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Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

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P R O C E E D I N G S

Deposition of Jens Rueckert

Tuesday, February 7th, 2023

(The deposition began at 8:57 a.m.)

MR. WEIGEL: This will be the deposition of Jens Rueckert, taken by Defendant Secretary of State Brad Raffensperger and members of the State Election Board, for the purpose of discovery and all other purposes allowed under the Federal Rules of Civil Procedure.

Could the court reporter please swear the witness in.

THE COURT REPORTER: Good morning. My name is Amanda Bilbrey. I am your court reporter for today. Because we are all appearing remotely, I would like to ask everyone to be more conscientious than ever of not speaking over one another.

Before we get started, I am going to need a stipulation on the record to allow me to swear the witness remotely. The parties will stipulate that the court reporter may swear in the witness over the videoconference and that the witness has verified that he is in fact Ms. Rueckert.

Do you so stipulate, Mr. Weigel?

1 MR. WEIGEL: Yes.

2 THE COURT REPORTER: Thank you. Do you so
3 stipulate, Mr. Jones?

4 MR. JONES: Yes, I do.

5 JENS RUECKERT,
6 having been first duly sworn
7 to tell the truth under oath,
8 testified as follows:

9 MR. WEIGEL: And appearing for the
10 defendants is Dan Weigel with the law firm Taylor
11 English Duma, and I will let counsel for Mr.
12 Rueckert make his appearance for the record.

13 MR. JONES: Sure. Mike Jones of the Elias
14 Law Group. I represent the Pendergrass
15 plaintiffs, and I'm here defending Mr. Rueckert
16 this morning.

17 MR. WEIGEL: And, Counsel, is it agreeable
18 with you that all objections will be reserved
19 until hearing in this matter or the first use of
20 the deposition, with the exception of the form of
21 the question and the responsiveness of the
22 answer?

23 MR. JONES: Yes, it is.

24 MR. WEIGEL: Okay. And, Counsel, am I
25 correct in presuming that you wish to reserve

1 signature until you have had the chance to review
2 the transcript?

3 MR. JONES: Yes, that's correct.

4 MR. WEIGEL: Now, Mr. Rueckert, I'm going to
5 ask you a series of questions. The purpose of
6 this deposition is not to confuse you, so if I
7 ask you a question that you don't understand or
8 one that I phrase poorly, just let me know and
9 I'll do my best to rephrase it.

10 Since this is a virtual deposition and there
11 will likely already be some audio issues that we
12 encounter, for the court reporter it's going to
13 be important that we do a couple things. First,
14 do your best to speak clearly and loudly so that
15 she can hear you; Second, especially for
16 yes-and-no answers where your instinct may be to
17 nod or give a non-verbal response, be sure to say
18 yes or no audibly; And, finally, we have to both
19 do our best to not speak over each other or cut
20 each other off. So even if you know the answer
21 before I finish a question, make sure you wait
22 until I complete my question before you answer.
23 Likewise, I will do my best to make sure I wait
24 until you finish your entire answer before I
25 start asking my next question. Similarly, if I

1 ask a question and your attorney has an objection
2 to my question, try your best to let your
3 attorney make the objection for the record before
4 you start jumping into your answer if you are
5 still directed to do so by your attorney.

6 Mr. Rueckert, is that agreeable?

7 THE WITNESS: Yes.

8 MR. WEIGEL: Also, if you need a break at
9 any time, please just let me know. The only
10 thing I'm going to ask is that if I've already
11 asked a question, then go ahead and answer the
12 question that's been posed before we head off for
13 a break. And finally, with this being a virtual
14 deposition, it is important that we confirm that
15 you don't have any electronic devices out and
16 open for you to see during this deposition. This
17 is going to include your cell phone, so please
18 make sure you have that off or silenced, as well
19 as e-mail on your computer or laptop. Again,
20 with this being a virtual deposition, you will
21 certainly need to have the Zoom up and you'll
22 need to look at the screen for any exhibits that
23 we have, but if you could go ahead and confirm
24 and agree that you will not have your cell phone
25 on or e-mail, text messaging, or any social media

1 open during your deposition, that would be great.

2 THE WITNESS: I am using my cell phone for
3 the deposition, using the Zoom app on my cell
4 phone.

5 MR. WEIGEL: Oh. Perfect. That's great.

6 THE WITNESS: Other than that --

7 MR. WEIGEL: That's great. Now we will get
8 going, and I will start off by sharing my screen
9 with what will be marked as Defendants' Exhibit
10 1.

11 CROSS-EXAMINATION

12 BY MR. WEIGEL:

13 Q Mr. Rueckert, can you see my screen?

14 A Yes.

15 Q Okay. And can you see on the screen where
16 it says Defendants' Amended Notice to Take the
17 Deposition of Jens Rueckert?

18 A Yes.

19 Q I'm just going to quickly scroll through
20 this document, if you could follow along with me.
21 This is simply a copy of the amended notice of
22 deposition that was issued to you.

23 Mr. Rueckert, are you familiar with this
24 document as the version you received in connection
25 with this deposition?

1 A Yes.

2 Q Great. Now I will turn off my screen share
3 and we should be back in the normal view.

4 (Defendants' Exhibit No. 1 was marked for
5 identification.)

6 BY MR. WEIGEL:

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

10 A I was part of a deposition with my daughter
11 when she was in a car accident when she was -- about
12 five years ago when she was 16 years old. But other
13 than that, no.

14 Q So it was just that one time that you've
15 described?

16 A Yes.

17 Q And do you know if that case went to trial?

18 A It did not.

19 Q And you mentioned that it was about five
20 years ago; is that accurate?

21 A That is correct.

22 Q And do you recall the disposition of the
23 case or how it turned out?

24 A There was shared resolution on both sides.

25 Q Mr. Rueckert, have you taken any medications

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

3 A No, I have not.

4 Q And do you have any medical conditions that
5 would keep you from fully and truthfully participating
6 in today's deposition?

7 A No, I do not.

8 Q All right. Now shifting gears a little bit,
9 Mr. Rueckert, have you filed any election-related
10 lawsuits in the past?

11 A No, I have not.

12 Q And have any direct family members of yours
13 filed election-related lawsuits in the past?

14 A Not that I'm aware of.

15 Q Have you ever been charged with a crime?

16 A I have not.

17 Q Ever been arrested?

18 A No, I have not.

19 Q And I assume based on those responses that
20 you have also never been convicted of any crime as
21 well; would that be accurate?

22 A That's correct.

23 Q Have you discussed this case with anyone
24 other than your lawyer?

25 A Yes.

1 Q And who would that be?

2 A My wife, and a neighbor, Robert Richards,
3 and another neighbor, David Wilkerson.

4 Q And what was the nature of the
5 conversations -- not with your wife -- but with your
6 neighbors?

7 MR. JONES: And I'm just going to object to
8 this question, to the extent that, you know, the
9 question is seeking any attorney-client
10 privileged information or any information that's
11 subject to the common interest privilege, because
12 Robert Richards is another plaintiff in this
13 case. So, Mr. Rueckert, I'll direct you not to
14 respond to that question as to Mr. Richards.

15 THE WITNESS: Yes.

16 MR. JONES: But you can respond as to
17 Representative Wilkerson.

18 MR. WEIGEL: Did you --

19 MR. JONES: I'm sorry. Mr. Rueckert, you
20 can answer the question as to Representative
21 Wilkerson.

22 THE WITNESS: He did not ask a question
23 specific to Representative Wilkerson yet.

24 MR. WEIGEL: Yes. Yes.

25 BY MR. WEIGEL:

1 Q So with respect to Representative Wilkerson,
2 what was the nature of the conversations that you have
3 had with Representative Wilkerson about the case?

4 A Well, we discussed first of all the
5 gerrymandering in our district. He is a state
6 representative for my district here, and we spoke. In
7 fact, he had -- Candidate Marcus Flowers was over at
8 his residence, and I went over to his house during
9 that evening when he had the community outreach for
10 Candidate Marcus Flowers.

11 But as far as Marjorie Taylor Greene, we
12 have had many discussions on her not being fit to
13 represent our Congressional District No. 14 in the
14 House of Representatives on a national level, because
15 she does not share common interests with us. One, she
16 is racist; she is anti-Semitic. And recently she put
17 out there that she disagrees with her \$174,000 salary,
18 and she also stated that she does not enjoy being a
19 part of Congress. So we've discussed all of that
20 pretty in-depth, with her not having the
21 qualifications to represent our area and our
22 demographics and our value system and our common
23 ethics and ideologies.

24 Q And did these conversations with
25 Representative Wilkerson, have they occurred both --

1 strike that.

2 How often have these conversations with
3 Representative Wilkerson occurred?

4 A Representative Wilkerson and I, we
5 communicate a lot. So I would say probably weekly. I
6 mean, he lives right across the street from me.

7 Q So it would be fair to say that these
8 conversations have occurred both prior to filing the
9 lawsuit and after filing the lawsuit?

10 A Absolutely.

11 Q Okay. And we'll get into that probably --
12 or the subject matter of what you described a little
13 bit later. But just moving along with kind of
14 preliminary questions.

15 So have you discussed this deposition with
16 anyone other than your lawyer?

17 A No, I have not. Matter of fact, my wife
18 didn't find out about it until late last night.

19 Q And did you review anything to prepare for
20 this deposition?

21 A My attorney and I, we discussed some things
22 on yesterday in preparation. Yes.

23 Q Okay. And did those documents and those
24 discussions -- and of course, you know, don't get into
25 the nature or substance of any conversations you have

1 had with your attorney under the attorney-client
2 privilege -- but did that review help refresh your
3 recollection as to the events that you will testify to
4 here today?

5 A Not really refresh. I'm very aware of
6 what's going on. So, no.

7 Q And do you have any documents or notes with
8 you today?

9 A No, I do not.

10 Q And shifting gears again, Mr. Rueckert,
11 could you please state your full name for the record.

12 A Jens Wolfgang Rueckert.

13 Q And, Mr. Rueckert, what is your current
14 address?

15 A [REDACTED] Powder
16 Springs, Georgia [REDACTED]

17 Q And what county is that in?

18 A Cobb County. West Cobb.

19 Q And how long have you lived at that address?

20 A We moved in in December of 2014.

21 Q And have you lived anywhere else in the past
22 two years?

23 A In the past how many years?

24 Q Two years.

25 A No, sir, I have not.

1 Q And where did you live before moving to the
2 address that you just described?

3 A We lived approximately six months in Canton,
4 Georgia, Cherokee County, while the house was being
5 built. I was a schoolteacher at Cherokee High School
6 after I retired out of the United States Air Force.

7 Q And how long have you lived in Cobb County?

8 A Since December of 2014.

9 Q And have you ever resided in any other
10 county in Georgia?

11 A No.

12 Q You mentioned this -- or may have alluded to
13 this a little bit earlier, but why did you move to
14 Cobb County?

15 A I retired out of the Air Force and my eldest
16 daughter lived in Georgia, so we decided to retire
17 closer to her.

18 Q And I'm going to presume based on your
19 experience serving in the Air Force, but have you ever
20 resided in any other state?

21 A Yes, sir.

22 Q And -- and what are all those, to the best
23 of your recollection?

24 A Well, let's see. I was born in Germany. I
25 moved to North Carolina when I was almost five years

1 old, and I continued in North Carolina until 1991 when
2 I graduated high school. In August of 1991 I shipped
3 off to Lackland Air Force Base in San Antonio, Texas,
4 and I was there for basic military training. And then
5 I went to Sheppard Air Force Base, Texas, in Wichita
6 Falls, and I was there for about five months for
7 pharmacy training. And then I went to Fort Worth,
8 Texas, for my first assignment for about a year and a
9 half at Carswell Air Force Base.

10 I moved to Shaw Air Force Base in South
11 Carolina in 1993, and I stayed at Shaw Air Force Base
12 until 1999, and then I went back to San Antonio,
13 Texas, at Lackland Air Force Base and was a military
14 training instructor, drill sergeant. And then I went
15 to Wright-Patterson Air Force Base in Ohio from 2003
16 to 2007. And then we went back to Lackland Air Force
17 Base in San Antonio, Texas, where I was superintendent
18 of the pharmacy at Wilford Hall Medical Center. And
19 then in 2012 I went to Alaska, Elmendorf Air Force
20 Base, Anchorage, Alaska, and I was there until June of
21 2014 when I retired. And I was the Pacific Air Force
22 functional manager of pharmacy there, where I managed
23 pharmacies in Alaska, Hawaii, Guam, Japan, and Korea.

24 Q And we will get into your work experience a
25 little bit, but thank you so much for that background.

1 That will be very helpful for my later questions.

2 But real quickly, since this deposition is
3 occurring virtually, can you provide the address that
4 you are testifying from.

5 A [REDACTED] Powder Springs, Georgia

6 [REDACTED]

7 Q So that would be the home address that you
8 provided previously; correct?

9 A Correct. I am in my office.

10 Q Okay. And is your lawyer physically present
11 with you right now?

12 A No, he is not. He is virtually present.

13 Q And is anyone else physically present with
14 you in the room?

15 A Not in the room, no. But in the home, yes.

16 Q And do you own, either partially or full,
17 any other properties?

18 A No, I do not.

19 Q Do you rent anywhere else?

20 A No, I do not.

21 Q And have you owned any other rental
22 properties in the last two years?

23 A No, I have not.

24 Q So it would be fair to say that the
25 residence that you've identified in Cobb County is

1 your sole residence?

2 A That is correct.

3 Q And now we will shift gears a little bit and
4 talk about your education. Mr. Rueckert, what was the
5 highest level of education that you've completed?

6 A I have a master's in health administration.

7 Q And when did you receive that?

8 A 2009.

9 Q And where did you receive that from?

10 A University of Phoenix.

11 Q And aside from the master's in health
12 administration, what is the next level -- next highest
13 level of education that you've completed?

14 A I have a bachelor's in Health and Human
15 Services.

16 Q And when did you receive that?

17 A 2006.

18 Q And where did you receive that from?

19 A Wilberforce University in Ohio.

20 Q And have you -- strike that.

21 Have you completed any other university or
22 graduate-level schooling with institutions other than
23 those that we've described?

24 A Yes. I have an associate's degree in
25 pharmacy technology from the Community College of the

1 Air Force, and I have a certification in management
2 from the Community College of the Air Force, and I
3 also have a certification in pharmacy from the PTCB.

4 Q And PTCB, what is that a -- what do those
5 letters represent?

6 A Pharmacy Technician Certification Board.
7 And I was a certified teacher, but when I got out of
8 teaching that expired.

9 Q And to the best of your recollection, what
10 year did you receive the associate's degree that you
11 described?

12 A 2005.

13 Q How about the management certificate that
14 you described?

15 A 2006, I think.

16 Q Same question for the pharmaceutical
17 certificate.

18 A Originally I became certified in, I think
19 2012, and then I renewed it in 2015.

20 Q And finally how about your teaching
21 certificate?

22 A That was instated in 2014.

23 Q And aside from what you described, is there
24 any other college level education that you've
25 received?

1 A No.

2 Q And I believe you said you graduated high
3 school in 1991; correct?

4 A That is correct.

5 Q And you said that was North Carolina;
6 correct?

7 A Yes. (Audio distortion.) -- High School.

8 THE COURT REPORTER: Mr. Rueckert, I'm
9 sorry, you broke up a little bit. What was the
10 name of the high school?

11 THE WITNESS: Albemarle, A-l-b-e-m-a-r-l-e.

12 THE COURT REPORTER: Thank you.

13 THE WITNESS: Yes, ma'am.

14 BY MR. WEIGEL:

15 Q And, Mr. Rueckert, aside from what you've
16 already described, do you have any other licenses?

17 A No, I do not. Unless you consider -- I do
18 have a concealed carry license. I'm not sure if that
19 counts.

20 Q I'm talking more about professional
21 certifications and licenses, but -- but thank you. I
22 appreciate making --

23 A Under oath.

24 Q Exactly. Exactly. And same question, how
25 about certifications; any other certifications?

1 A No, sir.

2 Q How about any vocational training that you
3 are currently receiving or have received in the past,
4 other than what we've described so far?

5 A No, sir, none.

6 Q And do you currently receive continuing
7 education in any area?

8 A Yes.

9 Q And what area is that in?

10 A Pharmacy.

11 Q Now we're going to shift a little bit and
12 talk about social organizations that you're involved
13 in. Are you currently a member of any social
14 organizations?

15 A Not current members. I've been affiliated
16 with a couple.

17 Q And what have those been?

18 A American Legion and VFW.

19 Q PFW? What is that, a -- what do those
20 letters stand for?

21 A Veterans of Foreign Wars, VFW.

22 Q And how long were you a member of the
23 American Legion?

24 A I was an active member with them for two
25 years.

1 Q And to the best of your recollection, when
2 was that?

3 A 2014 to 2016.

4 Q And same question for VFW: How long and
5 around what period of time?

6 A I was never an active member with them as
7 far as being on their roll, but I helped out with
8 their organization 2014 through 2016.

9 Q How about political organizations, are you
10 currently a member of any political organizations?

11 A No.

12 Q How about activist organizations, are you
13 currently a member of any activist organizations?

14 A No.

15 Q And you touched on this previously with the
16 social organizations, but have you been -- previously
17 been a member of any political organizations?

18 A No.

19 Q And same question for activist
20 organizations: Have you previously been a member of
21 any activist organizations?

22 A No.

23 Q As I alluded to earlier, now I will shift
24 back up to the present to discuss your employment
25 history. Do you currently work, Mr. Rueckert?

1 A Yes, I do.

2 Q And where do you currently work?

3 A Wellstar Health System in Austell, Georgia.

4 Q And what do you do there?

5 A I'm supervisor of pharmacy services and
6 operations.

7 Q And what are your duties in that role?

8 A I manage just about every aspect of
9 pharmacy, from payroll to hiring and firing, to
10 ensuring the frontline operations are running smoothly
11 and the Omnicell systems are being filled with the
12 proper medications so the nursing staff can issue the
13 medications to the patients. Training, IV
14 compounding, non-sterile compounding, prepackaging
15 medications. Just about every aspect of pharmacy that
16 there is. Controlled medication, diversion
17 prevention.

18 Q And as far as your -- that current title
19 that you identified earlier, how long have you held
20 that current title?

21 A About a year and a half.

22 Q And before that what was your title?

23 A Lead pharmacy technician.

24 Q And was that with the same company?

25 A Yes.

1 Q And how long have you worked with that
2 company?

3 A About five and a half years.

4 Q What employer did you have before that?

5 A Cherokee High School. No, I'm sorry.
6 Atlanta VA Medical Center.

7 Q And how long did you work there?

8 A About a year and a half.

9 Q And prior to that did you mention Cherokee
10 High School?

11 A Yes.

12 Q And that was when you were teaching;
13 correct?

14 A That is correct.

15 Q And then prior to -- strike that.
16 What was your job before that?

17 A Before teaching at Cherokee High School?

18 Q Yes.

19 A I was the Pacific Air Force pharmacy
20 functional manager.

21 Q And was that while still being part of the
22 Air Force, or was that -- strike that.

23 Was that during the Air Force time that you
24 described earlier?

25 A Yes, it was.

1 Q Okay. And then we've covered that fairly
2 sufficiently. So you retired from -- just to quickly
3 go through it -- you retired from the Air Force in
4 2014; correct?

5 A Correct.

6 Q All right. And then I will shift a little
7 closer to the subject matter of the case and your
8 voting history.

9 Are you registered to vote in Georgia?

10 A Yes, I am.

11 Q And do you recall where you registered to
12 vote?

13 A I think I did it when I switched over my
14 driver's license.

15 Q And do you recall when you registered to
16 vote?

17 A 2014.

18 Q And have you ever been registered to vote in
19 any other state?

20 A Yes.

21 Q And what all states were those?

22 A If I remember correctly all of the states
23 that I was stationed in, Alaska, Texas, South
24 Carolina, Ohio. And I'm pretty sure I registered to
25 vote in North Carolina when I was 18.

1 Q And are you registered to vote currently at
2 your current address that you described earlier?

3 MR. WEIGEL: I think Mr. Rueckert might have
4 frozen. We can go off the record real fast.

5 (An off-the-record discussion was held.)

6 MR. WEIGEL: Okay. I will go back to my
7 last question. We are back on the record now.

8 BY MR. WEIGEL:

9 Q Mr. Rueckert, are you registered to vote at
10 your current address that you described earlier?

11 A Yes, I am.

12 Q And because this lawsuit is about voting
13 districts, do you know what voting district you
14 presently reside in?

15 A Yes. The 14th Congressional District.

16 Q And do you know what district you resided in
17 before the recent redistricting took effect that is
18 the subject matter of this lawsuit?

19 A I was in Congressman David Scott's district
20 until they redrew the lines and included this part of
21 Cobb County, which I really don't understand. Because
22 Marjorie Taylor Greene does not represent our views in
23 this part of Cobb County, and I think that's part of
24 the gerrymandering that we are litigating at this
25 point.

1 Q And was that -- that was still the 14th
2 District though that Representative Scott represented
3 you in; correct?

4 A I believe so, yes.

5 Q Okay. And have you voted in each election
6 since you've been registered to vote in Georgia?

7 A Yes, I have.

8 Q Okay. And I will go into that in a little
9 bit of detail with each type of election. How about
10 each presidential preference primary, have you voted
11 in each presidential preference primary since you've
12 been registered to vote in Georgia?

13 A Yes.

14 Q How about each primary since you've been
15 registered to vote in Georgia?

16 A Yes.

17 Q How about each general election since you've
18 been registered to vote in Georgia?

19 A As far as I know.

20 Q And then how about each special election
21 since you've been registered to vote in Georgia?

22 A I think I voted in two special elections, I
23 think.

24 Q And -- well, first, did you vote in the most
25 recent November 2022 general election?

1 A Yes.

2 Q And when you voted in that November 2022
3 general election, do you recall what precinct you
4 voted in?

5 A It was here at the Ron Anderson Center, I
6 believe, in Powder Springs.

7 Q And then how about for the special runoff
8 election that occurred following the November 2022
9 election, did you vote in that special runoff
10 election?

11 A Yes.

12 Q And do you recall what precinct you voted in
13 for that special runoff election?

14 A I'm pretty sure it was the same one, Ron
15 Anderson.

16 Q And we discussed your being registered to
17 vote in other states, and now we'll kind of go through
18 each one and talk about if you have, in fact, voted in
19 each of those states.

20 So have you voted Alaska?

21 A Yes, I did vote in Alaska.

22 Q Have you voted in Texas?

23 A I think I did.

24 Q Have you voted in South Carolina?

25 A I don't remember voting in South Carolina.

1 Q Ohio?

2 A I don't recall voting in Ohio either.

3 Q And then how about back when you first
4 registered in North Carolina, did you vote in North
5 Carolina?

6 A No, actually I wasn't there long enough.

7 Q Understandable. And now we will shift along
8 to political affiliations. Do you consider yourself
9 to be a member of the Democratic Party?

10 A Yes.

11 Q And for how long have you considered
12 yourself to be a member of the Democratic Party?

13 A Since I was old enough to vote, 18.

14 Q And have you ever held any leadership
15 position in the Democratic Party?

16 A No, I have not.

17 Q Have you ever held any position or served on
18 any committee in the Democratic Party?

19 A No, I have not.

20 Q Have you participated in any activities in
21 the Democratic Party?

22 A Yes.

23 Q And to the best of your recollection, can
24 you describe what those activities were.

25 A I remember a few summers ago when

1 Representative Wilkerson hosted a barbecue fun day at
2 a local park. I don't recall the name of the park.
3 And then most recently when Representative Wilkerson
4 had Candidate Marcus Flowers over at his house prior
5 to the election.

6 Q And so would that have been for the
7 November 2022 election that that event was associated
8 with?

9 A Yes.

10 Q And I think you probably touched on this
11 prior, but have you ever considered yourself to be a
12 member of the Republican Party?

13 A No.

14 Q So would it be fair to say that you
15 generally support Democratic candidates for election
16 in Georgia?

17 A Yes.

18 Q And have you ever voted for a Republican
19 candidate?

20 A I don't recall ever voting for a Republican.

21 Q And have you ever been a member or held a
22 position in any other political party?

23 A No, I have not.

24 Q And aside from what you described previously
25 with Representative Wilkerson, have you worked on any

1 political campaigns?

2 A No, I have not.

3 Q And we touched on this a little bit earlier,
4 but have you had any involvement with voter advocacy
5 groups?

6 A No, I have not.

7 Q Now we've made it to the portion of the
8 questions I have that are associated with the lawsuit
9 specifically.

10 Why did you get involved -- and, again, you
11 touched on this a little bit earlier, but just to
12 reiterate those points, why did you get involved in
13 this current lawsuit?

14 A Because I felt it was unfair for Secretary
15 Raffensperger to draw lines including this part of
16 Cobb County into Marjorie Taylor Greene's district and
17 taking us basically out of David Scott's area where he
18 would be my representative.

19 Q And how did you first hear about this
20 lawsuit specifically?

21 A Robert Richards told me about the lawsuit.

22 Q And he's also a plaintiff in the lawsuit; is
23 that correct?

24 A That is correct.

25 Q And again, you know, just to be careful with

1 the points that we discussed earlier with your
2 counsel, you know, I'm going to be discussing and
3 asking questions about the facts and circumstances of
4 the lawsuit, but I of course don't want to get into
5 the nature and substance of any attorney-client
6 privileged communications that you've had.

7 A Sure.

8 Q So I just want to be careful with that.

9 And so describe a little bit further, you
10 know, the communications and the contact you've had
11 with Mr. Richards and how that led to you becoming a
12 plaintiff in the lawsuit.

13 A Well, Mr. Richards and Representative
14 Wilkerson and I are really close friends, and we
15 discuss our political views. And when we found out
16 that there was the potential redistricting of our area
17 and having the potential of Marjorie Taylor Greene
18 represent us, we were kind of all in awe and disbelief
19 and in an uproar, because she does not represent our
20 ideologies, our belief system. She is racist. And
21 me, for one, I was never taught racism at home. With
22 my mother being German and my dad being black, it was
23 an interracial marriage, you know, that started out in
24 the '70s. And growing up through that era, I just
25 was taught to treat people by their character and

1 don't judge a book by its cover.

2 And when I started listening to Marjorie
3 Taylor Greene and her beliefs and listening to her
4 speak, and then of course the news media with all of
5 the bites -- soundbites that she would say out of
6 character, and I was like I do not want this
7 individual representing me. Robert had mentioned that
8 he was potentially going to go with the Alliance Group
9 and, you know, fighting against Secretary of State
10 Brad Raffensperger in our redistricting and
11 gerrymandering, and trying to see if we could get the
12 representation that we deserve for our area. And
13 that's why I got involved with it.

14 Q So based off of what you just described, is
15 it fair to say that the primary motivation for you is
16 about the representative that would be representing
17 you, Marjorie Taylor Greene, and that's why you got
18 involved in the lawsuit?

19 A Absolutely.

20 Q And again, you know, you touched on this a
21 little bit earlier, but just to reiterate: Prior to
22 this lawsuit and prior to the current redistricting,
23 were you satisfied with how the districts were drawn
24 generally in Georgia?

25 A Not at all.

1 Q Okay. And why not?

2 A Because when Candidate Stacey Abrams, when
3 she went up for governorship, when she was a
4 candidate, it seemed like the Republicans were playing
5 dirty pool, and they saw that they were losing control
6 and that the state was becoming blue, especially when
7 Biden beat out Trump here for the state. And I saw
8 that -- that some of the Republicans were going to
9 their old tactics where they started decreasing the
10 number of precincts in the areas around black
11 communities. They saw that certain organizations were
12 taking care of some of the voters that were in line,
13 the elderly, by providing them water on the hot days.
14 If you've ever been to Georgia, Atlanta area in the
15 summer, you know it can get very hot outside, and
16 sometimes some of those lines at the precincts can be
17 over an hour wait. And then I saw that as another
18 tactic of trying to discourage voting rights for
19 minority individuals. And so it's just a whole lot of
20 different things that have led up to this.

21 Q And then a similar question, but relating to
22 your specific district: Prior to this lawsuit, prior
23 to the current redistricting, were you satisfied with
24 how your specific district was drawn?

25 A No.

1 Q And why not?

2 A They drew us up into Marjorie Taylor

3 Greene's district and took us over --

4 Q Sorry. I'll rephrase. Prior to that
5 though, prior to the current redistricting, with how
6 the districts were drawn previously when
7 Representative David Scott was representing your
8 district, were you satisfied with how the districts
9 were drawn then?

10 A Somewhat, yes. But there was still some
11 gerrymandering going on behind the scenes in other
12 districts and within the state of Georgia. Ours
13 wasn't impacted at the time, but now we are. So I was
14 satisfied specifically with my district at that time
15 with the representation, yes.

16 Q And then what is your overall goal with the
17 lawsuit? And, you know, with the understanding it
18 will likely relate to those concerns that you just
19 raised, but what is your overall goal?

20 A My overall goal is to be represented --
21 represented by an individual that shares the same
22 values and beliefs system that I believe in, and not
23 to be represented by a racist or someone with
24 anti-Semitic beliefs.

25 Q So, in general, and just taking into

1 account, you know, your prior testimony, your overall
2 goal would in all likelihood be not being represented
3 by Marjorie Taylor Greene anymore.

4 Would that be accurate?

5 A 100 percent.

6 Q Okay. And shifting back a little bit to how
7 you got involved in the lawsuit -- and, again, you
8 know, with the understanding not to identify or
9 discuss any -- any privileged conversations or any
10 conversations or communications whatsoever you've had
11 with attorneys -- but did a lawyer reach out to you
12 about becoming involved with it, or did you reach out
13 to the attorney?

14 A I honestly don't remember. It's been over a
15 year ago. I know Robert and I were talking about it.
16 He was already affiliated. So I'm not sure if he gave
17 me the information to reach out or if he gave them my
18 information to reach out to me. I don't recall how it
19 began.

20 Q And then as far as the timing of when you
21 first communicated with your lawyers, you mentioned
22 that would be around a year ago, you would say?

23 A 14, 15 months maybe. It's been a little
24 over a year.

25 Q And aside from the information and

1 conversations you've described previously, did you do
2 any research concerning the issues in this case prior
3 to the lawsuit?

4 A Not necessarily research, but I was informed
5 of what was going on. Because I try to stay educated
6 on politics, especially ones that concern me.

7 Q And aside from the conversations that you've
8 had with Mr. Richards that you've described, did you
9 do any research concerning your attorneys in this case
10 prior to hiring them?

11 A No, I did not.

12 Q And do you know what type of contract, if
13 any, that you signed with your attorneys in this case?

14 A Basically that they represent me at no cost,
15 no charge, and it's through former Attorney General
16 Eric Holder's organization that it's being funded by.

17 Q And, again, I'm going to presume the answer
18 to this question, but it is a question I have to ask:
19 Have you been paid or received anything of value in
20 exchange for your participation as a plaintiff in this
21 litigation?

22 A No, sir.

23 Q And before we shift gears again, Mr.
24 Rueckert, I just wanted to check in real fast, see how
25 you're doing and if you wanted to take a break, or if

1 you want to keep plowing ahead?

2 A I would like to press on.

3 Q Okay. Perfect. Now, I am going to share my
4 screen again with what will be marked as Defendants'
5 Exhibit 2. This is the amended complaint that
6 plaintiffs have filed in this matter.

7 (Defendants' Exhibit No. 2 was marked for
8 identification.)

9 BY MR. WEIGEL:

10 Q Can you see my screen, Mr. Rueckert?

11 A Yes, sir.

12 Q And do you see amended complaint at the top?

13 A Yes, I do.

14 Q Have you read this complaint, or a version
15 of this complaint?

16 A Yes, I have.

17 Q And are you familiar with the allegations in
18 this complaint?

19 A Yes, I am.

20 Q How about the allegations concerning you
21 specifically in this complaint, are you familiar with
22 those?

23 A Yes.

24 Q And now I'm going to scroll down to
25 Paragraph 15 of the amended complaint, and this is

1 going to be on page 7. And I will try to get that all
2 in the screen right there. Perfect.

3 Can you see Paragraph 15 in its entirety,
4 Mr. Rueckert?

5 A Yes, sir, I can.

6 Q Okay. Now I'm just going to quickly ask you
7 to read through that paragraph to yourself, and just
8 let me know when you're finished.

9 A I'm finished.

10 Q And do you recognize the allegations
11 contained in this paragraph?

12 A Yes. Those are allegations that you and I
13 have been discussing.

14 Q Yeah. Absolutely. And just to confirm, is
15 the information contained in this paragraph accurate
16 as it relates to you?

17 A Yes, they are.

18 Q Perfect. And I will stop sharing now. We
19 should be back in the normal view.

20 And we touched on this a little bit earlier,
21 but -- and we've touched on it throughout, actually,
22 but you reside in Congressional District 14; is that
23 correct?

24 A That is correct.

25 Q And you mentioned that you voted in the 2022

1 general election; correct?

2 A Correct.

3 Q And again, you know, we've touched on this
4 throughout, but just to confirm: It would be accurate
5 to say that the candidate that you voted for in
6 Congressional District 14 did not succeed; correct?

7 A Unfortunately, he did not.

8 Q And did you reach out to any Georgia
9 legislator during the 2021 special session concerning
10 the redistricting issues that are raised in your
11 complaint?

12 A I reached out to Representative David
13 Wilkerson.

14 Q And aside from the conversations that you've
15 described earlier with Representative Wilkerson, were
16 there any other representatives or legislators that
17 you reached out to?

18 A No, sir.

19 Q And then same question, but before the 2021
20 special session concerning the redistricting issues
21 raised in your complaint: Aside from the
22 conversations and discussions you've had with
23 Representative Wilkerson, did you reach out to any
24 other legislator about the redistricting issues raised
25 in your complaint?

1 A No, sir.

2 Q And then same question, but after the
3 special session and aside from the conversations you
4 had with Representative Wilkerson?

5 A No, sir.

6 Q Okay. And did you testify in the Georgia
7 Assembly on those issues or any other issues
8 pertaining to redistricting in 2021?

9 A No, I did not testify.

10 Q And did you attend any hearings in the
11 Georgia legislature pertaining to redistricting during
12 that time?

13 A No, I did not.

14 Q Did you attend any other meetings concerning
15 redistricting in 2021?

16 A No, I have not.

17 Q Now we're going to talk about legal terms
18 and phrases that kind of relate to the allegations and
19 claims in the complaint.

20 First we're going to talk about the phrase
21 "community of interest." Do you have an understanding
22 of what the term "community of interest" means?

23 A I've never heard that term before.

24 Q And how would you describe your community?

25 A The community Merrion Park that I live in

1 right now in Powder Springs, unincorporated portion of
2 Powder Springs is a minority based demographic. In my
3 specific community I think we have 64 homes, and I
4 would say 85 percent of them are minority owned. The
5 majority of the individuals in my community are
6 college graduates, professionals, educated individuals
7 that have high morals, standards, and values. We kind
8 of take care of one another. In fact, I probably know
9 90 percent of my neighbors in this community.

10 Q And how would you describe the concerns and
11 interests of that community that you've just
12 described?

13 A Our concerns and interests? Can you be more
14 specific with the question.

15 Q Yeah. As far as the community that you live
16 in, the community that you just described, what are
17 the most important issues, concerns, and interests as
18 it relates to that community?

19 A I would say property values, education
20 within our school district, taxes, healthcare, safety.
21 And I was vice president of our HOA for a couple
22 years, so that's how I got to know all the individuals
23 in the community, and I guess able to speak upon the
24 concerns and interests.

25 Q That was perfect timing, because you jumped

1 right into my next question with that description.

2 So -- and I presume based on that prior response the
3 answer to this, but I'll go ahead and quickly ask: Do
4 you or have you participated in any neighborhood or
5 community associations?

6 A Yes. I was a H -- I was on the HOA for
7 several years, but I held the vice president office
8 for a couple years.

9 Q And when did you stop being the vice
10 president in that homeowners association?

11 A Maybe four years ago.

12 Q And you said you held that position for a
13 couple years; correct?

14 A That is correct.

15 Q And were you involved in the homeowners
16 association prior to being vice president?

17 A Yes.

18 Q And did you have a specific role, or just a
19 member?

20 A I was member at large.

21 Q And aside from what you described earlier,
22 if you could just describe generally, you know, what
23 your role, responsibilities, associated with being the
24 vice president of that homeowners association was.

25 A Basically ensuring that the residents

1 adhered to our covenants and bylaws, and that I
2 resolve any community issues that related to not
3 upholding the standards in the covenants.

4 Q So it would be accurate to say that you got
5 to know the members in the community that you've
6 described pretty well in that role?

7 A Very well, yes.

8 Q And now I want to shift a little bit again.
9 Are you a member of any faith-based organization?

10 A Yes, I am. I'm a member of Faith and Praise
11 Fellowship Church.

12 Q And where is that located?

13 A In Indianapolis, Indiana.

14 Q So do you attend those services virtually
15 then?

16 A Yes, I do. I'm currently studying to become
17 a deacon.

18 Q And aside from those virtual services that
19 you attend with this church, what -- how else would
20 you describe your involvement with it?

21 A Well, my uncle is the pastor.

22 Q And do you regularly attend services there?

23 A Yes, I do.

24 Q And do you regularly attend services at any
25 other place of worship?

1 A No, I do not.

2 Q You touched on this a little bit earlier,
3 but what activities or groups in that church do you
4 participate in?

5 A Well, as I stated, right now I'm studying to
6 become a deacon.

7 Q And are you involved in any school
8 associations or activities?

9 A No. When my kids attended McEachern High
10 School, my wife and I were heavily involved in the
11 booster club. In fact, just about everyone knew us by
12 name on the faculty.

13 Q And so did that involvement end, I would
14 presume, when your last child graduated from that high
15 school?

16 A That is correct.

17 Q And what year would that have been?

18 A 2021. And I also coached at the Ron
19 Anderson Recreation Center in youth basketball.

20 Q And when did you stop coaching there?

21 A 2017, maybe.

22 Q For about --

23 A 2018. I coached --

24 Q For about how long did you do that for?

25 A Three years. Two undefeated seasons and two

1 district championships.

2 Q That's pretty good. It sounds like they
3 would have wanted you to keep doing that, but I'll
4 move along before I get a relevance objection on that.

5 And just to circle back a little bit to your
6 involvement in the homeowners association, you
7 mentioned that you stopped being vice president. Are
8 you still pretty heavily involved as a member of that
9 homeowners association?

10 A Well, now I'm just a regular member. I'm
11 not on the board. But, yes, I attend all of the
12 meetings.

13 Q How often are those meetings?

14 A We were having them every couple months.
15 Now they've -- once a quarter.

16 Q And outside of the activities and
17 involvement that we've described and discussed, where
18 would you say that you spend the most of your time
19 socializing?

20 A At [REDACTED]

21 Q And outside of being at home, being at
22 church, or any of the other work or any of the other
23 activities you've described, where would you say you
24 socialize typically outside of the home?

25 A Out of those, I do a lot of visiting to

1 Clemson University where my daughter goes to school
2 and East Georgia State College where my son goes to
3 school.

4 Q And it looks like we're getting pretty close
5 to the end, and I thank you again, Mr. Rueckert, for
6 taking the time to speak with me. I'm going to go
7 through a few quick questions again, kind of based on
8 the allegations and claims in the complaint. They're
9 going to be fairly quick questions. Depending on your
10 answer, we might need to expand on it a little bit.

11 But shifting directly into that, have you
12 ever been prohibited from registering to vote based on
13 your race?

14 A No, I have not.

15 Q Have you ever been prohibited from
16 participating in the political process based on your
17 race?

18 A No, I have not.

19 Q And do you have any personal knowledge of
20 discrimination by the government of Georgia against
21 members of a minority group related to participation
22 in the democratic process?

23 A I do have some knowledge where there were
24 individuals that were denied access to voting in
25 districts. It was televised on the news. And then

1 also some sites not having certain candidates' names
2 on the ballots. But I don't remember specifics, I
3 just remember seeing it on the news here.

4 Q So all those instances, those were on the
5 news; is that accurate?

6 A That is correct.

7 Q Do you know what the phrase "racially
8 polarized voting" means?

9 A No, I do not.

10 Q In your opinion, do African-American voters
11 in Georgia generally vote for Democratic candidates?

12 A To my knowledge, yes.

13 Q And do you personally know any black voters
14 who have told you that they voted for Republican
15 candidates?

16 A Yes, I do.

17 Q And then would you characterize that as a
18 common occurrence or a not so common occurrence?

19 A Well, I have a group of friends, six of us
20 that -- we became very close when all of our sons
21 played football together at McEachern High School.
22 And out of the six of us, one is very boisterous with
23 being a Republican. And it's rare. It's not common.

24 Q So would you say it was just that one friend
25 then?

1 A That I'm aware of, yes.

2 Q And do you know if Georgia uses a majority
3 vote requirement in its elections?

4 A Yes, they do.

5 Q And you'd agree that the majority vote
6 requirement led to the most recent special runoff
7 election that occurred following the November 2022
8 general election; correct?

9 A Unfortunately, yes.

10 Q And that most recent special runoff election
11 resulted in the election of Senator Raphael Warnock;
12 correct?

13 A That is correct.

14 Q And are you familiar with the term
15 "candidate slating process" as it is used in
16 elections?

17 A No, I'm not familiar with that terminology.

18 Q Okay. And based on that answer, it would be
19 fair to say that you would not have knowledge whether
20 there is a candidate slating process in Georgia;
21 correct?

22 A That is correct.

23 Q And has a lack of education kept you from
24 participating in Georgia politics?

25 A No.

1 Q Has a lack of employment opportunities kept
2 you from participating in Georgia politics?

3 A No.

4 Q Has a lack of access to adequate health
5 services kept you from participating in Georgia
6 politics?

7 A No.

8 Q Are you aware of the term "racial appeals"
9 when used in the context of elections?

10 A No, I am not.

11 Q We touched on this a little bit earlier in
12 the context of your specific community, but, in your
13 opinion, are there any needs of the minority community
14 in Georgia that, in your opinion, differ from those of
15 white residents?

16 A When you say "needs," can you be more
17 specific?

18 Q It would kind of be similar to political
19 needs, I would say, as far as, you know, what would be
20 the most important concerns and issues as it relates
21 to involvement in the political process.

22 A I would say that we don't have enough
23 representation on the minority side in the state of
24 Georgia, especially in a lot of the rural areas.

25 Q And we -- we -- so we talked about the needs

1 and concerns in your specific community a little bit
2 earlier. I believe you mentioned healthcare and
3 education. So kind of in that same context, what
4 would you say, in your opinion, are the particular
5 needs of the minority community in Georgia, from your
6 perspective?

7 A Well, I think everything kind of stems from
8 education. If we could get the same contributions to
9 our district, school districts, as some of the other
10 nonminority districts get, I think we could do a
11 better job of educating the minorities. And once that
12 foundation of education is set, it opens a lot of
13 doors to being a productive citizen, a law-abiding
14 citizen.

15 Q And aside from education -- and I understand
16 it's a little bit of a general question -- but are
17 there any other needs that you can think of that would
18 be similar to that?

19 A Well, I know for a fact in the housing
20 markets, in the community that I live in, the homes
21 are 5,000 to 6,200 square feet. And we have a lot of
22 upgrades in our community. We have half-acre lots at
23 minimal. And based upon appraisals and the market,
24 three blocks away in a more predominantly nonminority
25 demographic, the homes that are very similar are going

1 for 75- to \$100,000 more. So I see that as almost
2 discriminatory, if not discriminatory.

3 Q And so it sounds like you mentioned housing,
4 education. Are there any other needs that you can
5 think of that would be similar to that?

6 A No. Those would be the main concerns. I
7 mean, we all have access to adequate healthcare. I do
8 know that in Congress currently they -- Marjorie
9 Taylor Greene is against Medicare and Medicaid, and
10 wanting to take away from those funds to fund other
11 areas of the government. So right now, under the
12 Obamacare Act, I think that we are making great
13 strides in our healthcare system. But with the House
14 being primarily Republican majority now, I think
15 that's going to change. So I -- I feel that that may
16 be an issue of concern for the future.

17 Q And then as far as those needs that you
18 discussed and your understanding and opinion of those
19 needs, what do you base that on? Do you base that on
20 personal experience, news reports, you know, things of
21 that nature? What do you base that understanding on?

22 A Well, I've been in healthcare since 1991, so
23 I kind of have an inside scoop on healthcare and
24 things of that sort. And I know here locally with
25 Wellstar, when Wellstar closed AMC, it was a huge

1 detriment to the minority community. But I also
2 understand on the business side of it that you can't
3 operate a business by losing, you know, 350,
4 \$400 million and try to maintain it. But we didn't
5 get any help with that from Governor Kemp until, you
6 know, we issued out stating that Wellstar was closing.
7 And now all of a sudden the politicians want to get
8 involved, wait, wait, wait. So I think that we could
9 do better. And I, you know, firsthand knowledge is
10 where I would get that assumption, theory, opinion.

11 MR. WEIGEL: All right. Well, I believe
12 that that concludes my questioning. Mr. Jones,
13 do you have any questions for your client, or do
14 you want to take some time and look over things?

15 MR. JONES: Yeah. Just -- I have a few
16 questions. And if it's okay with you,
17 Mr. Rueckert, I'd like to keep going rather than
18 taking a break.

19 THE WITNESS: Yes, sir.

20 MR. JONES: Okay. These will be relatively
21 short.

22 DIRECT EXAMINATION

23 BY MR. JONES:

24 Q Mr. Rueckert, you said that you generally
25 support Democrats; is that right?

1 A That is correct.

2 Q Why is that?

3 A Because we share the same values. We share
4 the same ideologies. In general, Democrats are more
5 sympathetic to the people's needs. And no matter what
6 your financial background is or what your -- the color
7 of your skin this.

8 Q Terrific. And you also mentioned that you
9 previously lived in Canton, Georgia; is that right?

10 A Yes, sir, that is correct.

11 Q And you currently live in Powder Springs,
12 Georgia?

13 A Yes, sir.

14 Q In your experience, would residents of
15 Canton and residents of Powder Springs consider
16 themselves to be in the same community?

17 A Absolutely not. No, sir. When I taught
18 high school up at the Cherokee High School, it was
19 totally different demographics. In fact, there were
20 only a handful of minority teachers at Cherokee High
21 School, and there were only a few minority students in
22 the school district. I actually stopped teaching
23 because of the demographics and the different
24 ideologies that were up in Cherokee County. You had
25 teenagers, you know, coming to school with rebel flags

1 on their T-shirts, on their cars, on their license
2 plates and belt buckles. And it was not a very warm
3 environment for minorities there.

4 Q And are Canton and Powder Springs, are they
5 served by the same school system?

6 A No, they're not. Cherokee School District
7 and Cobb County School District are separate school
8 districts. However, right now we are under the same
9 14 CD.

10 Q And would it be common in a Powder Springs
11 school to see the same, you know, Confederate flags
12 and that sort of imagery around the school?

13 A Absolutely not. It would be forbidden.

14 Q What's the main roadway that runs through
15 Canton?

16 A 575 is the interstate that goes up that way.

17 Q Is that a road that's heavily traveled by
18 people who live in Powder Springs?

19 A Not at all.

20 Q Are the demographics in Powder Springs and
21 Canton the same or different?

22 A Very different.

23 Q Would you say that the Powder Springs
24 community has more in common with residents of
25 Mableton?

1 A Yes.

2 Q What about Lithia Springs?

3 A Yes.

4 Q And why is that?

5 A Because it's more minority based in those
6 areas. And --

7 Q I'm sorry to interrupt you. Go ahead.

8 A No, go ahead. I'm good.

9 Q Do the residents of Powder Springs,
10 Mableton, and Lithia Springs rely on some of the same
11 roadways?

12 A Yes, we do.

13 Q Which ones come to mind?

14 A C.H. James Parkway, Thornton Road -- what is
15 that -- Bankhead Highway. I-20 is right here. Those
16 are some of the major ones right off the top of my
17 head.

18 Q Am I correct that none of those roadways
19 will take you through Canton?

20 A That is correct.

21 Q The residents of Powder Springs and Mableton
22 and Lithia Springs shop at some of the same places?

23 A Yes.

24 Q Do residents of those communities eat at
25 some of the same restaurants?

1 A Yes.

2 Q Do residents of those communities attend
3 some of the same places of worship?

4 A I would say yes.

5 Q Does Wellstar Cobb Hospital serve all three
6 of those communities?

7 A Absolutely.

8 Q Does Wellstar Cobb Hospital serve, you know,
9 a significant portion of the, you know, Canton or
10 Cherokee County communities?

11 A Not Wellstar Cobb, no.

12 MR. JONES: That concludes my questions.
13 Dan, do you have anything else?

14 MR. WEIGEL: Yeah, just a few quick
15 follow-ups on that.

16 RECROSS-EXAMINATION

17 BY MR. WEIGEL:

18 Q Mr. Rueckert, you -- we -- with Mr. Jones
19 you discussed the difficult demographics of those
20 cities. I believe you mentioned Mableton, Canton,
21 Lithia Springs, and Powder Springs. Would you say
22 that the concerns of the minority communities in each
23 of those, irregardless of demographics, are the same
24 or different?

25 A I would say they're very similar.

1 MR. WEIGEL: Okay. That is all the
2 questions I have. Mr. Jones, do you have
3 anything further?

4 MR. JONES: I'm all set.

5 MR. WEIGEL: All right. Awesome. Well,
6 Mr. Rueckert, thank you so much for taking the
7 time to speak with me this morning about the
8 case. I greatly appreciate it, and I believe we
9 can now go off the record and that completes the
10 deposition.

11 (CONCLUDED AT 10:19 AM)

12 THE COURT REPORTER: Mr. Jones, did you say
13 read and sign?

14 MR. JONES: Yes, please.

15 THE COURT REPORTER: Thank you. And, Mr.
16 Weigel, are you ordering the transcript today?

17 MR. WEIGEL: Yes, I am.

18 THE COURT REPORTER: Thank you. And, Mr.
19 Jones, would you like to order a copy?

20 MR. JONES: Yes, please.

21 THE COURT REPORTER: Thank you very much.
22 That's all I need.

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DISCLOSURE

STATE OF GEORGIA Deposition of: Jens Rueckert
COUNTY OF PAULDING Date: February 7th, 2023

Pursuant to Article 10.B of the
Rules and Regulations of the Board of Court Reporting
of the Judicial Council of Georgia, I make the
following disclosure:

I am a Georgia Certified Court
Reporter. I am here as a representative of Veritext
Legal Solutions.

I am not disqualified for a
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9-11-28(c).

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any party to the case, any counsel in the case, or any
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charge its usual and customary rates to all parties in
the case, and a financial discount will not be given
to any party to this litigation.

This the 20th day of February 2023.



AMANDA A. BILBREY, CCR
5320-3477-0960-3840

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

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C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF PAULDING)

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the proceedings were reduced to typewriting under my direction and control.

I further certify that the transcript is a true and correct record of the evidence given at the said proceedings.

I further certify that I am neither a relative or employee or attorney or counsel to any of the parties, nor financially or otherwise interested in this matter.

This the 20th day of February 2023.



AMANDA A. BILBREY, CCR

5320-3477-0960-3840

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

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1 Mike Jones

2 mjones@elias.law

3 February 20, 2023

4 RE: Pendergrass, Coakley, Et Al. v. Raffensperger, Brad, Et Al.

5 2/7/2023, Jens Rueckert (#5692603)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-southeast@veritext.com.

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21
22 Yours,

23 Veritext Legal Solutions
24
25

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

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Pendergrass, Coakley, Et Al. v. Raffensperger, Brad, Et Al.

Jens Rueckert (#5692603)

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Jens Rueckert

Date

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

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1 Pendergrass, Coakley, Et Al. v. Raffensperger, Brad, Et Al.
2 Jens Rueckert (#5692603)

ACKNOWLEDGEMENT OF DEPONENT

4 I, Jens Rueckert, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

11 _____
12 Jens Rueckert

_____ Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS
15 _____ DAY OF _____, 20____.

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[05339 - activist]

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[ccr - confirm]

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[confirm - defendants]

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

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION

FILE NO. 1:21-CV-05339-
SCJ

**DEFENDANTS' AMENDED NOTICE TO TAKE THE DEPOSITION
OF JENS RUECKERT**

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 Jens Rueckert on Tuesday, February 7, 2023, beginning at 9:00 a.m. and continuing thereafter until completed via Zoom videoconferencing through Veritext Legal Solutions. Details regarding the videoconferencing will be emailed to those participating once all arrangements are finalized.

DEFENDANTS'

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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 27th day of January, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023, I caused a copy of the foregoing to be served by electronic mail on all counsel of record.

/s/ Bryan P. Tyson

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Counsel for Defendants

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

COAKLEY PENDERGRASS; TRIANA
ARNOLD JAMES; ELLIOTT
HENNINGTON; ROBERT RICHARDS;
JENS RUECKERT; and OJUAN GLAZE,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-05339-SCJ

AMENDED COMPLAINT

1. Plaintiffs bring this action to challenge the Georgia General Assembly's congressional redistricting plan, the Georgia Congressional

DEFENDANTS'

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Redistricting Act of 2021 (“SB 2EX”), on the ground that it violates Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

2. In undertaking the latest round of congressional redistricting following the 2020 decennial census, the General Assembly has diluted the growing electoral strength of the state’s communities of color. Faced with Georgia’s changing demographics, the General Assembly has ensured that the growth of the state’s Black population will not translate to increased political influence at the federal level.

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population¹—in multiple congressional districts throughout the state, including an additional majority-Black

¹ The phrases “majority of eligible voters” and “majority of the voting age population” have been used by courts interchangeably when discussing the threshold requirements of a vote-dilution claim under Section 2 of the Voting Rights Act. Compare, e.g., *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (“[T]he first *Gingles* precondition . . . ‘requires only a simple *majority of eligible voters* in a single-member district.’” (emphasis added) (quoting *Dickinson v. Ind. State Election Bd.*, 933 F.2d 497, 503 (7th Cir. 1991))), with *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality op.) (“[T]he majority-minority rule relies on an objective, numerical test: Do minorities make up *more than 50 percent of the voting-age population* in the relevant geographic area?” (emphasis added)). The phrase “majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population.”

district in the western Atlanta metropolitan area. This additional majority-Black district can be drawn without reducing the total number of districts in the region and statewide in which Black voters have the opportunity to elect candidates of their choice.

4. Rather than draw this additional congressional district to allow Georgians of color the opportunity to elect their preferred candidates, the General Assembly instead chose to “pack” some Black voters in the Atlanta metropolitan area and “crack” other Black voters among rural-reaching, predominantly white districts.

5. Section 2 of the Voting Rights Act prohibits this result and requires the General Assembly to draw an additional congressional district in which Black voters have the opportunity to elect their candidate of choice.

6. By failing to create this district, the General Assembly’s response to Georgia’s changing demographics has had the effect of diluting minority voting strength in the state.

7. Accordingly, Plaintiffs seek an order (i) declaring that SB 2EX violates Section 2 of the Voting Rights Act; (ii) enjoining Defendants from conducting future elections under SB 2EX; (iii) requiring adoption of a valid plan for new

congressional districts in Georgia that comports with Section 2 of the Voting Rights Act; and (iv) providing any and such additional relief as is appropriate.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988 and 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1357.

9. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper under 28 U.S.C. § 1391(b) because “a substantial part of the events or omissions giving rise to the claim occurred” in this district.

PARTIES

11. Plaintiff Coakley Pendergrass is a Black citizen of the United States and the State of Georgia. The Rev. Pendergrass is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Eleventh Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. The Rev. Pendergrass resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to

elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like the Rev. Pendergrass and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

12. Plaintiff Triana Arnold James is a Black citizen of the United States and the State of Georgia. Ms. James is a registered voter and intends to vote in future congressional elections. She is a resident of Douglas County and located in the Third Congressional District under the enacted plan, where she is unable to elect candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. James resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. James and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

13. Plaintiff Elliott Hennington is a Black citizen of the United States and the State of Georgia. Mr. Hennington is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect

candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Hennington resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Hennington and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

14. Plaintiff Robert Richards is a Black citizen of the United States and the State of Georgia. Mr. Richards is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Richards resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Mr. Richards and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

15. Plaintiff Jens Rueckert is a Black citizen of the United States and the State of Georgia. Mr. Rueckert is a registered voter and intends to vote in future congressional elections. He is a resident of Cobb County and located in the Fourteenth Congressional District under the enacted plan, where he is unable to elect candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Rueckert resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn congressional district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Rueckert and denies them an equal opportunity to elect candidates of their choice to the U.S. House of Representatives.

16. Plaintiff Ojuan Glaze is a Black citizen of the United States and the State of Georgia. Mr. Glaze is a registered voter and intends to vote in future congressional elections. He is a resident of Douglas County and located in the Thirteenth Congressional District under the enacted plan. The Thirteenth Congressional District is a district in which Black voters like Mr. Glaze are packed,

preventing the creation of an additional majority-Black district as required by the Voting Rights Act.

17. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity. Secretary Raffensperger is Georgia’s chief election official and is responsible for administering the state’s elections and implementing election laws and regulations, including Georgia’s congressional plan. *See* O.C.G.A. § 21-2-50; Ga. Comp. R. & Regs. 590-1-1-.01–.02 (specifying, among other things, that Secretary of State’s office must provide “maps of Congressional, State Senatorial and House Districts” when requested). Secretary Raffensperger is also an ex officio non-voting member of the State Election Board, which is responsible for “formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. §§ 21-2-30(d), -31(2).

18. Defendant Judge William S. Duffey, Jr. is the Chair of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

19. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

20. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

21. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity. In this role, he must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

22. Defendant Dr. Janice Johnston is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

LEGAL BACKGROUND

23. Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the

United States to vote on account of race or color.” 52 U.S.C. § 10301(a). Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution.

24. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

25. Such a violation might be achieved by “cracking” or “packing” minority voters. To illustrate, the dilution of Black voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters”—cracking—“or from the concentration of blacks into districts where they constitute an excessive majority”—packing. *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

26. In *Thornburg v. Gingles*, the U.S. Supreme Court identified three necessary preconditions for a claim of vote dilution under Section 2: (i) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (ii) the minority group must be “politically

cohesive”; and (iii) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 50–51.

27. Once all three preconditions are established, Section 2 directs courts to consider whether, “based on the totality of circumstances,” members of a racial minority “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

28. The Senate Report on the 1982 amendments to the Voting Rights Act identified several nonexclusive factors that courts should consider when determining if, under the totality of circumstances in a jurisdiction, the operation of the challenged electoral device results in a violation of Section 2. *See Wright v. Sumter Cnty. Bd. of Elections & Registration*, 979 F.3d 1282, 1288–89 (11th Cir. 2020). These “Senate Factors” include:

- a. the history of official voting-related discrimination in the state or political subdivision;
- b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
- c. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for

discrimination against the minority group, such as unusually large election districts, majority-vote requirements, or prohibitions against bullet-voting;

d. the exclusion of members of the minority group from candidate-slating processes;

e. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;

f. the use of overt or subtle racial appeals in political campaigns; and

g. the extent to which members of the minority group have been elected to public office in the jurisdiction.

29. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see also id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the-circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

The 2020 Census

30. Between 2010 and 2020, Georgia's population increased by more than 1 million people. As a result of this population growth, the state will retain 14 seats in the U.S. House of Representatives.

31. The population growth during this period is entirely attributable to the increase in Georgia's minority population. The 2020 census results indicate that Georgia's Black population grew by over 15 percent and now comprises 33 percent of Georgia's total population. Meanwhile, Georgia's white population *decreased* by 4 percent over the past decade. In total, Georgia's minority population now comprises just under 50 percent of the state's total population.

The 2021 Congressional Redistricting Plan

32. In enacting Georgia's new congressional map, the Republican-controlled General Assembly diluted the political power of the state's minority voters.

33. On November 22, 2021, the General Assembly passed SB 2EX, which adopted a new congressional redistricting plan that revised existing congressional district boundaries. Republican Governor Brian Kemp signed SB 2EX into law on December 30, 2021.

34. Democratic and minority legislators were largely excluded from the redistricting process and repeatedly decried the lack of transparency. Moreover, lawmakers and activists from across the political spectrum questioned the speed with which the General Assembly undertook its redistricting efforts, observing that the haste resulted in unnecessary divisions of communities and municipalities.

35. Rather than create an additional congressional district in the western Atlanta metropolitan area in which Georgia's growing Black population would have the opportunity to elect candidates of its choice, the General Assembly did just the opposite: it packed and cracked Georgia's Black voters to dilute their influence.

36. SB 2EX packs Black voters into the Atlanta metropolitan area, particularly into the new Thirteenth Congressional District, which includes significant Black populations in south Fulton, Douglas, and Cobb Counties. The remaining Black communities in Douglas and Cobb Counties are cracked among the new Third, Sixth, Eleventh, and Fourteenth Congressional Districts—predominantly white districts that stretch into the rural reaches of western and northern Georgia.

37. This combination of cracking and packing dilutes the political power of Black voters in the Atlanta metropolitan area. The General Assembly could have instead created an additional, compact congressional district in which Black voters, including Plaintiffs, comprise a majority of eligible voters and have the opportunity

to elect their preferred candidates, as required by Section 2 of the Voting Rights Act. Significantly, this could have been done without reducing the number of other districts in which Black voters have the opportunity to elect candidates of their choice.

38. Unless enjoined, SB 2EX will deny Black voters an equal opportunity to elect candidates of their choice.

39. The relevant factors and considerations readily require the creation of an additional majority-Black district under Section 2.

Racial Polarization

40. This Court has recognized that “voting in Georgia is highly racially polarized.” *Ga. State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018) (three-judge panel).

41. “Districts with large black populations are likely to vote Democratic.” *Id.* Indeed, during competitive statewide elections over the past decade—from the 2012 presidential election through the 2021 U.S. Senate runoff elections—an average of 97 percent of Black Georgians supported Democratic candidates.

42. White voters, by striking contrast, overwhelmingly vote Republican. An average of only 13 percent of white Georgians supported Democratic candidates in competitive statewide elections over the past decade.

43. Georgia’s white majority usually votes as a bloc to defeat minority voters’ candidates of choice, including in the areas where Plaintiffs live and the Black population could be united to create a new majority-Black district.

History of Discrimination

44. Georgia’s past discrimination against its Black citizens, including its numerous attempts to deny Black voters an equal opportunity to participate in the political process, is extensive and well documented. This prejudice is not confined to history books; the legacy of discrimination manifests itself today in state and local elections marked by racial appeals and undertones. And the consequences of the state’s historic discrimination persist to this day as well, as Black Georgians continue to experience socioeconomic hardship and marginalization.

45. This history dates back to the post-Civil War era, when Black Georgians first gained the right to vote and voted in their first election in April 1868. Soon after this historic election, a *quarter* of the state’s Black legislators were either jailed, threatened, beaten, or killed. In 1871, the General Assembly passed a resolution that expelled 25 Black representatives and three senators but permitted the four mixed-race members who did not “look” Black to keep their seats. The General Assembly’s resolution was based on the theory that Black Georgians’ right

of suffrage did not give them the right to hold office, and that they were thus “ineligible” to serve under Georgia’s post-Civil War state constitution.

46. After being denied the right to hold office, Black Georgians who attempted to vote also encountered intense and frequently violent opposition. The Ku Klux Klan and other white mobs engaged in a campaign of political terrorism aimed at deterring Black political participation. Their reigns of terror in Georgia included, for instance, attacking a Black political rally in Mitchell County in 1868, killing and wounding many of the participants; warning the Black residents of Wrightsville that “blood would flow” if they exercised their right to vote in an upcoming election; and attacking and beating a Black man in his own home to prevent him from voting in an upcoming congressional election.

47. In the General Assembly, fierce resistance to Black voting rights led to more discriminatory legislation. In 1871, Georgia became the first state to enact a poll tax. At the state’s 1877 constitutional convention, the General Assembly made the poll tax permanent and cumulative, requiring citizens to pay all back taxes before being permitted to vote. The poll tax reduced turnout among Black voters in Georgia by half and has been described as the single most effective disenfranchisement law ever enacted. The poll tax was not abolished until 1945—after it had been in effect for almost 75 years.

48. After the repeal of the poll tax in 1945, voter registration among Black Georgians significantly increased. However, as a result of the state’s purposeful voter suppression tactics, not a *single* Black lawmaker served in the General Assembly between 1908 and 1962.

49. Georgia’s history of voter discrimination is far from ancient history. As recently as 1962, 17 municipalities and 48 counties in Georgia required segregated polling places. When the U.S. Department of Justice filed suit to end this practice, a local Macon leader declared that the federal government was ruining “every vestige of the local government.”

50. Other means of disenfranchising Georgia’s Black citizens followed. The state adopted virtually every one of the “traditional” methods to obstruct the exercise of the franchise by Black voters, including literacy and understanding tests, strict residency requirements, onerous registration procedures, voter challenges and purges, the deliberate slowing down of voting by election officials so that Black voters would be left waiting in line when the polls closed, and the adoption of “white primaries.”

51. Attempts to minimize Black political influence in Georgia have also tainted redistricting efforts. During the 1981 congressional redistricting process, in opposing a bill that would maintain a majority-Black district, Joe Mack Wilson—a

Democratic state representative and chair of the House Reapportionment Committee—openly used racial epithets to describe the district: following a meeting with officials of the U.S. Department of Justice, he complained that “the Justice Department is trying to make us draw [n*****] districts and I don’t want to draw [n*****] districts.” Speaker of the House Tom Murphy objected to creating a district where a Black representative would certainly be elected and refused to appoint any Black lawmakers to the conference committee, fearing that they would support a plan to allow Black voters to elect a candidate of their choice. Several senators also expressed concern about being perceived as supporting a majority-Black congressional district.

52. Indeed, federal courts have invalidated Georgia’s redistricting plans for voting rights violations numerous times. In *Georgia v. United States*, the U.S. Supreme Court affirmed a three-judge panel’s decision that Georgia’s 1972 reapportionment plan violated Section 5 of the Voting Rights Act, at least in part because it diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See* 411 U.S. 526, 541 (1973); *see also* *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge panel) (denying preclearance based on evidence that Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166

(1983); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004) (per curiam) (three-judge panel) (invalidating state legislative plans that reduced number of majority-minority districts).

53. Due to its lengthy history of discrimination against racial minorities, Georgia became a “covered jurisdiction” under Section 5 of the Voting Rights Act upon its enactment in 1965, meaning that any changes to Georgia’s election practices or procedures (including the enactment of new redistricting plans) were prohibited until either the U.S. Department of Justice or a federal court determined that the change did not result in backsliding, or “retrogression,” of minority voting rights.

54. Accordingly, between 1965 and 2013—at which time the U.S. Supreme Court effectively barred enforcement of the Section 5 preclearance requirement in *Shelby County v. Holder*, 570 U.S. 529 (2013)—Georgia received more than 170 preclearance objection letters from the U.S. Department of Justice.

55. Georgia’s history of racial discrimination in voting, here only briefly recounted, has been thoroughly documented by historians and scholars. Indeed, “[t]he history of the state[’s] segregation practice and laws at all levels has been rehashed so many times that the Court can all but take judicial notice thereof.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also*, e.g., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41

(N.D. Ga. Nov. 15, 2021), ECF No. 636 (taking judicial notice of fact that “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”).

56. Ultimately, as this Court has noted, “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013) (quoting *Brooks*, 848 F. Supp. at 1560), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Use of Racial Appeals in Political Campaigns

57. In addition to Georgia’s history of discrimination against minorities in voting, political campaigns in the state have often relied on both overt and subtle racial appeals—both historically *and* during recent elections.

58. In 2016, Tom Worthan, former Republican Chair of the Douglas County Board of Commissioners, was caught on video making racist comments aimed at discrediting his Black opponent, Romona Jackson-Jones, and a Black candidate for sheriff, Tim Pounds. During the recorded conversation with a Douglas County voter, Worthan asked, “[D]o you know of another government that’s more

black that's successful? They bankrupt you." Worthan also stated, in reference to Pounds, "I'd be afraid he'd put his black brothers in positions that maybe they're not qualified to be in."

59. In the 2017 special election for Georgia's Sixth Congressional District—a majority-white district that had over the previous three decades been represented by white Republicans Newt Gingrich, Johnny Isakson, and Tom Price—the husband of the eventual Republican victor, Karen Handel, shared an image over social media that urged voters to "[f]ree the black slaves from the Democratic plantation." The image also stated, "Criticizing black kids for obeying the law, studying in school, and being ambitious as 'acting white' is a trick the Democrats play on Black people to keep them poor, ignorant and dependent." The image was then shared widely by local and national media outlets.

60. During that same election, Jere Wood—the Republican Mayor of Roswell, Georgia's eighth-largest city—insinuated that voters in the Sixth Congressional District would not vote for Democratic candidate Jon Ossoff because he has an "ethnic-sounding" name. When describing voters in that district, Wood said, "If you just say 'Ossoff,' some folks are gonna think, 'Is he Muslim? Is he

Lebanese? Is he Indian?’ It’s an ethnic-sounding name, even though he may be a white guy, from Scotland or wherever.”²

61. On a separate occasion, State Senator Fran Millar alluded to the fact that the Sixth Congressional District was gerrymandered in such a way that it would not support candidate Ossoff—specifically, because he was formerly an aide to a Black member of Congress. State Senator Millar said, “I’ll be very blunt. These lines were not drawn to get Hank Johnson’s protégé to be my representative. And you didn’t hear that. They were not drawn for that purpose, OK? They were not drawn for that purpose.”

62. Earlier in 2017, Tommy Hunter, a member of the board of commissioners in Gwinnett County—the second-most populous county in the state—called the late Black Congressman John Lewis a “racist pig” and suggested that his reelection to the U.S. House of Representatives was “illegitimate” because he represented a majority-minority district.

² In actuality, now-U.S. Senator Ossoff’s paternal forebears were Ashkenazi Jewish immigrants who fled pogroms during the early 20th century. See Etan Nechin, *Jon Ossoff Tells Haaretz How His Jewish Upbringing Taught Him to Fight for Justice*, Haaretz (Dec. 20, 2020), <https://www.haaretz.com/us-news/.premium-jon-ossoff-tells-haaretz-how-his-jewish-upbringing-taught-him-to-fight-for-justice-1.9386302>.

63. Racist robocalls targeted the Democratic candidate for governor in 2018, referring to Stacey Abrams as “Negress Stacey Abrams” and “a poor man’s Aunt Jemima.” The Republican candidate, now-Governor Kemp, posted a statement on Twitter on the eve of the election alleging that the Black Panther Party supported Ms. Abrams’s candidacy.

64. Governor Kemp also ran a controversial television advertisement during the primary campaign asserting that he owned “a big truck, just in case [he] need[s] to round up criminal illegals and take ‘em home [him]self.”

65. The 2020 campaigns for Georgia’s two U.S. Senate seats were also rife with racial appeals. In one race, Republican incumbent Kelly Loeffler ran a paid advertisement on Facebook that artificially darkened the skin of her Democratic opponent, now-Senator Raphael Warnock. In the other race, Republican incumbent David Perdue ran an advertisement against Democratic nominee Ossoff that employed a classic anti-Semitic trope by artificially enlarging now-Senator Ossoff’s nose.

66. Senator Perdue later mispronounced and mocked the pronunciation of then-Senator Kamala Harris’s first name during a campaign rally, even though the two had been colleagues in the Senate since 2017.

67. Racial appeals were apparent during local elections in Fulton County even within the last few weeks. City council candidates in Johns Creek and Sandy Springs pointed to Atlanta crime and protests that turned violent to try to sway voters, publicly urging residents to vote for them or risk seeing their cities become home to chaos and lawlessness. *The Atlanta Journal-Constitution* quoted Emory University political scientist Dr. Andra Gillespie, who explained that although the term “law and order” is racially neutral, the issue becomes infused with present-day cultural meaning and thoughts about crime and violence and thus carries racial undertones.

68. These are just a few—and, indeed, only among the more recent—examples of the types of racially charged political campaigns that have tainted elections in Georgia throughout the state’s history.

Ongoing Effects of Georgia’s History of Discrimination

69. State-sponsored segregation under Georgia’s Jim Crow laws permeated all aspects of daily life and relegated Black citizens to second-class status. State lawmakers segregated everything from public schools to hospitals and graveyards. Black Georgians were also precluded from sitting on juries, which effectively denied Black litigants equal justice under the law. Moreover, Black Georgians were excluded from the most desirable manufacturing jobs, which limited their

employment opportunities to primarily unskilled, low-paying labor. And in times of economic hardship, Black employees were the first to lose their jobs.

70. Decades of Jim Crow and other forms of state-sponsored discrimination—followed by continued segregation of public facilities well into the latter half of the 20th century, in defiance of federal law—resulted in persistent socioeconomic disparities between Black and white Georgians. These disparities hinder the ability of Black voters to participate effectively in the political process.

71. Black Georgians, for instance, have higher poverty rates than white Georgians. According to the U.S. Census Bureau’s 2019 American Community Survey (“ACS”) 1-Year Estimate, 18.8 percent of Black Georgians have lived below the poverty line in the past 12 months, compared to 9 percent of white Georgians.

72. Relatedly, Black Georgians have lower per capita incomes than white Georgians. The 2019 ACS 1-Year Estimate shows that white Georgians had an average per capita income of \$40,348 over the past 12 months, compared to \$23,748 for Black Georgians.

73. Black Georgians also have lower homeownership rates than white Georgians. The 2019 ACS 1-Year Estimate shows that 52.6 percent of Black Georgians live in renter-occupied housing, compared to 24.9 percent of white Georgians. And Black Georgians also spend a higher percentage of their income on

rent than white Georgians. The 2019 ACS 1-Year Estimate shows that in Georgia, the percent of income spent on rent is a staggering 54.9 percent for Black Georgians, compared to 40.6 percent for white Georgians.

74. Black Georgians also have lower levels of educational attainment than their white counterparts and are less likely to earn degrees. According to the 2019 ACS 1-Year Estimate, only 25 percent of Black Georgians have obtained a bachelor’s degree or higher, compared to 37 percent of white Georgians.

75. These disparities impose hurdles to voter participation including working multiple jobs, working during polling place hours, lack of access to childcare, lack of access to transportation, and higher rates of illness and disability. All of these hurdles make it more difficult for poor and low-income voters to participate effectively in the political process.

CAUSES OF ACTION

COUNT I:

SB 2EX Violates Section 2 of the Voting Rights Act

76. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

77. Section 2 of the Voting Rights Act prohibits the enforcement of any “standard, practice, or procedure” that “results in a denial or abridgement of the right

of any citizen of the United States to vote on account of race or color, or” membership in a language minority group. 52 U.S.C. § 10301(a).

78. Georgia’s congressional district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

79. Black Georgians in the northwestern and western Atlanta metropolitan area are sufficiently numerous and geographically compact to constitute a majority of eligible voters in an additional congressional district, without reducing the number of minority-opportunity districts already included in the enacted map.

80. Under Section 2 of the Voting Rights Act, the General Assembly was required to create an additional congressional district in which Black voters in this area would have the opportunity to elect their candidates of choice.

81. Black voters in Georgia, including in and around this area, are politically cohesive. Elections in this area reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters’ preferred candidates.

82. The totality of the circumstances establishes that the enacted congressional map has the effect of denying Black voters an equal opportunity to

participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

83. By engaging in the acts and omissions alleged herein, Defendants have acted and continue to act to deny Plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act. Defendants will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

- A. Declare that SB 2EX violates Section 2 of the Voting Rights Act;
- B. Enjoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in SB 2EX, including an injunction barring Defendants from conducting any further congressional elections under the enacted map;
- C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid congressional redistricting plan that includes an additional congressional district in the western Atlanta metropolitan area in which Black voters have the opportunity to elect their preferred candidates, as required by Section 2 of the Voting

Rights Act, without reducing the number of minority-opportunity districts currently drawn in SB 2EX;

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: October 28, 2022

By: **Adam M. Sparks**

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing **AMENDED COMPLAINT** has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing **AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: October 28, 2022

Adam M. Sparks

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