. I've voted
18 in every presidential election since that time. I
19 may missed one or two local elections, but I never
20 missed a presidential election.

21 Q Okay. And you -- you said you registered,
22 uh, sort of straight out of high school.

23 Was it, uh, through something that was
24 done -- it was automatic, but was -- was there any
25 voter fair that you had to attend, or was it your

1 driver's license?

2 A I don't think the Motor Voter law was in
3 effect back -- I'm a -- I'm a little older than you,
4 but, it may have been the Motor Vehicle Act where,
5 when you got your driver's license, once you turned
6 18, you were automatically registered to vote.

7 Uh, I believe that's -- I believe I just
8 received my voter registration card in the mail.
9 Like I say, that's -- you know, that's 30-something
10 years ago. I don't remember going downtown to get
11 an election card.

12 I'm almost for certain that, at that time,
13 voter registration was automatic, uh, when you
14 turned 18, if you had a driver's license.

15 Q Okay. I understand. That's kind of what
16 I was looking for.

17 Uh, have you ever been registered anywhere
18 else out- -- outside of Georgia?

19 A I think I probably registered in Iowa in
20 order to vote for the election, but I'm -- for the
21 president. But I'm not 100 percent sure. I
22 think -- I think I did, I think I remember
23 transferring my voter registration to Des Moines
24 during law school so that I could vote in Iowa.

25 And then I transferred back to Georgia

1 when I came back in 1994.

2 Q And you -- you said you voted in every
3 presidential election for sure.

4 Uh, are you registered at your current
5 address, the -- the Spalding --

6 A [REDACTED]

7 Q -- County -- yeah.

8 A Yes.

9 Q Okay. Uh, what district -- actually,
10 before we get to that, hold on one second. I'll
11 save that question. You mentioned you voted in the
12 presidential elections basically since you've -- you
13 were originally registered.

14 Did you also vote in the primaries of
15 those elections?

16 A Yes.

17 Q What about the off year uh, gubernatorial
18 year elections?

19 A Yes, I voted in every gubernatorial race.

20 Q Okay. What precinct did you vote in for
21 the November 2022 election?

22 A I voted here at my precinct at the UGA
23 campus. I'm not sure of the precinct number.

24 Q Okay. That's -- that's fine. Have you
25 voted in, uh, this -- this current runoff?

1 A No. I'm going to vote today for Reverend
2 Raphael Warnock.

3 Q Okay. Besides Iowa and Georgia, have you
4 voted in any other state?

5 A No.

6 Q Uh, at any point in your time as a voter,
7 have you ever considered yourself to be a member of
8 the Republican Party?

9 A No.

10 Q And is it fair to say that you generally
11 support Democratic candidates for election here in
12 Georgia?

13 A Yes.

14 Q And I know you said you've never
15 considered yourself a member of the Republican
16 Party, but is there any Republican candidate in
17 Georgia that you've ever voted for?

18 A Probably.

19 Q Probably, but you don't know in particular
20 anyone?

21 A I don't generally -- I mean, I don't
22 delegate my vote to a party solely. If there's an
23 individual that I don't think serves my -- my
24 beliefs, uh, I would entertain voting for somebody
25 else.

1 But, uh, the -- I don't remember
2 specifically voting for anybody -- any Republican
3 other than not voting for Bill Clinton during his --
4 his reelection. And that was because I had a issue,
5 uh, with his impeachment and lying under oath. And
6 I couldn't bring myself to vote for him the second
7 time.

8 Q Uh-huh (affirmative).

9 A And it --

10 Q And in that year, um, Bill Clinton's
11 reelection, uh, did you sit that one out, or did you
12 vote third party or --

13 A I voted for Ralph Nader.

14 Q (Nodded head affirmatively,) okay. Are
15 there any -- now, we just came off an election.

16 Um, are there any Democrats in this 2022
17 election that -- that, uh, you chose not to vote
18 for?

19 A No. I voted straight ticket in this
20 election.

21 Q Okay. Okay. So moving on to this
22 lawsuit. Um, you're a Plaintiff in the case,
23 obviously.

24 Now did you -- how did you first hear
25 about this lawsuit? Or did you initiate it

1 yourself?

2 MS. RUTAHINDURWA: Objection.

3 A I was approached by Elbert Solomon of --

4 MS. RUTAHINDURWA: Sorry, let me --

5 A -- (inaudible, overtalking) Democrats.

6 THE COURT REPORTER: I'm sorry, I can't
7 get both of you at once.

8 MS. RUTAHINDURA: Let me just get my
9 objection to the compound question. But you can
10 answer.

11 MR. JACOUTOT: Thank you. I'll -- I'll
12 rephrase. Um, and I'll just split that up.

13 BY MR. JACOUTOT:

14 Q So how did you first hear about this
15 lawsuit?

16 A Elbert Solomon, Spalding County Democratic
17 Party.

18 THE COURT REPORTER: What was the first
19 part of that? Sorry, Mr. Wimbish.

20 MR. JACOUTOT: Yeah, sorry, for, uh,
21 Ms. Smith, Elbert Solomon is also a Plaintiff in the
22 case. So his -- uh, his name is on there.

23 BY MR. JACOUTOT:

24 Q Um, which brings me, Mr. Wimbish, to my
25 next question that Elbert Solomon is also a

1 Plaintiff in this case. And you said he's also on
2 the Spalding County Board of Elections with you?

3 Or, excuse me, sorry. Strike that. He's
4 in the Spalding County Democratic Party with you?

5 A Right.

6 Q Okay. And I assume that he is not on the
7 Spalding County Board of Elections?

8 A No, he's not.

9 Q And, uh, describe sort of the context
10 of -- of how Mr. Solomon approached you and, um, how
11 you decided to join as a Plaintiff in this case.

12 A For the past five years, Elbert Solomon
13 has been working to reinvigorate the Spalding County
14 Democratic Party. Um, Spalding County demographics
15 are changing. Uh, they are more minorities moving
16 into this community. And, therefore, there has been
17 an effort to, uh -- to get those voters registered.

18 He, uh -- so the last five years, um, we
19 worked to promote voter registration, uh, through
20 Sunday voting -- well, attempting Sunday voting, had
21 Saturday -- had Saturday -- uh, Saturday voting, uh,
22 canvassing neighborhoods, getting people to register
23 to vote, um, because the demographics are changing.

24 Um, and so we are seeing more Democrats,
25 um, come into the community, even though this is

1 a -- undoubtedly a red -- uh, red district, it is,
2 um, 77 percent Republican. Uh, we believe that the
3 lines have been drawn here to exclude and suppress
4 the voting interests of African-Americans and other
5 minorities.

6 And so I've worked with Elbert Solomon now
7 for five years now to change those demographics so
8 that we can have more people involved and in the
9 democratic process to ensure that minority voters,
10 especially black, African-Americans and Hispanics,
11 are able to have their interests represented.

12 Q Okay. So it's been basically an ongoing
13 conversation between you and Mr. Solomon.

14 And when the districts were drawn, um, is
15 it correct to say that you saw an opportunity to --
16 to effect some change via this lawsuit?

17 A An opportunity? Uh, it is -- we are
18 fighting to ensure that every American has the right
19 to cast a vote and have their vote matter. Um,
20 lines are being drawn to suppress the votes of
21 African-Americans, um, Hispanics, and other
22 minorities.

23 And the opportunity that we see is an
24 opportunity to increase democracy in America.

25 Q Uh-huh (affirmative). And you've been

1 talking with Mr. Solomon about this for, as -- as
2 you mentioned earlier, about five years?

3 A Um, since I've been here in Spalding
4 County, I met Mr. Solomon probably in 2017. Um, and
5 then I just con- -- I've worked alongside him in
6 other organizations that promote voter registration,
7 voter empowerment.

8 Q Uh-huh (affirmative). Um, now, the -- the
9 lines for this map were redrawn, uh, this year;
10 correct? 2022, early?

11 A Yes.

12 Q Um, were you satisfied with the -- the
13 lines as they were drawn in the prior map?

14 A I've -- I've never been satisfied with any
15 lines that have been drawn because, um, the lines
16 are drawn, uh, what I believe is probably a
17 gerrymandering process. I think the lines that are
18 drawn in this community are drawn so that the -- the
19 black vote is -- is diluted. And so it's historical
20 in this area.

21 Q Did you and Mr. Solomon ever discuss the
22 prior map or the pre, uh -- the map that was, um, in
23 existence before the current enacted map?

24 A No.

25 Q Okay. But you mentioned earlier -- and

1 correct me if I'm wrong -- that you weren't
2 satisfied with the map as it was enacted back in
3 2017 and 2018?

4 A I don't think I said anything specifically
5 about the maps. I -- I've spoken in terms of
6 historical. But I don't -- without having the maps
7 in front of me --

8 Q Uh-huh (affirmative)

9 A -- uh, what I said was, historically
10 speaking, in the state of Georgia, lines are drawn
11 to disenfranchise African-Americans.

12 Um, as it -- as it is related to here, um,
13 even here in Spalding County, I believe the lines
14 are drawn to disenfranchise African-Americans. I
15 think we need new lines and new districts created so
16 that individuals have the right to participate in
17 democracy. Uh-huh (affirmative.)

18 Q So what, I guess -- strike that.

19 Considering the fact that you haven't sued
20 the Secretary of State in the past for the way the
21 maps have been drawn, what is it about this
22 particular drawing of the enacted map that caused
23 you to sue the Secretary of State and the State
24 Election Board?

25 A Uh, it just continued -- we live in a

1 district where the numbers are 65, 70 percent
2 Republican and thirty- -- 35, 40 percent Democrat.
3 And the maps are drawn, uh, to that effect,
4 especially, we live in a -- in a county where the
5 vast majority of the city population are African- --
6 African-Americans.

7 Uh, the County, um, those demographics are
8 largely so the maps are drawn to bring in those
9 voters from outside the city limits, you know, to
10 effectively elect Repub- -- elect Republicans.
11 There's not a -- it's not rocket science for me.
12 Maps are drawn for those who are in political power.

13 Um, and unfortunately, what that means,
14 oftentimes, is that minorities, their votes are
15 diluted. If you have a -- you have a map where
16 minorities are participating at high rates, and they
17 are having -- they will have the ability to elect
18 those who subscribe to their interests, oftentimes,
19 after the maps are redrawn, they're redrawn in the
20 manner that you split those -- you split those votes
21 up.

22 And, all of a sudden, you've got neighbors
23 living next to neighbors who are voting for two
24 different districts and getting two different
25 results. Even though they sit side by side and have

1 the same interests, they're unable to -- they're
2 unable to vote in individuals who represent them
3 because the maps are drawn in ways that are just
4 crazy. Um --

5 Q Um, what are you hoping this lawsuit
6 accomplishes?

7 A I'm hoping this lawsuit creates
8 districts -- um, senatorial districts and house rep
9 districts, um, where African-American voters,
10 Hispanic voters, and other minority voters have a
11 fair chance of, uh, electing individuals who
12 represent their interests.

13 Q Okay. I'm going to switch gears a little
14 bit here. Um, but it's going to seem like an abrupt
15 change of topic.

16 Um, but when did you first communicate
17 with a lawyer about this case?

18 A I have no idea.

19 Q Would it have been, uh, in 2021?

20 A It would have been shortly before the
21 complaint was filed.

22 Q Okay. Matter of weeks, probably? Is that
23 fair to say?

24 A I have no idea, (witness shook head
25 negatively.)

1 Q No idea? Okay. Do you recall who you
2 communicated with first in terms -- uh, excuse me,
3 uh, strike that.

4 Do you recall which lawyer you
5 communicated with first about this case?

6 A I cannot recall, (witness shook head
7 negatively.)

8 Q Do you recall what law firm you
9 communicated with first about this case?

10 A I cannot recall, (witness shook head
11 negatively.)

12 Q Can you recall if you reached out to
13 contact the lawyer to communicate about the case, or
14 do you recall -- or was it the lawyer that reached
15 out to you?

16 MS. RUTAHINDURWA: Objection, compound.

17 MR. JACOUTOT: Yeah. I'll rephrase.

18 BY MR. JACOUTOT:

19 Q Uh, do you recall if a lawyer reached out
20 to you, uh, to initiate this case?

21 A (Witness shook head negatively,) I recall
22 Mr. Solomon called me and said they were looking for
23 Plaintiffs. And then the law firm contacted me to
24 verify my interest. And that was that.

25 Q What was -- uh, you said Mr. Solomon

1 called you and said that they were looking for
2 Plaintiffs for this case?

3 Um, what did -- what did you and
4 Mr. Solomon say in that conversation?

5 A I said yes.

6 Q And that was it?

7 A There was just -- it was just really no
8 discussion to be had.

9 Q Did Mr. Solomon tell you what he was
10 hoping to achieve with this lawsuit?

11 A Didn't have to.

12 Q So then, no, he didn't tell you what he
13 was hoping to achieve?

14 A I don't recall if he framed it in that
15 term. He said that the community needs to respond
16 to the redrawing of the maps. I agreed. Um, I'm in
17 the position of being able to participate in such
18 lawsuits because I'm insulated. Uh, and I recognize
19 that.

20 I recognize that I sit in a very, uh,
21 unique position in terms of being able to work for
22 myself. I don't have to bow down to certain
23 political, uh, and social pressures in this
24 community. Uh, I'm -- so I'm able to stand up and
25 speak for those who normally can't speak.

1 Uh, we live in a community where people
2 are, uh, sometimes threatened and discouraged from
3 voting. And so it's incumbent upon myself and
4 others to take the position of leadership. I don't
5 have an issue with taking the hits and the lumps
6 that come along with this process because I
7 understand how white supremacy is embedded in the
8 voting rights system and how it works to
9 disenfranchise voters.

10 And so if somebody asks me to serve as a
11 plaintiff -- a plaintiff to -- um, to ensure that
12 individuals are able to participate in the
13 democratic process, and I understand that a lot of
14 this comes from, uh, changing the political lines.
15 Uh, when Georgia went blue in the last, uh,
16 gubernatorial election, uh, is -- there is a
17 strategy put in place by the Republican Party to
18 dilute voters of minorities.

19 And I stand firm on, uh, making sure that
20 minority voters, uh, who are oftentimes Democrat,
21 are able to participate in the democratic process.
22 And they should not be excluded from the democratic
23 process because those in power tend to draw the
24 lines and create obstacles -- um, obstacles that are
25 made -- uh, capsulized in the Senate Bill 202, uh,

1 where it is clear that these are draconian measures
2 to suppress the vote of African-Americans and other
3 minorities.

4 Q You said Mr. Solomon -- uh, when he --
5 when you were speaking with him about joining the
6 case, he said that the community needed to respond
7 to these maps, essentially; is that correct?

8 A The maps are part of an overall strategy
9 to dilute power of African-Americans and other
10 minorities to participate in the political process.
11 It is not simply about the maps. It is about the
12 strategy of the Republican Party to disenfranchise
13 minority voters.

14 Q Uh-huh (affirmative). Um, and that's
15 fair. Uh, my question though is, the -- he
16 references the community.

17 Um, would you mind describing the
18 community that he's referring to?

19 A He's referring to minority -- uh, members
20 of the minorities who are also, uh, members of the
21 Democratic Party because the Democratic Party shares
22 the interests and the agenda of many of those
23 minorities. And those minorities voting pop- -- um,
24 that voting population, their power has been
25 diluted.

1 Q Okay. And that's where -- regardless of
2 where those individuals exist in the state, the
3 community involves minorities and Democrats all over
4 the state?

5 A It's regardless of where individuals live
6 in the United States of America, the United States
7 of America. We have a political system that
8 systematically disenfranchises the rights of voters
9 who happen to be minorities.

10 MS. RUTAHINDURWA: And, apologies. I'm
11 going to give a belated objection, to the extent,
12 uh, he's speaking on behalf of Mr. Solomon. Um,
13 that (inaudible, cutting out) -- but I'm sorry I
14 didn't do it beforehand, but --

15 MR. JACOUTOT: No, that's fine, that's
16 fine. I appreciate that.

17 BY MR. JACOUTOT:

18 Q So after speaking with Mr. Solomon, you
19 said you were contacted by a law firm. And you --
20 is it true that -- well, let me -- so I don't get a
21 compound objection, let me say that again.

22 After speaking with Mr. Solomon, you were
23 contacted by a law firm; correct?

24 A Correct.

25 Q And you don't remember which law firm that

1 is?

2 A I remember that Makeba is my attorney.
3 Uh, I'm a practicing attorney. And for me to be
4 able to remember law firms, I, uh -- if I can't -- I
5 need to pick the file up because I probably deal
6 with 100 law firms in a year's time, so I -- I don't
7 know.

8 Q Okay. Apart from your own sort of lived
9 experience, did you do any research concerning the
10 issues in this case, um -- yeah, let's start with
11 that.

12 A No.

13 Q Okay. And it sounds like there wasn't
14 much research done with respect to your -- the
15 attorneys that were, uh, contacting you to represent
16 you?

17 A Not my job.

18 Q Okay. Um, are you getting any sort of fee
19 contract for your participation in this lawsuit?

20 A Am I getting paid?

21 Q Yeah.

22 A Is that what you're asking?

23 Q Yeah.

24 A No.

25 Q Okay. Okay. Uh --

1 A I've never known for plaintiffs to get
2 paid.

3 THE COURT REPORTER: I'm sorry, what?
4 Please repeat?

5 BY MR. JACOUTOT:

6 Q Oh, yeah, I understand. It's a rather
7 boilerplate question that we have to ask.

8 MR. JACOUTOT: So I'm going to move us to
9 what will be marked as Exhibit 2. I'm going to pull
10 up screen share again. Oh, hold on one moment. Got
11 to log back in.

12 (Defendant's Exhibit 2 marked)

13 BY MR. JACOUTOT:

14 Q Okay. Is that showing up on your screen,
15 Mr. Wimbish?

16 A Yes.

17 Q Okay. We'll mark -- this is, uh -- excuse
18 me, let me change the file here.

19 So do you see where it says, Second
20 Amended Complaint at the bottom?

21 A Yes.

22 MR. JACOUTOT: Okay. Great. And, for the
23 court reporter, we'll mark this as Exhibit 2.

24 BY MR. JACOUTOT:

25 Q Mr. Wimbish, have you seen this document

1 before?

2 A Yes.

3 Q When was that?

4 A Early -- is this the -- this is the recent
5 second amended that was filed in October. So it
6 would have been sent out sometime in October of
7 2022. I don't know what day -- I don't know what
8 day I received it.

9 Q Uh-huh (affirmative), but you did receive
10 it, um, at some point after October 28 --

11 A Right --

12 Q -- 2022?

13 A -- right.

14 Q Okay. Have you actual- -- have you read
15 this particular version of the complaint, the Second
16 Amended Complaint?

17 A I have not.

18 Q Okay. Do you know all the allegations
19 contained in this document?

20 A Uh, I guess I know the overall, um, tenor
21 of the document and the allegations that are
22 brought, yeah.

23 Q Okay. I'm going to direct your attention
24 to paragraph 18. Getting there. Uh, here on page 9
25 of the second amended complaint.

1 Uh, do you see that?

2 A Yes.

3 Q Okay. And is the information -- or let me
4 first ask you.

5 Uh, have you read through paragraph --
6 paragraph 18 of the Second Amended Complaint that,
7 uh, I'm showing here?

8 A I'm reading it now for --

9 Q Okay.

10 A -- the first time.

11 Q Yeah. Take your time. It goes to the
12 next page too. So if you want me to flip down, let
13 me know.

14 A Yeah, flip it down. Okay.

15 Q Okay. So you've -- you've read the
16 paragraph 18 now?

17 A Uh-huh (affirmative).

18 Q And is the information contained in this
19 paragraph accurate as it relates to you?

20 A Yes.

21 Q Okay. Now, you -- according to
22 paragraph 18, you reside in Senate District 16; is
23 that correct?

24 A Is that Marty Harbin's district?

25 Q Um, I am not sure. Does that number --

1 does that district, uh, sound familiar to you,
2 Senate District 16?

3 A Yes, I think that's my district. My
4 representative is Marty Harbin.

5 Q Okay.

6 A And my State House rep is, uh, Karen
7 Mathiak.

8 Q Okay. And, um, when you voted in the 2022
9 general election, uh, did the candidate you voted
10 for in Senate District 16 succeed?

11 A No.

12 Q Did the candidate you voted for in House
13 District 74 succeed?

14 A No.

15 Q Did you reach out to any legislature --
16 or, excuse me, uh, did you reach out to any
17 legislator during the 2021 special session
18 concerning the redistricting issues that are raised
19 in this complaint?

20 A (No audible response.)

21 Q What about after the special session
22 occurred?

23 Did you, um, reach out to any legislator
24 concerning the redistricting issues described in
25 this complaint?

1 A No.

2 Q So then I assume I have the answers to
3 these, but I'll ask them anyway.

4 Did you testify in the -- in the Georgia
5 General Assembly on any issues pertaining to
6 redistricting in 2021?

7 A No.

8 Q Did you attend any hearings in the Georgia
9 legislature pertaining to redistricting in 2021 or
10 2022?

11 A No.

12 Q Did you attend any other meetings
13 concerning redistricting in 2021?

14 A No, (witness shook head negatively.)

15 Q Okay. Uh, do you have an understanding of
16 what the term community of interest means?

17 A Yes (barely audible).

18 THE COURT REPORTER: Can you speak up for
19 me, sir? I think I heard you say "yes." But --

20 A Yes.

21 THE COURT REPORTER: -- thank you. Just
22 make --

23 A Yes.

24 THE COURT REPORTER: -- sure you're
25 speaking loud and clear. Thank you so much.

1 BY MR. JACOUTOT:

2 Q Um, what would you consider your community
3 of interest?

4 A African-Americans, minorities who also,
5 uh, oftentimes are a member of the Democratic -- uh,
6 Democratic Party, um, who are seeking to have
7 individuals elected that represent their common
8 interests.

9 Q Sorry about that. I realized we were
10 still on Exhibit share.

11 Um, would you say that community of
12 interest, in your opinion, that you just
13 described -- strike that. I'll start that over.

14 Would you say that the community of
15 interest that you just described transcends
16 geographic boundaries?

17 A Yes.

18 Q When you're speaking with people, uh, in
19 the neighborhood or in the area or really in any
20 capacity, and they ask you where you're from, how
21 would you respond where you're from?

22 A Griffin, Georgia.

23 Q Griffin, Georgia? Now I might have
24 covered this. So if I have, I think your attorney
25 will stop me.

1 But, um, have you -- do you participate in
2 any neighborhood or community associations?

3 A Other than our unofficial HOA, no.

4 Q Okay. Just an --

5 A Um --

6 Q -- unofficial HOA?

7 A -- are you talking about community-based
8 organizations?

9 Q Um, yes, yes. I am.

10 A (Witness shook head negatively,) Urban
11 Outreach Association.

12 Q And what is that?

13 A Small, nonprofit here in Spalding County
14 that does voter registration.

15 Q Okay. And how long have you been involved
16 with -- with that organization?

17 A Um, probably 2017.

18 Q Okay. Are you a member of any faith-based
19 organizations?

20 A Church.

21 Q What church is that?

22 A Rising Star Baptist Church, Griffin,
23 Georgia.

24 Q Griffin, Georgia. So that's pretty close
25 to home, you'd say?

1 A About 3 miles.

2 Q Okay. And how long have you been a member
3 of -- of that church?

4 A 2016.

5 Q Do you ever, uh -- do you regularly attend
6 any other sort of church services in the area?

7 A (Witness shook head negatively,) my pastor
8 wouldn't approve of that.

9 Q Okay. Do you participate in any
10 activities or groups within your church?

11 A Um, I'm a part of the men's ministry. Um,
12 we do -- and then whatever volunteer activities they
13 have for the community, whether it's Feed The
14 Hungry, whether it's Toys for Tots, um, we have a
15 mentor program for young people.

16 Q Apart from -- I think you mentioned one
17 community organization.

18 Uh, it was urb- -- can you remind me what
19 that was? It started with Urban.

20 A Urban Outreach Association.

21 Q Urban Outreach Association. Apart from
22 Urban Outreach Association, do you have any
23 involvement with any sort of civic organizations?

24 A (Witness shook head negatively,) no.

25 Q Okay. Uh, where do you socialize

1 typically? Is it a -- is it in your local
2 neighborhood, or do you -- do you go elsewhere?

3 A Netflix and chill.

4 Q Not bad, not bad.

5 A I don't do much socializing these days
6 with -- um, with COVID.

7 Q Right.

8 A It sort of changed a lot of things.

9 Q Sure. Before COVID, did you, uh -- did
10 you socialize in any particular areas or locations?

11 A Um, nothing more than an occasional movie,
12 dinner, (witness shrugs), things like that.

13 Q Okay. Would you say you take trips into
14 Atlanta when you -- when you do have that movie or
15 the dinner?

16 Do you go into Atlanta, or do you kind of
17 stay local?

18 A It just depends on the mood.

19 Q Okay.

20 A Atlanta is about an hour away, so
21 that's -- that's a drive.

22 Q Right.

23 A Um, and with traffic, that's sometimes two
24 hours, just to get downtown, and two hours to get
25 back. And so going to dinner or a movie or a

1 concert in Atlanta is like an all-day event. So it
2 takes a whole lot of energy.

3 Q And you can't ever count on that Peach
4 Pass lane going your direction.

5 A Exactly.

6 Q Okay. Um, outside of sort of work and
7 church, where -- where would you say you spend most
8 of your time?

9 A Home.

10 Q Okay. So I'm going to switch gears here
11 again. These are going to be some kind of typically
12 more rapid-fire questions. But, uh, we are nearing
13 the end.

14 So if you'd like to take a break, we can
15 do that. I -- I don't think we've got a whole lot
16 more time, but I guess it also depends on your
17 answers as well.

18 A No, I'm fine.

19 Q Okay. Great. Um, have you ever been
20 prohibited from registering to vote based on your
21 race?

22 A No.

23 Q Have you ever been prohibited from
24 participating the political process based on your
25 race?

1 A No.

2 Q Uh, do you have any personal knowledge of
3 discrimination by the government of Georgia against
4 members of a minority group related to participation
5 in the democratic process?

6 A No.

7 Q Um, do you know what racially polarized
8 voting is?

9 A Not really.

10 Q Okay. That's fine. Um, in your -- in
11 your opinion, do black voters in Georgia generally
12 vote for Democratic candidates?

13 A Yes.

14 Q Okay. Do you know if -- if, uh -- excuse
15 me, strike that.

16 Do you know if Georgia uses a majority
17 vote requirement in its elections?

18 A I do not know. I know that in order to
19 win, you have to have 50 plus one.

20 Q Okay. Yeah. That's what I'm referring
21 to. Um, you'd agree with me that that requirement,
22 which we'll refer to as the majority vote
23 requirement, um, led to the runoff election in 2021?

24 A Which election in 2021?

25 Q Uh, I believe it was Senator Per- -- or

1 excuse me, I'll rephrase.

2 In 2021, was -- the election between
3 Senator Ossoff and -- and former Senator David
4 Perdue had a runoff election?

5 A Okay. And what was the question again?

6 Q Sure. Uh, and I might -- I'll just
7 rephrase it a little -- little differently too.

8 Do you recall that in 2021, the election
9 between Senator -- then Senator Perdue and
10 Senator Ossoff went to a runoff?

11 A Okay, (nodded head affirmatively). I
12 recall that because I voted for, uh, Ossoff.

13 Q Okay. And Senator Ossoff won that runoff
14 election; correct?

15 A Yes.

16 Q Okay. Are you familiar -- oh, excuse me.
17 Are you familiar with the term candidate slating
18 process as it's used in elections?

19 A Yes.

20 Q Is there a -- in your opinion, is there a
21 candidate slating process in Georgia?

22 A Uh, I don't know how I would be able to
23 answer that question. Because I don't know how --
24 no. I don't know if that's -- I don't know how to
25 answer that question.

1 Q Okay. Um, in this case, if the answer is
2 I don't know, um, that's a -- that's a perfectly
3 acceptable response as well. Um, so that might be
4 the answer, but I'll just -- I'll ask it again. And
5 if it's -- if that's the answer, we can go with
6 that. If not, we can go with whatever you say.

7 Um, is there a candidate slating process
8 in Georgia, in your opinion?

9 A You mean for each political party?

10 Q Uh, well, let's start with that. For --
11 we can start with, um, is there a candidate slating
12 process in Georgia for the Democrat Party?

13 A I don't --

14 MS. RUTAHINDURWA: I'm going to object --

15 A -- know.

16 MS. RUTAHINDURA: Sorry. Let me -- I'm
17 going to object as vague as to the definition of
18 candidate slating process. Calls for a legal
19 conclusion.

20 You can answer.

21 MR. JACOUTOT: Sure.

22 BY MR. JACOUTOT:

23 Q Uh, and let me rephrase. Uh, it's --
24 let's go back a little bit.

25 How do you -- what do you understand the

1 term candidate slating process to mean as it
2 pertains to elections?

3 A That each party that produce -- that
4 presents a -- a slate of candidates for each office.
5 Now, how they end up with that slate, I don't know
6 how that process happens.

7 Q Okay. Um, we can -- we can move on. I'll
8 move on.

9 Um, so back to your personal experience.
10 Has -- has any lack of education kept you from
11 participating in Georgia politics?

12 A No.

13 Q Have any lack of employment opportunities
14 kept you from participating in Georgia politics?

15 A No.

16 Q And has any lack of access to adequate
17 health services kept you from participating in
18 Georgia politics?

19 A No.

20 Q Uh, okay. Are you aware of the term
21 racial appeals, um, when used in the context of
22 elections?

23 A Uh, I'm not sure if I'm -- I'm not aware
24 of that specific terminology. I can -- I can infer,
25 um, what it might mean.

1 Q Sure. Let's -- let's, um, go with, uh,
2 what your -- what is your understanding of the term
3 racial appeal -- of racial appeals as used in the
4 context of elections, if any?

5 A I'm assuming that you're talking about
6 appeals that are targeted towards a particular race,
7 ethnicity.

8 Q And -- and sort of using that definition
9 that you just -- you just, um, spoke, have you
10 personally seen campaigns in Georgia that
11 characterize by racial appeals?

12 A All politics is characterized --
13 characterized by racial appeals, whether it's spoken
14 or unspoken.

15 Q Uh, and to make sure I've got your
16 definition sort of, um, correct, in my mind, um,
17 when you say all politics is characterized by racial
18 appeal, um, is it uniformly a neg- -- in your
19 opinion, a negative that such appeals are made?

20 Or do you find racial appeals to be
21 potentially positive in campaigns?

22 A I think politics, to a large extent, are
23 corrupt. I think politics, to a large extent, is
24 racially based. I think that you have appeals that
25 are, uh -- that some use clear racial appeals. And

1 you have others that use code words, uh, that
2 essentially have the -- the same -- the same effect.

3 I think, at the end of the day, they're --
4 uh, in my personal opinion, you have two major
5 political parties, Democrats and Republicans, I
6 stated before, that have two separate ideologies.
7 And the distinction for me is that the Democratic
8 Party believes inclusion, believes -- they want --
9 they encourage voting. If they -- if -- if we had
10 our way, we'd have same-day voter registration,
11 we -- uh, we have advanced voting, we'd have Sunday
12 voting, we'd have -- we'd have Saturday voting, we'd
13 have mail-in ballots. We -- we would have any
14 available opportunity for an American to cast the
15 ballot.

16 Conversely, I believe the Republican Party
17 strives to suppress the vote of those who don't
18 share their same ideology. They don't want a level
19 playing field. They don't want everybody to
20 participate in the political process.

21 And so you have individuals who don't have
22 political, social, economic means, educational
23 means. I mean, you -- you ask me these questions,
24 but look at my wall. I'm 53 years old. I'm an
25 attorney, got a Ph.D., a Master's, my own law firm.

1 For me, politic- -- participating in the political
2 process, who is going to stop me from participating
3 in the political process? Because they know I'm
4 going to challenge them at every turn.

5 But that's not the case for people who are
6 struggling just to live day-to-day. And they got to
7 make a choice between standing in line for an hour
8 to cast their ballot or going out and trying to work
9 and take care of their family. And so we can play
10 this -- this game that we all don't know that
11 America is still clouded in white supremacy and the
12 intentional desire to suppress the votes of those
13 who are not in the majority.

14 I don't know if I answered your question
15 (witness shrugs), but that's just how I feel.

16 MR. JACOUTOT: I suppose I will object to
17 that on the basis of -- of nonresponsiveness.

18 BY MR. JACOUTOT:

19 Q Um, and I do want to actually get -- just
20 get this question onto the record, and, you know,
21 answer as best you can. I certainly understand, uh,
22 your position and your willingness to sort of, um,
23 expand on your views.

24 Um, but for the record, have you
25 personally seen campaigns in Georgia characterized

1 by racial appeals? And, if so, which ones?

2 A I'm going to say -- I want to say yes, and
3 then I'm going to say, nothing jumps out at me right
4 now.

5 Q Okay. Yeah. And so I did ask a compound
6 question just then, and so I'm going to just
7 separate it apart real quick.

8 So it's your testimony that you have seen
9 racial appeals -- excuse me, it's your testimony
10 that you have personally seen campaigns in Georgia
11 characterized by racial appeals; correct?

12 A Yes.

13 Q And it's also your testimony that you
14 can't really think of one off the top of your head
15 at this moment; is that correct?

16 A Right.

17 Q Okay. That's fine.

18 A Well, uh, actually, I can. I'll give
19 you -- I'll give you a prime example. Um, the
20 Senator Warnock campaign, and in the campaign
21 where -- where they're saying that Senator Warnock
22 votes with, uh, President Biden 96 percent of the
23 time.

24 That's a racial -- that's a racial appeal,
25 because what it is is it is a message to -- to white

1 people that if you vote for Senator Warnock, he's
2 going to vote against white interests. You know,
3 it's coded. And -- and so that's what we have.
4 We -- we have more coded, rather -- this is not the
5 whole -- or the Willie Horton, uh, ad that we saw
6 years ago.

7 This is not -- this is not necessarily a
8 Willie Horton ad, but these ads have to come -- I
9 mean, there's billions of dollars being spent on
10 these -- developing these ads. And -- and they are
11 developed to reach the -- the racial beliefs that we
12 all have, (witness shrugs).

13 Um, there's -- there's -- there's no doubt
14 that elections are about -- they're black and white.
15 And it's about the decision to elect somebody who is
16 going to be inclusive, who wants a diverse cabinet,
17 or you -- a party that's going to put somebody up
18 for election who has virtually no connection to the
19 African-American community, does not have -- uh,
20 does not share the same values and beliefs of the
21 African-American community, and who, if elected,
22 will be nothing more than a puppet.

23 I mean -- so, yes, they're racial appeals.
24 That's -- that's our political system now.

25 Q Okay. Uh, do you know how many black

1 people have been elected to public office in
2 Georgia?

3 A I have no idea.

4 Q Do you know that -- are you familiar with,
5 uh, former Chief Justice Harold Melton?

6 A Yes, know him well.

7 Q Do you know that he was elected statewide
8 to be in that position?

9 A Yes.

10 Q And you're certainly aware that
11 Senator Raphael Warnock was elected statewide to the
12 United States Senate in 2021?

13 A I -- yes, I am aware that certain
14 individuals who have the financial means to
15 negotiate through the political process, despite
16 their -- their racial background, are able to win at
17 that level. But also I understand that most
18 individuals do not have the means to get elected.

19 And, in those cases, it is less about race
20 and more about money.

21 Q Okay. And I think that you alluded to
22 this earlier.

23 Um, but are you -- you're aware that
24 Herschel Walker is running on the Republican ticket
25 for the U.S. Senate runoff?

1 A Unfortunately, yes.

2 Q And he is a black Georgian; is that
3 correct?

4 A Some might dispute that, but, yes.

5 Q Um, that's interesting. On what basis,
6 uh, would you say someone would dispute that
7 characterization of Mr. Walker?

8 A In the black community, there is an
9 understanding that everybody who looks like you is
10 not necessarily your brother. Um, so when it comes
11 to political ideology, and you are talking about
12 somebody like Herschel Walker, who espouses -- uh,
13 he does not necessarily espouse the same values and
14 beliefs of African-Americans.

15 Now, I don't have an issue with him
16 running in that position. Uh, but I am insulted by
17 the Republican Party, the Republican Party that
18 believes that they could essentially put anybody up
19 for election who is black and think that black
20 people would vote for them simply because they're
21 black.

22 We have come further than that. This is
23 not about being able to elect a black person. It is
24 about being able to elect a black candidate of your
25 choice, or a candidate of your choice. He

1 doesn't -- the person does not have to be black in
2 order to be my candidate of choice. The issue is
3 that person having common interests to a voter.

4 Uh, and -- and so that's what this is
5 really about. It's -- there are many layers to
6 this. We are a -- not a monolithic community. And
7 I think that's what people fail to understand, that
8 we're simply arguing about black and white.

9 We're not arguing about black and white.
10 We're arguing about democracy. As an
11 African-American, I should be able to vote and elect
12 somebody who shares my common interests.

13 And when lines are being drawn to separate
14 communities, neighbors, from being able to have a --
15 to elect candidates of their choice, I think that's
16 unconstitutional. And I think it is, uh, in direct
17 opposition to what democracy is.

18 Q Okay. And, now, when you were just
19 responding there, I think, um --

20 A Herschel Walker is black. Let me ask --
21 let me answer that question for you. He is black.

22 Q Thank you. Um, and, now, regardless of
23 the outcome of today's election -- when I say
24 today's election, I mean, the runoff, you know,
25 election that's occurring today -- um, Georgia will

1 be represented by a black man in the United States
2 senate; is that correct?

3 A Yes.

4 Q Okay.

5 A (Witness nodded head affirmatively.)

6 Q And you did -- am I correct in -- in, um,
7 referring back to your earlier response that, just
8 because the representative from the state of Georgia
9 is black, that does not mean that you are personally
10 satisfied; is that correct?

11 A No, correct.

12 Q And I want to go back, too, just a little
13 ways further from your -- from what we were just
14 talking about.

15 You mentioned earlier, I believe, uh,
16 that -- I think, that elections are black and white.
17 Do you recall that?

18 A Yes.

19 Q Can you kind of just expand on what you --
20 what you meant by that?

21 A This country was founded on white
22 supremacy. It is the building block of our
23 political system. Race is always at the forefront
24 of every discussion, whether explicit or whether
25 implied. There is a constant battle in this country

1 for the majority to maintain control.

2 One of the things I discovered in my
3 doctoral, uh, process, the changing demographics,
4 the browning of America, for -- since the inception
5 of this country, we have abided by the rule of the
6 majority rule. And so now that we move to a place
7 where the majority is not a majority of one color,
8 i.e., white, but a majority of different
9 nationalities, different -- different ethnic groups,
10 there is a strategy to move the goal- -- the
11 goalposts.

12 That what is we are seeing now. We are
13 seeing -- even in terms of a former president
14 talking about suspending the Constitution. This is
15 the future of America. And this is what we're
16 fighting against.

17 The majority that had been in majority for
18 the past 400 years is about to be, at some point in
19 the near future, the minority. And so the question
20 becomes, how does the now majority control how the
21 new majority treats them? Whether they're going to
22 treat them with equity and fairness or whether
23 they're going to do to them the same thing that has
24 been done to black people for the past 400 years.

25 That's what this fight is really about.

1 That's the fight nobody wants to talk about.
2 Because for 400 years, the white majority has
3 denigrated, enslaved, and controlled
4 African-Americans and other minorities. There is a
5 fear in the white population that once we are in
6 charge and we are the majority, are we going to do
7 the same thing to the white population that they did
8 to us.

9 And that's what that is really about. It
10 is about political control because that is how this
11 country has operated since its inception. That's
12 why we had what we had in the January insurrection,
13 because there are people in this country who, for
14 generations, their forefathers have moved with a
15 white supremacist mentality and caused undue harm to
16 communities.

17 And there is a fear in this country that,
18 once the minority becomes the majority, they're
19 going to enact the same type of treatment upon them.

20 Q And you said --

21 A That's what --

22 Q -- you -- sorry. I didn't mean to
23 interrupt.

24 A That's what this fight is about.

25 Q Okay. And to be clear, you're speaking --

1 I know you mentioned that you sort of came upon
2 this -- this viewpoint, this belief, and this
3 information through your doctoral thesis -- or,
4 excuse me, dissertation.

5 Um, but you're speaking in your sole -- in
6 your capacity as a Plaintiff in this -- in this
7 situation; correct? Not as an expert witness or
8 anything like that?

9 A (Witness shook head negatively,) my
10 personal experience.

11 Q Okay. Are there any needs of the minority
12 community in Georgia that, in your opinion, differ
13 from those of white residents of Georgia?

14 A Yes.

15 Q And what needs, uh, are you referring to?

16 A The need to understand that black people
17 in this country came here as slaves, and their
18 entire existence in this country, up until the Civil
19 Rights Movement, was -- uh, and we're the only group
20 in this country where the Constitution had to be
21 amended in order to give us rights.

22 And so you -- you can't say that you don't
23 look at the needs of African-Americans through that
24 lens, because we are the only community that
25 has to -- had to have to fight that fight since we

1 were forced to be brought here to this country.

2 MR. JACOUTOT: Okay. I believe that is
3 all the questions I have for you, Mr. Wimbish.

4 THE WITNESS: (Witness nodded head
5 affirmatively.)

6 MR. JACOUTOT: Uh, I really do appreciate
7 your time, um, and your willingness to talk with me
8 in this case. Um, I think that is all I have.

9 Ms. Rutahindurwa, do you have any?

10 MS. RUTAHINDURWA: No. I don't have any
11 questions. Thank you.

12 (Signature reserved)

13 (Deposition concluded at 11:09 a.m.)

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1 The following reporter and firm
disclosures were presented by me at this proceeding
2 for review by counsel:

3 REPORTER DISCLOSURES

4 The following representations and
disclosures are made in compliance with Georgia Law,
5 more specifically:

6 Article 10(B) of the Rules and Regulations
of the Board Of Court Reporting (disclosure forms)

7 OCGA Section 9-11-28(c) (disqualification
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8 OCGA Sections 15-14-37(a) and (b)
(prohibitions
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10 - I have been assigned to make a complete and
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19 - There is no agreement in place that is
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22 as produced will be a true, correct, and complete
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23 as submitted by the certified court reporter.
- Exhibits: No changes will be made to the exhibits
24 as submitted by the reporter, attorneys, or
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25

1 - Password-Protected Access: Transcripts and
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4 which all ordering parties will have access.
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CERTIFICATE

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

I have no relationship of interest in this matter which would disqualify me from maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

I have no direct contract with any party in this action and my compensation is based solely on the terms of my subcontractor agreement.

Nothing in the arrangements made for this proceeding impacts my absolute commitment to serve all parties as an impartial officer of the court.

C Smith

, 2022.

CAROLYN J. SMITH, RMR, CCR-A-1361

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1 To: Makeba Rutahindurwa

2 Re: Signature of Deponent DEXTER WIMBISH

3 Date Errata due back at our offices:30 days

4
5 Greetings:

6 This deposition has been requested for read and sign
7 by the deponent. It is the deponent's
8 responsibility to review the transcript, noting any
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10 The deponent may fill out the Errata electronically
11 or print and fill out manually.

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2 I, the undersigned, do hereby certify that I have
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4 ___ There are no changes noted.

5 ___ The following changes are noted:

6
7 Pursuant to Rule 30(7)(e) of the Federal Rules of
8 Civil Procedure and/or OCGA 9-11-30(e), any changes
9 in form or substance which you desire to make to
10 your testimony shall be entered upon the deposition
11 with a statement of the reasons given for making
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13 please use the form below. If additional pages are
14 necessary, please furnish same and attach.

15 Page _____ Line _____ Change_____

16 Reason for change_____

17 Page _____ Line _____ Change_____

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19 Page _____ Line _____ Change_____

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24 Reason for change_____

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DEPONENT'S SIGNATURE

Sworn to and subscribed before me this ____ day of

_____, _____.

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My Commission Expires:_____

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[00122 - activist]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

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

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-00122-SCJ

**DEFENDANTS' NOTICE TO TAKE THE DEPOSITION
OF DEXTER WIMBISH**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, counsel for Defendants Brad Raffensperger, in his official capacity as Secretary of State of Georgia; William S. Duffey Jr., in his official capacity as chair of the State Election Board; and Matthew Mashburn, Sara Tindall Ghazal, Edward Lindsey, and Janice Johnston will take the oral examination of Plaintiff Dexter Wimbish on Tuesday, December 6, 2022, beginning at 9:30 a.m. and continuing thereafter until completed via Zoom videoconferencing through Veritext Legal Solutions. Details regarding

EXHIBIT

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the videoconferencing will be emailed to those participating once all arrangements are finalized.

The deposition shall be taken before a Notary Public or some other officer authorized by law to administer oaths for use at trial. The deposition will be taken by oral examination with a written and/or sound and visual record made thereof (*e.g.*, videotape, LiveNote, etc.). The deposition will be taken for the purposes of cross-examination, discovery, and for all other purposes permitted under the Federal Rules of Civil Procedure or any other applicable law.

This 1st day of December, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2022, I caused a copy of the foregoing to be served by electronic mail on all counsel of record.

/s/ Bryan P. Tyson

Bryan P. Tyson

Counsel for Defendants

**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

EXHIBIT

2

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

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

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

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