

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

ANNIE LOIS GRANT; QUENTIN T.
HOWELL; ELROY TOLBERT; TRIANA
ARNOLD JAMES; EUNICE SYKES;
ELBERT SOLOMON; DEXTER
WIMBISH; GARRETT REYNOLDS;
JACQUELINE FAYE ARBUTHNOT;
JACQUELYN BUSH; and MARY NELL
CONNER,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
WILLIAM S. DUFFEY, JR., in his official
capacity as chair of the State Election
Board; MATTHEW MASHBURN, in his
official capacity as a member of the State
Election Board; SARA TINDALL
GHAZAL, in her official capacity as a
member of the State Election Board;
EDWARD LINDSEY, in his official
capacity as a member of the State Election
Board; and JANICE W. JOHNSTON, in
her official capacity as a member of the
State Election Board,

Defendants.

CIVIL ACTION FILE
NO. 1:22-CV-00122-SCJ

**PLAINTIFFS' RESPONSE TO DEFENDANTS' STATEMENT OF
ADDITIONAL MATERIAL FACTS**

Pursuant to Federal Rule of Civil Procedure 56 and LR 56.1(B)(3), NDGa, Plaintiffs ANNIE LOIS GRANT, QUENTIN T. HOWELL, ELROY TOLBERT, TRIANA ARNOLD JAMES, EUNICE SYKES, ELBERT SOLOMON, DEXTER WIMBISH, GARRETT REYNOLDS, JACQUELINE FAYE ARBUTHNOT, JACQUELYN BUSH, and MARY NELL CONNER respond to Defendants' statement of additional material facts. *See* ECF No. 203-1.

1. When Mr. Esselstyn was creating his illustrative maps, he turned on features in the software to indicate where Black individuals were located. Deposition of Blakeman Esselstyn [Doc. 179] ("Esselstyn Dep.") 76:21-77:12, 77:20-77:25.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpts from Mr. Esselstyn's deposition transcripts demonstrate only that he at some point displayed racial information. Later in his deposition, Mr. Esselstyn clarified that the software's racial information did not predominate in any given line-drawing decision. *See* Ex. 45 ("Esselstyn Dep.") at 220:2–221:7.*

* Exhibits 1 through 23 are attached to the declaration of Jonathan P. Hawley in support of Plaintiffs' motion for summary judgment. *See* ECF No. 174. Exhibits 24 through 47 are attached to the second declaration of Jonathan P. Hawley in support of Plaintiffs' motion for summary judgment, filed concurrently with Plaintiffs' reply.

2. Mr. Esselstyn used racial data to inform decisions about which populations were included and excluded from districts. Esselstyn Dep. 76:21- 77:12, 77:20-77:25.

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited excerpts from Mr. Esselstyn’s deposition transcripts demonstrate only that he at some point displayed racial information and that this information “*inform[ed]* the decisions [he] made about which *parts of districts*”—not “which populations”—“went in and out of [] particular districts.” (emphases added). Later in his deposition, Mr. Esselstyn clarified that the software’s racial information did not predominate in any given line-drawing decision. *See* Esselstyn Dep. 220:2–221:7.

3. Mr. Esselstyn focused on areas with higher concentrations of Black voters for looking where additional districts could be drawn. Esselstyn Dep. 85:6-10.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

4. Mr. Esselstyn's county splits were often racial in nature. Report of John Morgan [Doc. 192-3] ("Morgan Report"), ¶¶ 33, 54.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited paragraphs from Mr. Morgan's report provide only descriptive information about Mr. Esselstyn's illustrative plans, not any probative analysis relating to the reasons why Mr. Esselstyn made any given line-drawing decision. Moreover, Mr. Esselstyn testified that he considered county splits in conjunction with other traditional redistricting principles in drafting his districts and disputed Mr. Morgan's characterizations of county splits being racial in nature. *See* Esselstyn Dep. 121:14–122:16, 123:7–124:10, 140:14–143:11.

5. In his process of creating Senate District 25, Mr. Esselstyn could not recall why he decided to connect Clayton and Henry Counties in a single district or what united them. Esselstyn Dep. 149:24-150:14.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he could not recall "specific reasons other than the kind of trial and error" for connecting Clayton and Henry counties in a single district at the time of his deposition, not while "creating Senate District 25."

6. In creating Senate District 25, Mr. Esselstyn significantly altered Senate District 10 to include areas with significant white populations and lengthening the district to measure 43 miles from north to south. Morgan Report, ¶¶ 26-28.

Plaintiffs Response: Objection. Defendants’ evidence does not support the fact. The cited paragraphs from Mr. Morgan’s report provide only descriptive information about enacted Senate District 10 and illustrative Senate District 10, not any probative analysis relating to Mr. Esselstyn’s map-drawing process. Moreover, the cited paragraphs do not support the assertion that Senate District 10 was “significantly altered,” as Mr. Morgan reported that the enacted and illustrative districts have similar Reock (0.28 versus 0.25) and Polsby-Popper (0.23 versus 0.19) compactness scores.

7. In the illustrative Senate plan, the only county in Senate District 10 with a majority-Black voting age population is DeKalb County. Esselstyn Dep. 152:25-153:4.

Plaintiffs’ Response: Objection. This statement is neither material nor relevant to any issue before the Court.

8. To create Senate District 28, Mr. Esselstyn connected more-urban areas of Clayton County with more-rural areas in Coweta County. Esselstyn Dep. 153:10-154:1.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only Mr. Esselstyn's agreement that Clayton County is "fairly urban" and his testimony that Coweta County is more rural than Clayton, north Fayette, and south Fulton counties.

9. Mr. Esselstyn was not trying to ensure that Senate District 28 had areas in common with each other when drawing the district. Esselstyn Dep. 154:2-24.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he was "not trying to make sure that every piece of a district has some unifying factor" and instead sought to ensure that he did not divide communities of interest.

10. Creating Senate District 28 also required changes to Senate District 35 that connected more-rural areas of Paulding County to Fulton County. Esselstyn Dep. 155:12-156:13.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript makes no mention

of rural areas and instead demonstrates that illustrative Senate District 35 made Douglas County whole and connected portions of Fulton and south Paulding counties, the latter of which is included in definitions of the Atlanta metropolitan area.

11. Mr. Esselstyn could not identify communities of interest connecting some counties in Senate District 23. Esselstyn Dep. 137:13-139:1.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he could not identify a particular community of interest that is shared by Screven and Greene counties. Moreover, Mr. Esselstyn explained that "the totality of the considerations" informed his line-drawing decisions, including population equality, contiguity, and preserving political subdivisions. Mr. Esselstyn further explained that his "approach to communities of interest is more trying to keep them intact to the extent possible rather than trying to make any two areas of a district be something that could be considered part of one community of interest."

12. In each split county in Senate District 23, Mr. Esselstyn included the higher concentration of Black voters in the portion of the county in Senate District 23. Esselstyn Dep. 140:19-142:3.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only his acknowledgement that Mr. Morgan's report concluded that the portions of counties inside illustrative Senate District 23 have higher any-part Black voting-age populations than the portions outside of the district. Mr. Esselstyn then disputed Mr. Morgan's characterization of the district. *See* Esselstyn Dep. 142:4–143:11.

13. Mr. Esselstyn's illustrative Senate plan has higher total population deviations than the enacted plan. Esselstyn Dep. 157:13-158:3.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

14. Mr. Esselstyn's illustrative Senate plan also splits more counties and precincts than the enacted plan. Esselstyn Dep. 160:24-161:5.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

15. Mr. Esselstyn did not report the compactness scores of districts that he changed, instead only reporting the average score for all districts, changed and unchanged. Esselstyn Dep. 158:23-159:7.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. Mr. Esselstyn's report included the Reock, Schwartzberg, Polsby-Popper, and Area/Convex Hull compactness scores for all districts in the enacted and illustrative State Senate plans and all districts in the enacted and illustrative House plans. *See* Esselstyn Dep. 196:19–197:4; Ex. 1 (“Esselstyn Report”) attaches. H & L.

16. Mr. Esselstyn did not include all districts he altered on Figure 8 of his report on compactness scores, but only included the new majority-Black districts. Esselstyn Dep. 160:15-23.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he did not include certain altered illustrative districts in figure 8 of his report. Mr. Esselstyn's report otherwise included the Reock, Schwartzberg, Polsby-Popper, and Area/Convex Hull compactness scores for all districts in the enacted and illustrative State Senate plans and all districts in the enacted and illustrative House plans. *See* Esselstyn Dep. 196:19–197:4; Esselstyn Report attaches. H & L.

17. Of the new districts created, illustrative House Districts 64, 117, 145, and 149 are all less than 52% Black voting age population, with several barely above 50%. Report of Blakeman Esselstyn [Doc. 192-1] (“Esselstyn Report”), ¶ 48, Table 5.

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited paragraph and table from Mr. Esselstyn’s report demonstrate that illustrative House Districts 64, 117, 145, and 149 have Black voting-age populations above 50%. The report does not suggest that any districts are “barely above 50%” or otherwise qualify the demographic statistics in this manner.

18. To create illustrative House District 64, Mr. Esselstyn connected parts of Paulding and Fulton counties but could not identify any basis for connecting those areas. Esselstyn Dep. 180:16-23.

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited excerpt from Mr. Esselstyn’s deposition transcript demonstrates that he considers Paulding and Fulton counties to both be within the Atlanta metropolitan area.

19. To create illustrative House District 74, Mr. Esselstyn connected heavier concentrations of Black individuals in Clayton County with more heavily white portions of Fayette County. Esselstyn Dep. 180:24-181:13; Morgan Report, ¶ 54.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript does not support the assertions in this paragraph, while the cited paragraphs from Mr. Morgan's report provide only descriptive information about Mr. Esselstyn's illustrative plans, not any probative analysis relating to the reasons why Mr. Esselstyn made any given line-drawing decision.

20. To create illustrative House District 74, Mr. Esselstyn lowered [] the compactness of the surrounding districts. Esselstyn Dep. 180:24-181:13; Morgan Report, ¶ 54.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript does not support the assertions in this paragraph, while the cited paragraphs from Mr. Morgan's report provide only descriptive information about Mr. Esselstyn's illustrative plans, not any probative analysis relating to the reasons why Mr. Esselstyn made any given line-drawing decision.

21. Mr. Esselstyn could not identify communities that are kept whole in House District 74. Esselstyn Dep. 181:14-182:11.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he could not recall any communities of interest at the time of his deposition.

22. To create illustrative House District 117, Mr. Esselstyn connected parts of districts from Clayton County to rural areas. Esselstyn Dep. 182:12-184:11, 185:5-8.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpts from Mr. Esselstyn's deposition transcript do not support the assertion.

23. Mr. Esselstyn was unable to identify any community that was being kept whole in District 117. Esselstyn Dep. 182:12-184:11, 185:5-8.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpts from Mr. Esselstyn's deposition transcript demonstrate that illustrative House District 117 is contained entirely within Henry County.

24. To create illustrative House Districts 145 and 149 in Macon, Mr. Esselstyn lowered the Black percentages of the existing Macon districts to make Black population available to run into other counties and raise the Black percentages in Districts 145 and 149. Morgan Report, ¶ 58; Esselstyn Dep. 187:8-19.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript does not support the assertions in this paragraph, while the cited paragraphs from Mr. Morgan's report provide only descriptive information about Mr. Esselstyn's illustrative plans, not any probative analysis relating to the reasons why Mr. Esselstyn made any given line-drawing decision.

25. As a result, all four illustrative House districts that include portions of Macon are all very close to 50% Black VAP. Esselstyn Dep. 188:21-25.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that the Black voting-age populations of these four illustrative House districts are "close to 50 percent," not that this was the "result" of any particular decisions.

26. While relying on Ms. Wright's statement for House District 149, Mr. Esselstyn agreed he did not follow what Ms. Wright said about Senate District 26 when he drew the Senate districts including those same counties on his illustrative plan. Esselstyn Dep. 185:18-186:21.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript does not support the assertion.

27. Mr. Esselstyn's illustrative House plan has higher total population deviations than the enacted plan. Esselstyn Dep. 195:7-24.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

28. Mr. Esselstyn's illustrative House plan also splits one more county and one more precinct than the enacted plan. Esselstyn Dep. 198:18- 21.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

29. While Mr. Esselstyn made Douglas County whole on the illustrative Senate plan, he introduced a new split of Douglas County on the illustrative House plan. Esselstyn Dep. 179:23-180:15.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that Douglas County is divided in his illustrative House plan and does not demonstrate that this constitutes a "new split."

30. Mr. Esselstyn did not report the compactness scores of districts that he changed, instead only reporting the average score for all districts, changed and unchanged. Esselstyn Dep. 196:19-197:4.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. Mr. Esselstyn's report included the Reock, Schwartzberg, Polsby-Popper, and Area/Convex Hull compactness scores for all districts in the enacted and illustrative State Senate plans and all districts in the enacted and illustrative House plans. *See* Esselstyn Dep. 196:19–197:4; Ex. 1 ("Esselstyn Report") attachs. H & L.

31. Mr. Esselstyn did not include all districts he altered on Figure 17 of his report on compactness scores, but only included the new majority-Black districts. Esselstyn Dep. 197:11-198:7.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Mr. Esselstyn's deposition transcript demonstrates only that he did not include certain altered illustrative districts in figure 17 of his report. Mr. Esselstyn's report otherwise included the Reock, Schwartzberg, Polsby-Popper, and Area/Convex Hull compactness scores for all districts in the enacted and illustrative State Senate plans and all districts in the enacted and illustrative House plans. *See* Esselstyn Dep. 196:19–197:4; Esselstyn Report attachs. H & L.

32. Mr. Esselstyn did not review any public comment or review any documentation related to the Fall Line until after drafting his preliminary injunction plans. Esselstyn Dep. 148:23-149:6, 194:5-195:1.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

33. Mr. Esselstyn did not know about various communities that he kept whole in his proposed districts. Esselstyn Dep. 149:19-150:14 (Senate District 25), 154:2-155:9 (Senate District 28), 180:16-23 (House District 64), 181:14-23 (House District 74), 184:5-11 (House District 117).

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited excerpts from Mr. Esselstyn’s deposition transcript demonstrate only that he was “not trying to make sure that every piece of a district has some unifying factor” and instead sought to ensure that he did not divide communities of interest, that he could not recall specific reasons for connecting part of Clayton County with Henry County, and that he could not recall some communities of interest at the time of his deposition.

34. Plaintiffs’ sole statistical expert, Dr. Palmer, declined to examine primary contests in his report. Deposition of Maxwell Palmer [Doc. 183] (“Palmer Dep.”) 59:23-60:1.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

35. Without those primary contests which would remove partisanship from the calculation, Dr. Palmer found highly polarized general-election contests. Palmer Dep. 59:23-60:1.

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited excerpt from Dr. Palmer’s deposition transcript demonstrates only that he did not examine primary data in his analysis. Dr. Palmer did not otherwise suggest that analysis of “primary contests [] would remove partisanship from the calculation.”

36. Dr. Palmer only examined general election contests in the focus areas within the timeframes considered by his report. Palmer Dep. 59:23- 60:1.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

37. As a result, Dr. Alford opined that “one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver. . .” Deposition of John Alford [Doc. 178] (“Alford Dep.”) 156:1-5.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

38. In Dr. Alford's view, the way to do that is by "looking at primaries." Alford Dep. 156:6.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Dr. Alford's deposition transcript demonstrates only his acknowledgement that Dr. Handley looked at primaries.

39. The lack of data related to primary elections (which take party out of the equation) leaves no way to determine the meaning of that polarization. Alford Dep. 29:12-14.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. Dr. Alford (and Dr. Palmer) testified that it is not possible to determine causation—which is to say, the reasons voters cast ballots for particular candidates—using the data and methodology employed by Dr. Palmer. *See* Ex. 46 at 82:17–84:14, 90:4–91:9; Ex. 47 at 88:11–17. Dr. Alford further testified that the meaning of polarization is fundamentally a legal rather than a factual question. *See* Ex. 9 at 114:13–21.

40. Dr. Alford conducted an analysis of the statewide primary election for United States Senate, in which Herschel Walker prevailed. Alford Dep. 157:5-7.

Plaintiffs' Response: Objection. Defendants' evidence does not support the fact. The cited excerpt from Dr. Alford's deposition transcript demonstrates only a

factual description about Mr. Walker's performance in the primary election, not acknowledgement that he conducted any sort of additional analysis.

41. Dr. Alford noted that "the evidence here suggests that white voters in the Republican primary did support Black candidates." Alford Dep. 157:5-7.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

42. Georgia's 2011 legislative plans were precleared by the U.S. Department of Justice under Section 5 of the VRA on the first attempt. Deposition of Orville Burton [Doc. 201] ("Burton Dep.") 63:18-25.

Plaintiffs' Response: Objection. This statement is neither material nor relevant to any issue before the Court.

43. The challenge to House Districts 105 and 111 in 2015 was dismissed after Democrats won those seats. Burton Dep. 73:19-24.

Plaintiffs' Response: Objection. This statement is neither material nor relevant to any issue before the Court.

44. The 2015 Georgia House redistricting plan was never found to be illegal by any court. Burton Dep. 73:25-74:2.

Plaintiffs' Response: Objection. This statement is neither material nor relevant to any issue before the Court.

45. Dr. Loren Collingwood was not asked by Plaintiffs to look at the role of partisanship in the voting patterns of Black and White voters in Georgia. Deposition of Loren Collingwood [Doc. 202] (“Collingwood Dep.”) 32:15-18.

Plaintiffs’ Response: Objection. This statement is neither material nor relevant to any issue before the Court.

46. Socioeconomic disparities affect political participation, regardless of the race of the voters involved. Collingwood Dep. 58:24-59:7.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

47. Voter motivation can affect voter turnout for different groups of voters. Collingwood Dep. 64:1-14.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

48. Dr. Collingwood admitted that the narrowest gap in voter turnout between Black and White Georgia voters from 2010-22 was in 2012, the year that President Obama ran for re-election, and that it was a “pretty plausible hypothesis” that Black Georgia voters were turning out in greater numbers in 2012 than in 2010 to vote for Mr. Obama. Collingwood Dep. 64:1- 25.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

49. Dr. Collingwood also testified that motivation may have increased Black voter turnout in 2018, when Stacy Abrams, who is African- American, ran as the Democratic nominee for Governor, and the gap in voter turnout between Black and White Georgia voters narrowed from 11.6% in 2016 to 8.3% in 2018. Collingwood Dep. 71:16-72:17; Report of Loren Collingwood [Doc. 191-5] (“Collingwood Report”) at 8, 12.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

50. Dr. Collingwood opined that for Black voters, voter turnout goes down as the percentage of Black voters without a high-school education goes up, but he does not know whether the same is true for White voters with and without a high-school education. Collingwood Dep. 84:3-8.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

51. Dr. Collingwood did not and would not offer an opinion that racism, rather than other factors, has caused lower turnout for Black voters compared to White voters in Georgia. Collingwood Dep. 86:22-87:13.

Plaintiffs' Response: Objection. This statement is neither material nor relevant to any issue before the Court. Moreover, Defendants' evidence does not support the fact. The cited excerpt from Dr. Collingwood's deposition transcript demonstrates only that, when asked whether racism in Georgia causes lower levels of voting participation by Black voters compared to white voters, he stated, "I don't have a specific measure of racism that's associated with voter turnout here. A social scientist would likely look at all of this and potentially say the reasons we're seeing this is because of that. But those variables don't measure that specifically."

52. Dr. Collingwood did not have an opinion on whether the 2021 Georgia redistricting (or prior redistricting since 2010) may have caused the lower levels of Black voting participation compared to White voting participation that he found in Georgia. Collingwood Dep. 87:21-88:1.

Plaintiffs’ Response: Objection. This statement is neither material nor relevant to any issue before the Court. Moreover, Defendants’ evidence does not support the fact. The cited excerpt from Dr. Collingwood’s deposition transcript demonstrates only that he did not look at prior redistricting as part of his analysis in this case.

53. Dr. Collingwood testified that the data taken from the 2020 Cooperative Election Study (“CES”) in Table 10 of his Report, “Did a candidate or political campaign organization contact you during the 2020 election?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:1-4; Collingwood Report at 37.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

54. Dr. Collingwood testified that the data taken from the 2020 CES in Table 11 of his Report, “Have you ever run for elective office at any level of government (local, state or federal)?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:5-6; Collingwood Report at 38.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

55. Dr. Burton did not identify any racial appeals in state legislative elections. Burton Dep. 126:6-127:1.

Plaintiffs’ Response: Objection. Defendants’ evidence does not support the fact. The cited excerpt from Dr. Burton’s deposition transcript demonstrates only that he could not remember if his research showed any racial appeals in state legislative races in Georgia.

56. Congressman Jody Hice lost the 2022 primary election. Burton Dep. 127:14-18.

Plaintiffs’ Response: The Court can properly consider Defendants’ submitted fact for purposes of Plaintiffs’ summary judgment motion.

57. Senator Butch Miller lost the 2022 primary election. Burton Dep. 127:19-23.

Plaintiffs' Response: The Court can properly consider Defendants' submitted fact for purposes of Plaintiffs' summary judgment motion.

Dated: May 3, 2023

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Plaintiffs' Response to Defendants' Statement of Additional Material Facts 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: May 3, 2023

Adam M. Sparks

Counsel for Plaintiffs