

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

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

ANNIE LOIS GRANT, et al.,)
Plaintiffs,) CIVIL ACTION FILE NO.
v.) 1:22-CV-00122-SCJ
BRAD RAFFENSPERGER, in his)
official capacity as the)
Georgia Secretary of State,)
et al.,)
Defendants.)

COAKLEY PENDERGRASS, et al.,)
Plaintiffs,)
v.) CIVIL ACTION FILE NO.
BRAD RAFFENSPERGER, et al.,) 1:21-CV-05339-SCJ
Defendants.)

The DEPOSITION of:

TRIANA ARNOLD JAMES

Being taken pursuant to stipulations herein:

Before Kathryn Taylor, CCR

WEDNESDAY, DECEMBER 7, 2022 | Commencing at 4:00 p.m.

All parties, including the court reporter, appeared by
videoconference.

Job No. 5609351

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A P P E A R A N C E S

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A T T A C H M E N T S

Certificate

Reporter's Disclosure Statement

Errata Sheet

* * *

T R A N S C R I P T C O D E S:

-- interruption/change in thought

. . . incomplete thought

[sic] denotes word/phrase that may seem

strange or incorrect has been

written verbatim

(ph) phonetically spelled

(indiscernible) not capable of being understood

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I N D E X T O E X H I B I T S

EXHIBITS	DESCRIPTION	PAGE
DEFENDANTS '		
Exhibit 1	Notice	7
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(Originally marked exhibits attached to the
original of the deposition and a copy attached
to all copies produced.)

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P R O C E E D I N G S

4:00 p.m.

(Whereupon, the court reporter complied with the requirements of O.C.G.A. Section 9-11-28(d).)

(Witness sworn.)

MR. JACOUTOT: So this will be the deposition of Triana Arnold James taken by Defendants' Secretary of State Brad Raffensperger, and members of the State Election Board for the purpose of discovery and all purposes allowed under the Federal Rules of Civil Procedure. All objections, except those going to form of the question and responsiveness of the answer, are reserved until trial or first use of the deposition.

Counsel, is that stipulation agreeable to you?

MR. JONES: It is.

MR. JACOUTOT: Okay. And how did you wish to handle signature when we finish up?

MR. JONES: We'll review and sign.

MR. JACOUTOT: Okay. Great.

Whereupon,

TRIANA ARNOLD JAMES,
was called as a witness herein and, having first been
duly sworn, was deposed and testified as follows:

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CROSS-EXAMINATION

BY MR. JACOUTOT:

Q. Now, Ms. James, as I said, I represent the Secretary of State, Brad Raffensperger, and the members of the State Election Board. The purpose of this deposition is not to confuse you in any way. So if I ask a question that -- that is possibly poorly-worded, and you don't quite understand it, I would just ask that you let me know and I can try and rephrase it and hopefully do a little bit better job for you; is that agreeable?

A. Yes.

Q. Okay. For the court reporter, particularly over these Zoom depositions, it's important that you speak clearly and loudly enough so that she can hear. And be sure to say yes and no audibly like you just did there, rather than kind of nodding your head. Because it's kind of tempting to just say, uh-huh or uh-uh, but if you can do that, that would be great.

A. Thank you.

Q. It's also important that we don't speak over each other at the same time. So please wait till I complete my question before you answer. And sometimes, you know, there's -- mistakes are made and we'll just kind of have to, you know, go back and ask the question

1 again to make sure that we got a clear record.

2 And if you need a break at any time, just let
3 me know. I don't anticipate this will be going for a
4 super long duration, but if you need a break at any
5 time, just let me know. The only thing I'd ask is that
6 if I posed a question to you, if you can answer that
7 first, and then we can take a break and go off the
8 record; is that agreeable?

9 A. Yes.

10 Q. Great. And, again, since this is Zoom, we
11 also just ask that apart from the computer or the
12 device that you're using to actually participate in the
13 deposition, that you don't have any other electronic
14 devices available to you during your deposition,
15 including your cell phone or your e-mail, and things
16 like that; is that agreeable?

17 A. Yes.

18 (Whereupon, Defendants' Exhibit No. 1 was
19 identified for the record.)

20 BY MR. JACOUTOT:

21 Q. Great. So that's our kind of boilerplate
22 stuff out of the way. What I'm going to show you now
23 is for the court reporter what we'll be marking
24 Defendants' Exhibit 1, and I'll share my screen so it
25 should come up on yours.

1 Okay. So in front of you, this will be
2 marked as Defendants' Exhibit 1. And if you see there
3 it says, Defendants' Notice to Take the Deposition of
4 Triana Arnold James. Do you see that?

5 A. Yes.

6 Q. And was this the document -- I'll scroll down
7 here. Was this a document that you received, or copy
8 of it?

9 A. I believe so. You're going kind of fast.

10 Q. Sorry. I can go back up here.

11 A. Let me put my glasses on.

12 Q. Sure.

13 A. Yeah.

14 Q. Okay. Great. Have you ever given any prior
15 testimony, whether at deposition or at trial?

16 A. Yes.

17 Q. And how many times would you say?

18 A. Once that I can remember.

19 Q. And was it a -- was it a deposition or a
20 trial testimony?

21 A. Both.

22 Q. Okay. And when was that?

23 A. I want to say maybe 2005.

24 Q. 2005. And so that case did go to trial then?

25 A. No.

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1 Q. No? What was the name of the case?

2 A. It was with the Department of Education.

3 Q. The Department of Education. Do you remember
4 who the parties were? I know it's been a while.

5 A. Yeah. And I take the -- the date back. I
6 believe it was 2004. No, no, no, it was between 2004
7 and 2005.

8 Q. Okay.

9 A. And it was a Department of Education and
10 myself. The U.S. Department of Education.

11 Q. Okay. Do you -- do you know what the claims
12 involved in that case were?

13 A. Student loans.

14 Q. Okay. And were you a Plaintiff in that
15 action?

16 A. Yes.

17 Q. Okay. And what about student loans did the
18 claims pertain to?

19 A. There was a student loan that was put on my
20 account that didn't belong to me.

21 Q. Okay.

22 A. And that was the only relief I could do.

23 Q. Okay. And do you recall how the case turned
24 out?

25 A. It -- it was taken off.

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1 Q. Okay.

2 A. I mean, it was a -- I don't know, a mutual
3 agreement.

4 Q. Okay. Like a settlement agreement?

5 A. Yeah, yeah, I guess you could say that.

6 Q. Okay. But apart from that particular case,
7 have you ever given any deposition or trial testimony
8 that you can recall?

9 A. Not that I can recall.

10 Q. Okay. Now, have you taken any medications
11 today that might keep you from fully and truthfully
12 participating in the deposition?

13 A. No.

14 Q. Okay. And do you have any medical conditions
15 that might keep you from fully and truthfully
16 participating?

17 A. No.

18 Q. Okay. Have you or a family member ever
19 engaged in a lawsuit against -- excuse me, I'll start
20 that over.

21 Have you or a family member ever engaged in a
22 lawsuit that entailed election-related claims?

23 A. No.

24 Q. Okay. Have you ever been charged with a
25 crime?

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1 A. Other than speeding, no.

2 Q. Okay. So then never arrested or convicted of
3 a crime either?

4 A. No.

5 Q. Okay. Have you discussed this particular
6 case with anyone, other than your attorney?

7 A. Family members.

8 Q. Okay. And what did y'all talk about?

9 A. That -- that I was a part of -- that I was a
10 part of it. That was pretty much it.

11 Q. Okay. Did you discuss this deposition with
12 anyone, other than your attorney?

13 A. No.

14 Q. Okay. Did you review anything to prepare for
15 your deposition today?

16 A. Notes. My notes.

17 Q. Have you previously provided those notes to
18 your counsel?

19 A. No, not really.

20 Q. Okay. What do those notes entail kind of
21 broadly?

22 MR. JONES: I'll just object to the extent
23 that this question seeks information protected by
24 the work product privilege. And, Ms. James, I'm
25 going to instruct you not to divulge the specific

1 contents of your notes.

2 MR. JACOUTOT: So Ms. James did respond that
3 she didn't provide any of these particular notes
4 that we're talking about to her counsel. So I'm
5 not sure that these notes would be covered under
6 work product or attorney-client privilege.

7 MR. JONES: I don't think transmission to
8 counsel is an element of work product privilege.
9 So we're going to stand on that objection.

10 MR. JACOUTOT: Okay.

11 BY MR. JACOUTOT:

12 Q. Okay. Ms. James, did these notes that you
13 were discussing that we've been talking about just now,
14 did -- did you make them at the instruction of counsel?

15 MR. JONES: And I'm just going to object to
16 the extent that this question seeks information
17 protected by the attorney-client privilege.

18 All right. Ms. James, I'll instruct you not
19 to divulge any specific instructions I may have
20 provided you.

21 BY MR. JACOUTOT:

22 Q. Ms. James, did you make -- any of these notes
23 that we're talking about, did you make them on your own
24 volition? I mean, did you decide yourself to -- to
25 kind of make these notes that you reviewed?

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1 MR. JONES: To the extent you can answer
2 without revealing anything that we have discussed,
3 you're free to do so, Ms. James.

4 THE WITNESS: Yes.

5 BY MR. JACOUTOT:

6 Q. Yes, you did?

7 A. Yes and no.

8 Q. Okay. Yes. I don't want -- definitely don't
9 want you to divulge anything that your attorneys told
10 you to kind of -- like notes that your attorney told
11 you to make. But if you made any notes just kind of
12 because you wanted to on your own accord, would you --
13 would you be able -- or not would you be able to, but
14 can you disclose those -- the -- the substance of those
15 notes to me?

16 MR. JONES: Again, I'm going to object
17 because this calls for information that's clearly
18 under attorney work product protection.

19 And, Ms. James, I'm going to direct you not
20 to answer that question.

21 MR. JACOUTOT: Well, I'm specifically not
22 asking for her notes that are under the
23 attorney work product. I'm saying the notes that
24 she took on her own accord, if she can identify
25 those and --

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1 MR. JONES: And, again, we're going to stand
2 on that objection because as you know, Bryan, work
3 product protection extends to documents that are
4 created by a party or its representative for use
5 in litigation or anticipated litigation.

6 BY MR. JACOUTOT:

7 Q. Okay. I might circle back. We can move on
8 for now.

9 Okay. Let's go to your background a little
10 bit, Ms. James. Can you give me your full name and
11 current address?

12 A. Triana Arnold James, [REDACTED]
13 [REDACTED], Villa Rica, Georgia 30180.

14 Q. And Villa Rica, is that Douglas County?

15 A. Yes.

16 Q. Okay. And how long have you lived at that
17 address?

18 A. I purchased my house in 2015.

19 Q. And have you lived there as your primary
20 residence since then?

21 A. Yes.

22 Q. Did you have any sort of secondary
23 residences, maybe rental properties or a second home at
24 that time?

25 A. In 2015?

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1 Q. Anytime sort of from 2015 to till the
2 present?

3 A. No.

4 Q. Okay. And when you -- when you purchased
5 that home in 2015, were you previously living in
6 Douglas County before that or were you elsewhere?

7 A. Cobb County and Douglas County.

8 Q. Okay. So what was the -- what was your
9 residence prior to the -- to the Douglas County home
10 purchase?

11 A. The one in Douglas County -- the one in Cobb
12 County was at [REDACTED] Smyrna, Georgia [REDACTED]

13 Q. And when did you start living there?

14 A. Actually, it was my grandmother's home, and I
15 was, I don't know, probably one of the primary
16 caretakers and -- basically all my life --

17 Q. Okay.

18 A. -- between my military service and
19 everything, so . . .

20 Q. Okay. And I know you mentioned you also had
21 another, I guess, residence in Cobb -- or, excuse me,
22 in Douglas County around the same time as the Cobb
23 County resident?

24 A. Yes. And I believe that was 6760 Brookfield
25 Way, and that was Douglasville.

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1 Q. And so were you living -- kind of splitting
2 time between the two locations?

3 A. Yes.

4 Q. Okay. And when did you get the Douglasville
5 location?

6 A. I can't remember. To be -- to make an
7 accurate -- to be accurate, I can't give you that. I
8 can't remember.

9 Q. Do you remember if it would have been
10 later -- yeah, later than 2010, or before then?

11 A. No, it wouldn't have been later than 2010,
12 no. Okay. Just give me a second.

13 Q. Sure.

14 A. Okay. Okay. Yeah. I -- I can't get the
15 dates to give you an accurate answer. I can't get the
16 dates right now to give you an accurate answer, so
17 that's going to have to be my answer. I can't remember

18 Q. Okay. Now, I know you mentioned that you
19 had -- you had had some military service, so I'm almost
20 certain that that entailed moving around a little bit.
21 So these questions might -- there might be a couple of
22 answers to this question. But have you ever resided in
23 any other state, other than Georgia?

24 A. As in the military?

25 Q. Even if -- I guess, other than military. We

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1 can talk about those first, and then we can talk about
2 military so let's go not -- not -- other than military.

3 A. No. Georgia has always been my primary
4 state.

5 Q. Okay. And when you were in the military, did
6 you reside in any other state other than Georgia?

7 A. I guess residents would -- would not be the
8 word, but -- so I was stationed in Alabama and Indiana.

9 Q. Okay. Perfect.

10 A. But my primary state is Georgia.

11 Q. Were you ever stationed in Georgia?

12 A. Yes.

13 Q. Okay. Apart from the Villa Rica residence,
14 which I believe you said you -- you own the Villa Rica
15 residence currently?

16 A. Yes.

17 Q. Apart from that, do you have any partial or
18 full ownership stakes in any other properties?

19 A. No.

20 Q. Okay.

21 A. You said states or in the state of Georgia?

22 Q. Any other properties at all?

23 A. With full ownership, no.

24 Q. Okay. Any -- any properties where you have a
25 partial ownership?

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1 A. Yes.

2 Q. Okay. And what property is that?

3 A. My -- and my dad had a residence in Polk
4 County. My -- we also had -- in Hancock County, and I
5 had -- let's see, Hancock, Polk, (indiscernible),
6 Douglas. That's it, I believe.

7 Q. You have partial ownerships in residences --
8 excuse me.

9 You have partial ownership interests in
10 residences in each of those counties?

11 A. Yes, in a way.

12 Q. Okay. Can you explain -- explain the -- the
13 way?

14 A. Like, my -- you know, like my -- my -- in
15 Cobb -- because my grandmother owned that property and
16 I took care of all of her -- anything dealing with my
17 grandmother. She passed away.

18 Q. Uh-huh.

19 A. And then my stepmother -- that was -- that
20 was Cobb. And then my stepmother had property in Polk
21 County that went to my dad. And then my dad had
22 divested to me and my sisters, but then it got sold, so
23 we no longer had interest in that. And the property in
24 Cobb County got sold as well. And then in Hancock
25 County, my father-in-law had property there, and he

1 passed away, and so then that property got sold. And
2 then Douglas County, my -- my property where I --
3 currently.

4 Q. Okay. Okay. So at a certain time you had an
5 ownership interest, but no longer, right, because
6 they've all been sold?

7 A. Yes.

8 Q. Except for the Douglas County one?

9 A. Yes, that's correct.

10 Q. Okay. Great, thank you.

11 A. But I've never lived in Polk County or
12 Hancock County.

13 Q. Okay. Did you attend high school?

14 A. Yes.

15 Q. And where was that?

16 A. It's kind of crazy, but I was a dual student
17 in Fulton County and Cobb County where I grew up.

18 Q. Okay. What dates approximately was that?

19 A. I graduated in '85.

20 Q. '85. Did you attend any undergraduate?

21 A. Yes.

22 Q. And where was that?

23 A. Atlanta, Morris Brown College.

24 Q. Okay. Did you graduate from Morris Brown?

25 A. Yes.

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1 Q. What was your degree in?

2 A. Criminology.

3 Q. And what year was that, that you graduated?

4 A. '90.

5 Q. 1990, okay. Did you do any post-grad school?

6 A. Yes.

7 Q. And what was that?

8 A. Through the military legal. I worked for

9 JAG.

10 Q. Jack?

11 A. Judge Advocate General.

12 Q. Oh, JAG, JAG. Okay.

13 A. JAG. My southern accent.

14 Q. That's fine. So you worked for JAG. Were

15 you doing any coursework or were you -- were you

16 actually working at JAG?

17 A. It was through the military, so we did legal
18 support.

19 Q. Okay. Did you get any certifications to --
20 as a result of that work as doing legal support for
21 JAG?

22 A. Yes.

23 Q. And what were those?

24 A. Law.

25 Q. A law -- a law certification?

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1 A. Yes.

2 Q. Does it have a name of any kind or, you know,
3 was it just certified in law?

4 A. Yes. Yes. I don't know what they call it in
5 the military. I mean, you -- yeah.

6 Q. Okay. Who issued that certificate?

7 A. I guess I would say the United States Army.

8 Q. Okay. Do you recall what sort of
9 requirements the certification -- what was required
10 to -- I'll strike that and start over.

11 Do you recall what was required to be
12 certified in law in the United States Army?

13 A. I had to be trained. I had to go to school,
14 which they provided.

15 Q. Uh-huh. What was the schoolwork that you had
16 to engage in?

17 A. Just it -- just like law school, but it was
18 military law school. The same basic courses.

19 Q. Okay. So did you get a -- did you get a
20 Juris Doctor through this program?

21 A. They only called it a certification.

22 Q. Okay. How many -- how many hours of
23 classwork did you have to complete to get the
24 certification?

25 A. I'm not sure.

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1 Q. Okay. And I'm not trying to be nitpicky on
2 this. I'm just trying to, you know, make sure I
3 understand what it is, and -- and -- and how -- you
4 know, how you get it.

5 So what kind of work did you do when you were
6 working with JAG in your military service?

7 A. When a soldier is killed overseas, we were
8 the liaisons for the families. Making sure that their
9 paperwork was straight, making sure the transportation
10 of the body from overseas to the United States -- so
11 basically, I helped with a lot of legal paperwork.

12 Q. Okay. And do you recall what years you were
13 serving in this capacity?

14 A. I finished, I believe, in 2012.

15 Q. Do you remember when you started?

16 A. When I started my military service?

17 Q. Well, let's first do when you started with
18 JAG, and then I'll go back to military service
19 generally.

20 A. Let me see. Just give me a second. You're
21 making me go back some years.

22 Q. Yeah, no, that's fine. Take your time.

23 A. Did I switch over -- I can't remember when I
24 switched over.

25 Q. Okay. Well, how about when you -- when did

1 you start your military service?

2 A. '86. 1986.

3 Q. 1986. And were you active duty, reserves?

4 A. I started out active duty.

5 Q. And what branch of the military was it? I'm
6 not sure if you mentioned it already.

7 A. United States Army.

8 Q. Okay. And how long did you serve active duty
9 for?

10 A. Well, from that time to -- I think my final
11 date was -- was 2012. I was between active duty,
12 reserves, and what we call AGR, Active Guard Reserve,
13 where you're pretty much active duty, but you go where
14 you are needed.

15 Q. Okay. And then -- I'm sorry, what year did
16 you say again? I missed that.

17 A. From 1986 to 2012.

18 Q. Okay. 2012, yeah.

19 A. Wait. So I can't pinpoint my time because
20 you go where you are needed.

21 Q. Uh-huh. And when did you complete your
22 military service?

23 A. I said 20 -- I think it was 2012.

24 Q. Okay. All right.

25 A. My final date was 2012, I believe.

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1 Q. Okay. And were you honorably discharged at
2 that point?

3 A. Yes.

4 Q. Okay. Great. So when you were in school,
5 were you involved in any sort of social organizations,
6 sororities or anything like that?

7 A. Yes.

8 Q. And what were those?

9 A. Sigma Gamma Rho Sorority, Incorporated.

10 Q. Are you still a member?

11 A. Yes.

12 Q. Any other social organizations while in
13 school?

14 A. Oh, ROTC. Well, I guess that wouldn't be
15 social.

16 Q. Yeah, but it's interesting to know
17 nonetheless.

18 A. Yeah, I'd be -- I don't know. I guess that
19 was my time to go into the military because I'd be ROTC
20 from -- from middle school to high school to college.

21 Q. Okay.

22 A. There was several social organizations like
23 student government, and I was -- I was very active.

24 Q. Did you -- yeah, student government. Did you
25 do any sort of political or activist organizations

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1 while you were in school?

2 A. Yes.

3 Q. And what were those?

4 A. Feeding the homeless or be a -- I wouldn't
5 say "protesting," but we participated in the rally when
6 Oprah Winfrey came down to Forsyth County, the county
7 that didn't allow blacks.

8 Q. Okay. And -- and through what
9 organization -- or was it just kind of you individually
10 participating in that rally or were you doing it
11 through an organization?

12 A. I can't -- I can't remember if it was an
13 organization. I just remember participating.

14 Q. Okay. Can you think of any other political
15 or activist organizations that you were in while you
16 were in school?

17 A. Domestic Violence Awareness, Breast Cancer
18 Awareness. Yeah, just community service.

19 Q. Okay. And where are you currently employed?

20 A. I'm not employed.

21 Q. Not currently employed? What was your last
22 employment?

23 A. I worked for a law firm.

24 Q. What was the name of the law firm?

25 A. Harbin Law.

1 Q. And what did you do at that law firm?

2 A. Legal support.

3 Q. And when were you -- what were the dates of
4 your employment there?

5 A. Okay. 2005 to 2009, I believe.

6 Q. So have you had any employment between 2009
7 and the present?

8 A. Well, I'm self-employed.

9 Q. Self-employed. And are you a -- for a sole
10 proprietorship, an LLC, or something like that?

11 A. Yes.

12 Q. Which -- which one of those?

13 A. Sole proprietor.

14 Q. Sole proprietor. Does the company have a
15 name?

16 A. James & Arnold-James & Associates.

17 Q. And what kind of work does James &
18 Arnold-James & Associates do?

19 A. Accounting and business solutions, business
20 consulting.

21 Q. And what do you do at that company?

22 A. Accounting and business consulting.

23 Q. But do you do the accounting and business
24 consulting or do you do something sort of like a niche
25 within that?

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1 A. Yes, I do it.

2 Q. Okay. And do you have an accounting degree?

3 A. No.

4 Q. So what kind of accounting services do you
5 provide?

6 A. Business tax returns. I do businesses.

7 Q. Tax returns for businesses?

8 A. Yes. Can you hold on one quick second?

9 Q. Yeah, we can take a five-minute break.

10 A. No, just one minute.

11 Q. Sure.

12 (Whereupon, a brief interruption occurred.)

13 BY MR. JACOUTOT:

14 Q. Okay. Okay. And so now you've been with
15 that company since 2009 then?

16 A. I started in -- my own business in 2007.

17 Q. 2007. Do you own any other businesses
18 besides that one?

19 A. No.

20 Q. Do you do any kind of independent contracting
21 work outside of -- well, yeah, let's just say with
22 that, do you do -- do any kind of independent
23 contracting work right now?

24 A. No.

25 Q. Okay. Can you tell me what Georgia NOW is?

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1 A. Georgia National Organization for Women?

2 Q. Yes.

3 A. It is --

4 Q. Is that a -- oh, I'm sorry, go ahead.

5 A. It is a part of the National Organization for
6 Women, which is one of the largest feminist
7 organizations in the country that advocates for the
8 people.

9 Q. And so that's a political advocacy group
10 then?

11 A. Part of a political --

12 Q. Do you -- I'm sorry, I thought I heard some
13 interference coming up. That might have just been
14 feedback on my part.

15 So what's your -- do you have a role with
16 Georgia NOW?

17 A. Yes.

18 Q. And what is that role?

19 A. I am the president.

20 Q. Is this a nonprofit role?

21 A. Yes.

22 Q. Do you receive a salary or anything like
23 that?

24 A. No.

25 Q. How many members does Georgia NOW have?

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1 MR. JONES: I'm going to object to that
2 question on grounds of First Amendment privilege.
3 Ms. James, if you feel comfortable disclosing
4 membership information related to NOW, you know,
5 you can. But obviously, you know, NOW's
6 membership information is not going to be
7 discoverable in this lawsuit.

8 MR. JACOUTOT: The amount of members is what
9 you're objecting to her disclosing?

10 MR. JONES: I am.

11 MR. JACOUTOT: On the basis of the First
12 Amendment?

13 MR. JONES: I am.

14 MR. JACOUTOT: Yeah, I'm not asking for any
15 identifying information. Can you expand on that
16 objection any, or do you just want to stand on it?

17 MR. JONES: I mean, you know, if you'd like I
18 can confer with my client. I'm not sure why NOW
19 is at issue in this deposition, you know. But,
20 you know, like I said, I mean, we're not going to
21 go -- we're not going to reveal the inner workings
22 of the organization, we're certainly not going to
23 identify any members, we're not going to talk
24 about their strategic plans, or anything else
25 that's covered by the first amendment privilege.

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1 MR. JACOUTOT: Well, I don't think that the
2 amount of members is covered by First Amendment
3 privilege.

4 MR. JONES: You know, if you want to limit
5 the question strictly to the amount of the
6 members, I'm willing to walk back the First
7 Amendment objection. I will object to that
8 question on relevance grounds. But certainly, you
9 know, as to this line of questioning, if we go
10 much further, I will assert the privilege and will
11 be standing on it.

12 MR. JACOUTOT: Yeah. Well, I'm not going to
13 limit to just the amount or my -- my questions
14 about Georgia NOW just to the amount, but I do
15 want to get that answer. I'm not going to go any
16 further as to the individual members or anything
17 like that, but I am curious as to what Georgia NOW
18 does, and sort of the scope of their organization.

19 MR. JONES: Yeah. And, I mean, you know, to
20 the extent that you're asking about their
21 strategy, or anything else that's nonpublic, you
22 know, we're going to stand on the First Amendment
23 objection there.

24 So, again, as to the members, I'm willing to
25 walk that back. But if we continue to go further

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1 into the inner workings of the organization, I
2 will be asserting an objection and I will be
3 standing on it.

4 MR. JACOUTOT: Sure.

5 BY MR. JACOUTOT:

6 Q. So let's start with the -- the amount of
7 members that Georgia NOW has. I think we can -- we can
8 go with that.

9 So, Ms. James, how many members does Georgia
10 NOW have?

11 A. Over 1,000.

12 Q. Is there any sort of requirements to be a
13 member? Is there dues or anything like that, or is it
14 just you can sign up through an e-mail or something
15 like that?

16 A. I'm not comfortable answering that question.

17 Q. Okay. Well, we're entitled to discover
18 information -- information relating to the organization
19 to the extent it reveals any sort of potential bias in
20 the individual Plaintiff. Not to say that it does, but
21 we are entitled to discover that, and since Georgia NOW
22 is a political organization that you run, I do think
23 it's relevant. And I certainly don't think there's any
24 First Amendment privilege to revealing how membership
25 is set up. You know, I --

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1 MR. JONES: I don't -- I don't think that the
2 way that someone joins an organization really has
3 anything at all to do with the political
4 activities of the organization itself, and NOW is
5 not a member to this lawsuit. And so I think this
6 is plainly irrelevant. You know, as to whether or
7 not we want to assert the First Amendment
8 privilege, we -- we're happy to confer on this.
9 But, again, Bryan, if you continue going down this
10 path, I'm telling you where we're going to end up.

11 MR. JACOUTOT: Well -- so, I mean, just so we
12 can save time hopefully, or maybe splice this a
13 little --

14 MR. JONES: Sure.

15 MR. JACOUTOT: -- it sounds like we're going
16 to have a couple of disputes on the basis of
17 privilege before today is over. And it might be
18 good that I can -- I can kind of move on from
19 this -- this topic here, and the other topic we're
20 speaking about with the notes prepared. And we
21 could just leave the deposition open and just kind
22 of do the other parts that are clearly, you know,
23 not covered by privilege.

24 MR. JONES: It doesn't matter to me. I mean,
25 as for work product, I mean, it's black letter law

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1 that documents that a party or its representatives
2 creates in anticipation of litigation, obviously,
3 without intending to disclose it, are going to be
4 subject to the work product protection. I'm not
5 sure why we're going down that path, but if you
6 want to go to the court on that, we obviously can
7 do it.

8 As to the organization, you know, I don't --
9 as I made clear, I mean, we're not going to get
10 into the inner workings of the organization
11 because they're simply not at issue here, and
12 they're also subject to the First Amendment
13 privilege. If there's something limited in scope
14 that you're trying to elicit from NOW, you know,
15 and we can reach some agreement as to that, you
16 know, I'm happy to come up with some sort of
17 reasonable compromise.

18 But obviously, I mean, I think that, you
19 know, NOW's political activities, you know, plenty
20 of them are discovered -- are in the public
21 record. But to the extent you're trying to
22 discover something about NOW's political
23 activities from Ms. James that are not in the
24 public record, I think we're going to have a First
25 Amendment problem there.

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1 MR. JACOUTOT: Okay. So -- and I do want to
2 make sure we have this on the record too because I
3 was going to go off, but I want -- my position on
4 the work product objection is that, while I do
5 agree that if, you know, an -- an attorney is
6 creating documents in preparation for litigation,
7 sure, or if another party is done -- is creating
8 documents in preparation at the ordering or at
9 the -- at the direction of counsel, I think that
10 you could probably argue that too. But what I'm
11 specifically asking for is a little bit more
12 narrow, and it's just what a non-attorney
13 Plaintiff created -- whether in anticipation of
14 litigation or not, but what a non-attorney
15 Plaintiff created that was not done at the
16 direction of counsel, and it was done on her own
17 free will and accord, that is not protected by
18 work product or attorney-client privilege.

19 MR. JONES: We politely disagree with that.

20 MR. JACOUTOT: And -- so, I mean, that's
21 where -- that's what we're going to, you know, hit
22 our -- hit our wall on privilege. So I do think
23 that -- I mean, if Ms. James is -- is -- it might
24 be easy just to kind of go through what I have
25 that's not at issue here, and then we can keep it

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1 open. You know, kind of keep the deposition open
2 at the end, and maybe we sort that out amongst
3 ourselves, the principals. Maybe we come back for
4 a short little discussion about those remaining
5 issues that we don't hash out now, if that -- if
6 that sounds agreeable.

7 MR. JONES: Yeah, that's fine. That's fine.
8 I mean, my preference is to get through the
9 deposition today, but . . .

10 MR. JACOUTOT: Sure.

11 MR. JONES: And I'd like to -- you know, for
12 that reason, I'd like to keep going so that we can
13 have a complete as record as possible.

14 MR. JACOUTOT: Okay. Well, yeah. I think
15 I'm going --

16 MR. JONES: I'll also just briefly note on
17 the work product point that Ms. James was
18 certainly noncommittal as to whether or not the
19 notes were at my direction. But, I mean, and I --
20 it -- whether or not it was at my direction really
21 is of no legal consequence.

22 MR. JACOUTOT: So it's your position that
23 anything made by any non-attorney party in
24 anticipation of litigation is covered by work
25 product?

1 MR. JONES: I'm not here to have a -- you
2 know, I'm not here to have a legal debate with you
3 on this. But, I mean, what I am going to say is
4 that the rule is pretty clear that documents that
5 are created in anticipation of litigation --
6 litigation by a party or its representative are
7 subject to work product protection. And there's
8 no element of the rule that specifies that the
9 parties, you know, documents, notes, or mental
10 impressions about this suit have to come at the
11 direction of counsel.

12 Obviously, if they were at the direction of
13 counsel, there may be an additional privilege
14 concern here. But at the moment, I'm not
15 asserting privilege over these documents that she
16 created and asserting work product privilege --
17 work product protection, excuse me.

18 MR. JACOUTOT: Okay. Well, that -- yeah,
19 that's -- that's fine for you to assert that. I'm
20 going to disagree that that information is not
21 discoverable, so . . .

22 But we can move on, and I -- I'll just
23 move on from Georgia NOW too as well. Just
24 because I have questions that I think you may not
25 object to, but I think it's just easier just to

1 keep them in a separate bucket.

2 MR. JONES: That's fine.

3 BY MR. JACOUTOT:

4 Q. Ms. James, sorry for that digression there.

5 Are you registered to vote in Georgia?

6 A. Yes.

7 Q. And where did you register to vote?

8 A. In Douglas County, state of Georgia.

9 Q. Okay. Were you registered also previously in
10 Cobb County when you lived there?

11 A. Yes.

12 Q. Okay. And what district did you reside in
13 for -- well, if you -- if you recall, do you know what
14 the senate district and house district, state house
15 district -- well, let me -- let me keep those separate.

16 So do you recall what senate district you
17 resided in prior to the recent redistricting?

18 A. In -- not U.S., but -- but state?

19 Q. Yes, state senate. Thank you.

20 A. I was in the 30th.

21 Q. Okay. And do you recall what house -- state
22 house district you resided in before the recent
23 redistricting?

24 A. The 67th.

25 Q. Okay. Have you voted in each election since

1 you've been registered to vote here in Georgia?

2 A. Yes.

3 Q. Okay. Would you include primaries along with
4 the -- with the -- with that answer?

5 A. Yes.

6 Q. Okay. Do you recall what precinct you voted
7 in in the November 2022 elections? So that would be
8 the elections that just occurred.

9 A. I don't know the precinct number, but
10 location --

11 Q. Yeah, sure. Do you -- do you know the
12 location?

13 A. Mirror -- Mirror Lake. Mirror Lake
14 Elementary.

15 Q. Now, I know you -- as a result of your
16 military service, you've lived in different states
17 periodically. Have you ever voted in any other state
18 outside of Georgia?

19 A. No. Never.

20 Q. Okay. So do you consider yourself to be a
21 member of the Democratic Party?

22 A. Yes.

23 Q. Where would you say you'd be -- would
24 start -- strike that.

25 When would you say you became a member of the

1 Democratic Party?

2 A. Since I was 17.

3 Q. Have you ever held any leadership position in
4 that party?

5 A. No.

6 Q. Have you ever held any position or served on
7 any committee within the Democratic Party?

8 A. No.

9 Q. Have you participated in any activities of
10 the Democratic Party?

11 A. Yes.

12 Q. What kind of activities?

13 A. Get out to vote.

14 Q. Anything else?

15 A. No.

16 Q. Have you ever considered yourself to be a
17 member of the Republican Party?

18 A. No.

19 Q. Okay. And is it fair to say that you
20 generally support Democratic candidates for election
21 here in Georgia?

22 A. Yes.

23 Q. Have you ever voted for a Republican
24 candidate?

25 A. Yes.

1 Q. Do you remember who that was?

2 A. Yes.

3 Q. Do you remember when that was?

4 A. The -- the last -- this last election, yes.

5 Q. Okay. Do you feel comfortable saying who
6 that Republican was?

7 A. No.

8 Q. Okay. Have you ever been a member or held a
9 position in any other political party, apart from the
10 Democratic Party?

11 A. No.

12 Q. And have you ever yourself run for office?

13 A. Yes.

14 Q. And when was that? Well, let's -- let me
15 rephrase that question.

16 When -- how many times have you run for
17 office?

18 A. Twice.

19 Q. And starting with -- I guess we'll just go
20 chronologically back from now. What office did you run
21 for most recently and when was that?

22 A. I guess, 2021.

23 Q. 2021?

24 A. No, no, no, I'm sorry. I -- I guess
25 2020/2021, I ran for senate.

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1 Q. Would that be U.S. senate or state senate?

2 A. State.

3 Q. And what district did you run in?

4 A. 30.

5 Q. Okay. Did you run in the Democratic primary?

6 A. Yes.

7 Q. Okay. Were you successful in that primary?

8 A. No.

9 Q. Okay. And so the -- the office you ran for
10 before Senate 30, what office was that?

11 A. Lieutenant governor.

12 Q. Okay. And when was that?

13 A. 2018.

14 Q. Okay. And did you also run in the Democratic
15 primary for that election?

16 A. Yes.

17 Q. Were you successful in that primary?

18 A. No.

19 Q. Okay. Any other offices? I know you said
20 only two, but just -- you know, if that jogs your
21 memory or anything.

22 A. No.

23 Q. Okay. Now, apart from Georgia NOW, are you
24 involved in any voter advocacy groups?

25 A. No.

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1 Q. Okay. When did you first come to the -- let
2 me say that again.

3 When did you first come to learn about this
4 lawsuit?

5 A. Someone reached out to me.

6 Q. And about when was that?

7 A. I can't remember.

8 Q. Okay. Would it have been in 2021? Do you
9 know? Or 2022?

10 A. It wasn't 2022.

11 Q. Okay. So 2021?

12 A. Possibly.

13 Q. Who was it that reached out to you?

14 A. I can't remember.

15 Q. You don't remember who reached out to you
16 about this lawsuit?

17 MR. JONES: Objection, asked and answered.

18 Ms. James, you can answer.

19 THE WITNESS: No, I don't remember.

20 BY MR. JACOUTOT:

21 Q. Okay. How did this person reach out to you?

22 A. I think I got a call. Yeah, I believe I got
23 a call.

24 Q. Okay. Do you recall the substance of that
25 call?

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1 A. Just -- just talking about redistricting, and
2 just talking about the new map.

3 Q. Okay. And on that call, was it then that you
4 sort of decided that you wanted to be a part of the
5 lawsuit?

6 A. I wasn't sure if I -- yeah, I wasn't sure.

7 Q. Okay. Can you describe what -- what caused
8 you to go from not being sure to joining the lawsuit?

9 A. When I found out that I was redistricted, I
10 was taken out of the district that I -- that I was in.

11 Q. Okay. Do you happen to remember when you
12 found that out?

13 A. Well, after the phone call I started doing a
14 little research and trying to figure out if I was taken
15 out of my district. And, yeah, I started trying to
16 figure it out, like, where was I, where was I supposed
17 to vote, and things like that.

18 Q. Okay. Do you recall when you were first
19 approached or contacted by a lawyer in this case?

20 A. No, I don't.

21 Q. Do you recall what lawyer you -- okay.
22 What lawyer -- okay. What are you hoping this lawsuit
23 accomplishes?

24 A. I'm hoping that -- that redistricting will be
25 changed to the fact that it is, I wouldn't say

1 favorable, but fair. Fair, yeah.

2 Q. Okay. So then you don't -- do you remember
3 when you first communicated with a lawyer about this
4 case?

5 A. No. I don't remember specifics.

6 Q. And do you remember any names of any law
7 firms that you did get in touch with initially?

8 A. No. I'd have to go back and look, but I
9 can't answer that right now.

10 Q. Okay. Okay. Don't mind if we take a
11 five-minute break?

12 A. Yes, please.

13 Q. Sure. And do you want more time? We can do
14 ten if you'd like.

15 A. No. Five minutes is fine.

16 Q. Perfect.

17 MR. JACOUTOT: So we can go off the record.

18 (Whereupon, a brief break was taken.)

19 MR. JACOUTOT: Ms. Taylor, we can go back on
20 the record.

21 BY MR. JACOUTOT:

22 Q. Okay. Ms. James, did you attend a meeting to
23 discuss this case before you hired an attorney?

24 A. No.

25 Q. Okay. What research did you do concerning

1 the issues in this case, if any, prior to hiring an
2 attorney?

3 A. Just -- just my own because the -- the
4 numbers had changed, the -- the map had changed, and I
5 wanted to make sure that I was voting and -- in the
6 right place, and who was being represented. Because it
7 was really confusing because I vote in every election.
8 And it was -- it was just really confusing, so I had to
9 go in and do some research on my own to protect my
10 vote.

11 Q. Okay. And correct me if I'm wrong, you said
12 that you were contacted by an attorney about
13 participating in the case? It wasn't that you
14 contacted an attorney to participate in the case; is
15 that correct?

16 A. That's correct.

17 Q. Okay. Are you being paid in any way for your
18 participation as a Plaintiff in the case?

19 A. No.

20 (Whereupon Defendants' Exhibit No. 2 was
21 identified for the record.)

22 BY MR. JACOUTOT:

23 Q. All right. I'm going to share my screen with
24 you again, and it's going to be marked as Exhibit --
25 excuse me -- Defendants' Exhibit 2, and it will be the

1 Second Amended Complaint in this action.

2 Does that come up on your screen? Oh, excuse
3 me. Do you see on your screen where it says, Second
4 Amended Complaint?

5 A. Yes.

6 Q. Okay. And have you seen this document
7 before?

8 A. Yes.

9 Q. Do you recall when?

10 A. No.

11 Q. Have you read through this document before?

12 A. Yes.

13 Q. Okay.

14 A. I believe I have.

15 Q. Do you generally know the allegations
16 contained in this document?

17 A. Yes.

18 Q. Okay. I'm going to direct your attention to
19 Paragraph 15, which I'm moving towards. Do you see
20 Paragraph 15 here?

21 A. Can you make it a little bigger?

22 Q. Yes.

23 A. I'm not as young as I used to be. Yes.

24 Q. Okay. And let me -- let me know if you need
25 to read through it real quickly, but does this

1 paragraph here accurately describe the facts as they
2 pertain to you?

3 A. Yes.

4 Q. And I'll just scroll down real quick so you
5 can kind of see the end of it and just make sure.

6 A. Yes.

7 Q. Okay. See here on the -- let's see, I'm
8 going to see if I can highlight this for you. See
9 where it says, "She is a resident of Douglas County."
10 "She" referring to you, "is a resident of Douglas
11 County and located in Senate District 30 and House
12 District 64 under the enacted plans."

13 A. Yes, I see it.

14 Q. Okay. And you said you did vote in the most
15 recent election?

16 A. Yes.

17 Q. Was your selection for Senate District 30
18 successful in the most recent election?

19 A. There was no -- there was no challenger in
20 District 30.

21 Q. Okay. Was it just an incumbent inside
22 District 30 then?

23 A. Yes.

24 Q. Okay. And what -- do you recall what party
25 the incumbent was?

1 A. Republican.

2 Q. Okay. And House District 64, was your
3 selection for House District 64 successful in the 2022
4 general?

5 A. I don't think I voted -- I don't think I
6 selected anyone in that -- in that district.

7 Q. Okay. And you said it was a Republican
8 incumbent in Senate 30. Is it fair to say you didn't
9 select anyone for that district?

10 A. There was nothing to select.

11 Q. Oh, okay. Okay. During the 2021 special
12 session in the Georgia General Assembly, did you reach
13 out to any legislator concerning the redistricting
14 issues raised in the complaint here?

15 A. Yes.

16 Q. Who did you reach out to?

17 A. I believe I wrote an e-mail to the governor.

18 Q. E-mail to the governor? Did you reach out to
19 any legislators in the General Assembly?

20 A. Yes.

21 Q. Which ones?

22 A. What was his name? I believe -- I think his
23 last name is Jackson, and he represented 64 when I was
24 in the 67, so yeah.

25 Q. Okay. Did you testify in the Georgia General

1 Assembly on any issues relating to the redistricting of
2 2021?

3 A. I didn't testify, but I did issue a public --
4 not public -- but I guess they called it a public
5 comment when they opened that up for public comments, I
6 believe I issued a statement.

7 Q. Okay. Did you attend any hearings at the
8 Capitol or with the legislature? Well, let me -- let
9 me rephrase that.

10 Did you attend any hearings in the Georgia
11 legislature pertaining to redistricting?

12 A. I believe I was at the State Capitol during
13 that time.

14 Q. At the State Capitol, did you attend any
15 hearings or anything like that? Any committee
16 meetings?

17 A. Yes.

18 Q. And were those related to redistricting?

19 A. Yes.

20 Q. Okay. Do you recall when those took place?

21 A. No.

22 Q. Do you recall through what body they took
23 place?

24 A. You mean the committee?

25 Q. Sure. Yeah.

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1 A. Yeah. Just the -- I don't know what
2 committee it was.

3 Q. Okay. And outside the legislative sphere and
4 the representative sort of house and senate in Georgia,
5 did you attend any meetings about redistricting just
6 within your community?

7 A. I believe I was on a Zoom call, yes.

8 Q. Okay. When was that Zoom call?

9 A. I can't remember.

10 Q. Okay. Was it -- do you know if it was after
11 the maps had been publicly disclosed?

12 A. Yes.

13 Q. Okay. Do you have an understanding of what
14 the term "community of interest" means?

15 A. Somewhat.

16 Q. What would you kind of consider community of
17 interest to mean?

18 A. I mean, in the interest of the community,
19 what -- what will work best for the community as a
20 whole.

21 Q. And how -- just kind of personally, how would
22 you describe your community?

23 A. It's a -- it's a -- sometimes not such a
24 friendly community.

25 Q. How do you mean?

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1 A. Well, I'm black, a woman of color, and
2 certain folks, specifically white people, feel that I
3 shouldn't be out here, that I don't belong in my
4 community because I'm a black woman of color.

5 Q. Uh-huh. And when you say "out here," what
6 area are you describing?

7 A. Villa Rica.

8 Q. Villa Rica. Do you participate in any sort
9 of neighborhood or community associations?

10 A. Yes.

11 Q. What kind of -- or excuse me, what kind of
12 associations do you participate in?

13 A. Well, we have one particular neighborhood
14 that does Halloween, and everybody floods there with
15 their golf carts and their cars. You know, and the
16 kids walking in the neighborhood, so I have
17 participated in, like, monitoring traffic, helping with
18 traffic, people going in and out of the neighborhood,
19 making sure the kids are safe, that kind of thing.

20 Q. Okay.

21 A. And also making sure that the community --
22 that people that move here are welcome. The people
23 that live here, especially runners, know what the rules
24 are about, you know, trash and parking and things like
25 that.

1 Q. Okay. And that's sort of specific to your
2 neighborhood, right?

3 A. Yes.

4 Q. Okay. Great. Are you a member of any
5 faith-based organizations?

6 A. Yes.

7 Q. Where is that located?

8 A. The state of Georgia.

9 Q. Is it -- is it sort of close to home or is
10 it -- you got to kind of take a trip to get there?

11 A. My church is in Smyrna, Georgia, Cobb County,
12 and my ministry is the state of Georgia.

13 Q. Okay. Do you -- do you go to the same church
14 that you used to go to when you -- back when you lived
15 in Cobb County?

16 A. Yes.

17 Q. And that's at the Smyrna church?

18 A. Yes.

19 Q. Okay. Are you involved in any school, school
20 associations, or activities or anything like that in
21 the area?

22 A. Yes.

23 Q. Where are those?

24 A. Well, I petition -- years ago I petitioned
25 the school to -- to install the push-lock doors, the

1 security doors. I have participated with the Boys &
2 Girls Club. I donate a lot to my teachers at --

3 Q. Okay. Is there, like, a sort of a local Boys
4 & Girls Club in, I guess, Villa Rica?

5 A. Douglas County.

6 Q. Douglas County.

7 A. But I'm not doing it now.

8 Q. Right. And that's the one you've worked with
9 in the past?

10 A. Yes.

11 Q. Okay. And where would you say you socialize
12 typically? Do you stay around the neighborhood or do
13 you venture out elsewhere?

14 A. No. I don't really socialize.

15 Q. Keeping busy? Okay. Outside of sort of
16 work and any in church and things like that, where
17 would you say you spend most of your time?

18 A. At home.

19 Q. Okay. Okay. We'll move on to another sort
20 of separate part here, and hopefully it'll be fairly
21 rapid fire and we can get you out of here soon. But,
22 you know, please feel free to answer as you -- as you
23 need to.

24 So have you ever personally been prohibited
25 from registering to vote based on your race?

1 A. No. From registering to vote?

2 Q. Yes.

3 A. No.

4 Q. Oh, I'm sorry. I broke my own rule. I said,
5 "uh-huh." I mean, "yes."

6 Have you ever been prohibited from
7 participating in the political process based on your
8 race?

9 A. Yes.

10 Q. Can you describe that?

11 A. What I'm going through now?

12 Q. Are you referring to the redistricting maps?

13 A. Yes.

14 Q. Okay. And the allegations contained in the
15 complaint?

16 A. Yes.

17 Q. Okay. Apart from that, can you recall any
18 time when you've been prohibited from participating in
19 a political process based on your race, in your
20 opinion?

21 A. I can't recall.

22 Q. Okay. Do you have any personal knowledge of
23 discrimination by the government of Georgia against
24 members of a minority group related to participation in
25 the democratic process?

1 A. Yes.

2 Q. And what -- what was that?

3 A. Particularly down in -- I believe it was
4 Camilla, Georgia, where a predominantly African
5 American neighborhood, the polling place was closed.
6 And -- I believe it was Camilla. It might have been
7 Cordele, where the machine didn't have plugs. And
8 if -- the neighborhood is an older neighborhood, and
9 where they could just basically walk across the street
10 to vote, and it was closed, so they had to be -- it was
11 closed and moved to another location that they couldn't
12 get to. And that was the only one that -- that that
13 happened to in the -- in a -- in a -- where the
14 residents were mostly African American.

15 Q. Okay. And how did you come to learn about
16 that situation?

17 A. I believe I got a couple of calls about it.

18 Q. Were they calls from friends or somebody you
19 worked with or something like that?

20 A. Yeah. There's other people that I advocate
21 with.

22 Q. Okay. Do you have an understanding of what
23 the term "racially polarized voting" means?

24 A. Not completely.

25 Q. In your opinion, do black voters in Georgia

1 generally vote for Democratic candidates?

2 A. Most of the time, yes.

3 Q. Do you know if Georgia uses a majority vote
4 requirement in its elections?

5 A. No.

6 Q. Okay. And --

7 A. Well --

8 Q. I'm sorry, go ahead.

9 A. Well, they have the -- the majority vote, but
10 then it's also the other part that they put in, the 50
11 percent plus 1 -- point 1.

12 Q. Yeah, that's what I'm -- that's what I'm
13 referring to. So that -- so you're aware that Georgia
14 uses that requirement, though?

15 A. Yes.

16 Q. Okay. And you'd agree with me that that
17 majority vote requirement led to a runoff both in this
18 most recent election with Herschel Walker and Senator
19 Warnock, and also in 2021, correct?

20 A. Yes.

21 Q. And the result of those elections were that
22 Senator Warnock and Senator Ossoff won, right?

23 A. In the first one, yes. Well, it wasn't the
24 majority, it was -- well, it was the majority, but it
25 was also the 50 percent plus 1.

1 Q. Right. So in 2021, Senator Ossoff won his
2 runoff, correct?

3 A. Yes.

4 Q. And then just, I guess it was last night,
5 Senator Warnock won his runoff, correct?

6 A. Yes.

7 Q. Okay. Are you familiar with the term
8 "candidate slating processes" as it's used in
9 elections?

10 A. No.

11 Q. Okay. Has a lack of education kept you
12 personally from participating in Georgia politics?

13 A. Me personally, no.

14 Q. Okay. Has a lack of employment opportunities
15 kept you from participating in Georgia politics?
16 personally?

17 A. Lack of employment?

18 Q. Uh-huh.

19 A. (No audible reply.)

20 Q. And -- oh, I'm sorry, I thought I heard you
21 say "no," I'm sorry.

22 A. I said I don't understand that. How does
23 employment stop a person from voting?

24 Q. Well, yeah. I don't want to -- I don't want
25 to represent to you whether it does or it doesn't. If

1 you don't feel that it does, that's fine. But I guess
2 my -- my specific question is: Do you feel, in your
3 opinion, that any sort of lack of employment has kept
4 you from participating in Georgia politics?

5 A. Me personally, no.

6 Q. Okay. And has a lack of access to adequate
7 health services kept you from participating in Georgia
8 politics?

9 A. I'm not understanding those questions.

10 Q. Yeah. So --

11 A. Maybe my attorney can -- can explain.
12 Because you're talking about things that -- like
13 employment and health, and I'm -- I'm not getting where
14 you're going with it, so I want to be able to answer
15 your question accurately.

16 Q. Sure. And so the question kind of assumes
17 that there are -- that you have experienced a lack of
18 adequate health service, which you very well may not
19 have, and if you haven't, that's totally fine. But,
20 yeah, I'm basically just asking if -- in your opinion,
21 have you had an experience where a lack of access to
22 adequate health services has occurred, and then that
23 occurrence has kept you from participating in the
24 Georgia political process?

25 A. Not me personally. So I guess I could say

1 that.

2 Q. Yeah. That's fine, yeah.

3 A. Not me personally, but I do know -- but not
4 me personally.

5 Q. Understood. Are you aware of the term
6 "racial appeals" when used in the context of elections?

7 A. Somewhat, yes.

8 Q. Okay. Would you say you've personally seen
9 campaigns in Georgia characterized by racial appeals as
10 you understand that term?

11 A. Yes.

12 Q. What were those appeals?

13 A. Well, when it comes to race, I believe that
14 candidates appeal to -- to different races to make you
15 fearful. Like you better vote or they're going to take
16 away your jobs, or you better vote or you're not going
17 to have health care. So it's -- it's that fear, and --
18 target you based on your race to make you afraid so you
19 can go vote.

20 Q. Okay. Are there any needs of the minority
21 community in Georgia that, in your opinion, differ from
22 those of white residents?

23 A. Are there any what?

24 Q. Needs of the minority community in Georgia
25 that, in your opinion, differ from those of the white

1 residents of Georgia?

2 A. Yes.

3 Q. What are particular needs of the minority
4 community in Georgia in your view?

5 A. Jobs, health care, equality.

6 Q. And is that based on personal experience, in
7 your opinion?

8 A. I will say personal experience that I've
9 seen.

10 Q. Uh-huh. Okay. Well, I think that is all the
11 questions that I have.

12 MR. JACOUTOT: Mr. Jones, I think we can
13 maybe keep the -- hold the deposition open and
14 discuss the -- the two outstanding issues that we
15 have amongst ourselves and maybe come to an
16 agreement. And if we need to, Ms. James, we might
17 bring you back for a short --

18 MR. JONES: I'd like to press forward just a
19 little bit. One, to try to narrow the scope of
20 the dispute as to the First Amendment matters.
21 And, two, you know, on direct I think I can narrow
22 the scope of the work product dispute as well.

23 You know, obviously Ms. James is a busy
24 person, has many obligations, and has taken the
25 time to be here today. So if we can get through

1 the deposition without having to do that, that's
2 my preference. And if we can't, I'd certainly
3 like to make sure that dispute is as narrow as
4 possible.

5 MR. JACOUTOT: Okay. Well, let's -- let me
6 try to work with the -- ask a few more questions
7 on the First Amendment side with the Georgia NOW
8 group, and we'll see if we can get through that
9 and then we can talk about work product as well.

10 MR. JONES: Great.

11 BY MR. JACOUTOT:

12 Q. So, Ms. James, that was a bit of -- a bit of
13 a head-fake. Sorry, not quite done yet. Let me go
14 back up here to my questions.

15 So you said Georgia NOW has about 1,000 --
16 roughly 1,000 members in Georgia; is that correct?

17 A. Yes.

18 Q. Does Georgia NOW have a mission statement
19 that is publicly available?

20 A. Yes.

21 Q. And what is that publicly-available mission
22 statement?

23 A. That we advocate for our six core issues
24 for the people.

25 Q. And what is that Georgia NOW's six core

1 issues?

2 A. Reproductive justice, racial justice, the
3 LGBTQ-plus community, ending violence against women.
4 How many did I name?

5 Q. I think three or four.

6 A. Okay. Reproductive justice, racial justice,
7 ending violence against women, the LGBTQ-plus, and
8 constitutional equality.

9 Q. Okay. I think that's five. I'll -- I'll
10 rattle them off and let's make sure I got everything.
11 It might jog your memory: Reproductive rights, racial
12 equality, violence against women, LGBTQIA, and
13 constitutional rights.

14 A. I'm missing one. What is the other one?
15 Reproductive, racial, ending violence against women,
16 LGBTQ, constitutional rights, economic justice.

17 Q. Okay. Thank you. Does Georgia NOW publicly
18 state how it goes about achieving those goals?

19 A. We -- we advocate.

20 Q. Does Georgia NOW publicly state whether it
21 supports particular candidates?

22 A. We're nonpartisan, and we have supported
23 candidates that align themselves with our six core
24 issues.

25 Q. Does Georgia NOW donate to any political

1 groups or political candidates?

2 A. No.

3 Q. Okay. I think that's all the questions I
4 have on Georgia NOW. So I think we can -- we can push
5 that to one side. I definitely don't want to
6 needlessly probe into the organization, but I did have
7 some basic questions. So thank you for bearing with
8 me.

9 MR. JACOUTOT: And that just leaves the
10 only -- the only remaining question is, the notes
11 that were taken and whether that's encompassed by
12 work product, privilege, or confidentiality. And
13 just to be clear, the only ones I would seek sort
14 of access to were the notes that were taken on her
15 own behalf, not at the direction of any attorney,
16 and that would be it.

17 MR. JONES: Yeah. And I actually do think
18 that those would be covered by work product
19 protection, but I don't think we actually have a
20 dispute in this case. You know, I'm happy to, you
21 know, conduct a direct and get facts into the
22 record, and then sort of confer. But, you know, I
23 can't -- I can't really explain why without
24 revealing, you know, information that's protected
25 to other privilege.

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1 MR. JACOUTOT: Okay. Yeah. Why don't you --
2 well, I'll end my direct and let you go ahead and
3 we can just go from there.

4 MR. JONES: Great.

5 DIRECT EXAMINATION

6 BY MR. JONES:

7 Q. Ms. James, did you testify earlier that you
8 took notes to prepare for today's deposition?

9 A. Yes. I had looked at some notes. I said
10 that I looked at notes.

11 Q. And -- and did you -- did you mean to say
12 that you actually recorded a new document in
13 preparation for today?

14 A. No. I didn't mean to say that.

15 Q. Did you mean to say that you reviewed
16 documents that were already in your possession to
17 prepare for today?

18 A. Yes.

19 Q. Okay. And so when you refer to your notes,
20 you're not referring to a document that you created,
21 you're referring to communications about the case in
22 your possession and other -- other documents that
23 pertain to the case?

24 A. Yes.

25 MR. JONES: Okay. Okay. Bryan, so, I mean,

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1 in light of that, I don't think that we have a
2 dispute. But, I mean, if you want to -- you know,
3 if you want to ask more about this sort of on a
4 recross, you know, I'm happy to conclude my
5 direct.

6 MR. JACOUTOT: Okay. Yeah, I'll ask a few
7 more questions to narrow that a little bit.

8 RECROSS-EXAMINATION

9 BY MR. JACOUTOT:

10 Q. Now the documents, Ms. James, that you just
11 discussed with counsel that pertain to this case that
12 you reviewed, did you create those documents yourself?

13 A. No.

14 Q. Did your attorneys create those documents?

15 A. Yes.

16 Q. Yes, your attorney did create those
17 documents?

18 A. When you say "documents," are you like --
19 like stuff that I've read up on to -- to prepare for
20 this -- like, you know, I read over the complaint, I
21 read over e-mails. The stuff that I was looking up, it
22 really wasn't handwritten notes.

23 Q. Okay. Okay. So is -- is it fair to say then
24 that you don't have any notes that you, yourself,
25 prepared related to this case that were not done at the

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1 direction -- that's too many negatives. Let me -- let
2 me rephrase that. It's getting late.

3 Is it fair to say that the notes that we
4 discussed earlier -- strike that.

5 Okay. Is it fair to say that you do not have
6 any notes that you, yourself, prepared without the help
7 of an attorney or someone working with your attorneys?

8 A. That's fair to say.

9 Q. Okay.

10 MR. JACOUTOT: Then I think we -- I think we
11 can put the objection or the conflict with the
12 objection to bed and I think we're good.

13 MR. JONES: Here, here.

14 MR. JACOUTOT: So with that, I have no
15 further questions.

16 MR. JONES: And I have no further questions
17 either, Ms. Taylor.

18 THE COURT REPORTER: Counsel, I have both of
19 your orders and that your client will read and
20 sign, Mr. Jones.

21 MR. JONES: That's correct.

22 * * *

23 (Whereupon, the proceedings ended at 6:00 p.m.)

24 (Signature reserved.)
25

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D I S C L O S U R E

STATE OF GEORGIA Deposition of TRICIA ARNOLD JAMES
COUNTY OF HENRY WEDNESDAY, DECEMBER 7, 2022

Pursuant to Article 8.B of the rules and regulations of
the Board of Court Reporting of the Judicial Council of
Georgia, I make the following disclosure:

I, Kathryn Taylor, am a Georgia Certified Court
Reporter. I am here as an independent contractor for
Veritext Legal Solutions.

Veritext Legal Solutions was contacted by Taylor
English Duma LLP, to provide court reporting services
for this deposition. The firm will not be taking this
deposition under any contract that is prohibited by O.
C. G. A. 15-14-37(a) and (b).

WEDNESDAY, DECEMBER 7, 2022



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER

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C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF HENRY)

I, KATHRYN TAYLOR, Certified Court Reporter for the County of Henry and for the State of Georgia, do hereby certify:

That the foregoing transcript is a true and accurate account of evidence and testimony taken by me in the matter of ANNIE LOIS GRANT, et al., versus BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, et al., to the best of my ability.

I further certify that the foregoing pages 6 through 66 of testimony represent a true and correct record of the evidence given upon said plea;

And I further certify that I am not a relative by blood or marriage, or an employee of attorney or counsel of any of the parties in the case, nor am I financially or in no way interested in the outcome of the action.

This, the 16th day of December, 2022.



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

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1 Mike Jones

2 mjones@elias.law

3 December 20, 2022

4 RE: Grant, Annie Lois, Et Al. v. Raffensperger, Brad, Et Al.

5 12/7/2022, Triana Arnold James (#5609351)

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

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Triana Arnold James (#5609351)

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Triana Arnold James

Date

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1 Grant, Annie Lois, Et Al. v. Raffensperger, Brad, Et Al.

2 Triana Arnold James (#5609351)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Triana Arnold James, 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.

10
11 _____
12 Triana Arnold James

Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

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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.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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

ANNIE LOIS GRANT, *et al.*,

Plaintiffs,

v.

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

Defendants.

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

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION

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

**DEFENDANTS' NOTICE TO TAKE THE DEPOSITION
OF TRIANA ARNOLD JAMES**

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

EXHIBIT

1

Mashburn, Sara Tindall Ghazal, Edward Lindsey, and Janice Johnston will take the oral examination of Plaintiff Triana Arnold James on Wednesday, December 7, 2022, beginning at 4:00 p.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.

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

This 1st day of December, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

/s/ Bryan P. Tyson

Bryan P. Tyson

Counsel for Defendants

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

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

Plaintiffs,

v.

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

Defendants.

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

SECOND AMENDED COMPLAINT

EXHIBIT

2

1. Plaintiffs bring this action to challenge the Georgia Senate Redistricting Act of 2021 (“SB 1EX”) and the Georgia House of Representatives Redistricting Act of 2021 (“HB 1EX”) on the ground that they violate Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

2. In undertaking the latest round of redistricting following the 2020 decennial census, the Georgia General Assembly diluted the growing electoral strength of the state’s Black voters and other communities of color. Faced with Georgia’s changing demographics, the General Assembly has ensured that the growth of the state’s Black population will not translate to increased political influence in the Georgia State Senate and Georgia House of Representatives.

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population¹—in multiple

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

legislative districts throughout the state, including two additional majority-Black State Senate districts in the southern Atlanta metropolitan area, one additional majority-Black State Senate district in the central Georgia Black Belt region, two additional majority-Black House districts in the southern Atlanta metropolitan area, one additional majority-Black House district in the western Atlanta metropolitan area, and two additional majority-Black House districts anchored in Bibb County. These additional majority-Black legislative districts can be drawn without reducing the total number of districts in the region and statewide in which Black and other minority voters are able to elect their candidates of choice.

4. Rather than draw these State Senate and House districts as those in which Georgians of color would have the opportunity to elect their preferred candidates, the General Assembly instead chose to “pack” some Black voters into limited districts in these areas and “crack” other Black voters among rural-reaching, predominantly white districts.

5. Section 2 of the Voting Rights Act prohibits this result and requires the General Assembly to draw additional legislative districts in which Black voters have opportunities to elect their candidates of choice.

“majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population.”

6. By failing to create such districts, the General Assembly's response to Georgia's changing demographics has had the effect of diluting minority voting strength throughout the state.

7. Accordingly, Plaintiffs seek an order (i) declaring that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act; (ii) enjoining Defendants from conducting future elections under SB 1EX and HB 1EX; (iii) requiring adoption of valid plans for new State Senate and House districts in Georgia that comport with Section 2 of the Voting Rights Act; and (iv) providing any and such additional relief as is appropriate.

JURISDICTION AND VENUE

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

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

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

PARTIES

11. Plaintiff Annie Lois Grant is a Black citizen of the United States and the State of Georgia. Ms. Grant is a registered voter and intends to vote in future

legislative elections. She is a resident of Greene County and located in Senate District 24 and House District 124 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate despite strong electoral support for those candidates from other Black voters in her community. Ms. Grant resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn State Senate district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Grant and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

12. Plaintiff Quentin T. Howell is a Black citizen of the United States and the State of Georgia. Mr. Howell is a registered voter and intends to vote in future legislative elections. He is a resident of Baldwin County and located in Senate District 25 and House District 133 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Howell resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black

voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Howell and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

13. Plaintiff Elroy Tolbert is a Black citizen of the United States and the State of Georgia. Mr. Tolbert is a registered voter and intends to vote in future legislative elections. He is a resident of Bibb County and located in Senate District 18 and House District 144 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Tolbert resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Tolbert and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

14. Plaintiff Theron Brown is a Black citizen of the United States and the State of Georgia. Ms. Brown is a registered voter and intends to vote in future legislative elections. She is a resident of Houston County and located in Senate

District 26 and House District 145 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Brown resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Brown and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

15. Plaintiff Triana Arnold James is a Black citizen of the United States and the State of Georgia. Ms. James is a registered voter and intends to vote in future legislative elections. She is a resident of Douglas County and located in Senate District 30 and House District 64 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. James resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Ms. James and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

16. Plaintiff Eunice Sykes is a Black citizen of the United States and the State of Georgia. Ms. Sykes is a registered voter and intends to vote in future legislative elections. She is a resident of Henry County and located in Senate District 25 and House District 117 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Sykes resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Sykes and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

17. Plaintiff Elbert Solomon is a Black citizen of the United States and the State of Georgia. Mr. Solomon is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 117 under the enacted plans, where he is unable to

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

18. Plaintiff Dexter Wimbish is a Black citizen of the United States and the State of Georgia. Mr. Wimbish is a registered voter and intends to vote in future legislative elections. He is a resident of Spalding County and located in Senate District 16 and House District 74 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in his community. Mr. Wimbish resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted

redistricting plan dilutes the voting power of Black voters like Mr. Wimbish and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

19. Plaintiff Garrett Reynolds is a Black citizen of the United States and the State of Georgia. Mr. Reynolds is a registered voter and intends to vote in future legislative elections. He is a resident of Fayette County and located in Senate District 16 and House District 68 under the enacted plans, where he is unable to elect candidates of his choice to the Georgia State Senate despite strong electoral support for those candidates from other Black voters in his community. Mr. Reynolds resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn State Senate district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Mr. Reynolds and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

20. Plaintiff Jacqueline Faye Arbuthnot is a Black citizen of the United States and the State of Georgia. Ms. Arbuthnot is a registered voter and intends to vote in future legislative elections. She is a resident of Paulding County and located in Senate District 31 and House District 64 under the enacted plans, where she is

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

21. Plaintiff Jacquelyn Bush is a Black citizen of the United States and the State of Georgia. Ms. Bush is a registered voter and intends to vote in future legislative elections. She is a resident of Fayette County and located in Senate District 16 and House District 74 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Bush resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in a newly drawn House district in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of

Black voters like Ms. Bush and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

22. Plaintiff Mary Nell Conner is a Black citizen of the United States and the State of Georgia. Ms. Conner is a registered voter and intends to vote in future legislative elections. She is a resident of Henry County and located in Senate District 25 and House District 117 under the enacted plans, where she is unable to elect candidates of her choice to the Georgia State Senate and Georgia House of Representatives despite strong electoral support for those candidates from other Black voters in her community. Ms. Conner resides in a region where the Black community is sufficiently large and geographically compact to constitute a majority of eligible voters in newly drawn State Senate and House districts in which Black voters would have the opportunity to elect their preferred candidates. The enacted redistricting plan dilutes the voting power of Black voters like Ms. Conner and denies them an equal opportunity to elect candidates of their choice to the Georgia General Assembly.

23. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity. Secretary Raffensperger is Georgia's chief election official and is responsible for administering the state's elections and implementing election laws and regulations, including Georgia's legislative redistricting plans. *See*

O.C.G.A. § 21-2-50; Ga. Comp. R. & Regs. 590-1-1-.01–.02 (specifying, among other things, that Secretary of State’s office must provide “maps of Congressional, State Senatorial and House Districts” when requested). Secretary Raffensperger is also an ex officio nonvoting member of the State Election Board, which is responsible for “formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” O.C.G.A. §§ 21-2-30(d), -31(2).

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

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

26. Defendant Janice Johnston is a member of the State Election Board and is named in her official capacity. In this role, she must “formulate, adopt, and

promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.” *Id.* § 21-2-31(2).

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

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

LEGAL BACKGROUND

29. Section 2 of the Voting Rights Act prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution.

30. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less

opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

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

32. In *Thornburg v. Gingles*, the U.S. Supreme Court identified three necessary preconditions for a claim of vote dilution under Section 2: (i) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (ii) the minority group must be “politically cohesive”; and (iii) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* at 50–51.

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

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

- a. the history of official voting-related discrimination in the state or political subdivision;
- b. the extent to which voting in the elections of the state or political subdivision is racially polarized;
- c. the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, or prohibitions against bullet-voting;
- d. the exclusion of members of the minority group from candidate-slating processes;
- e. the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;

- f. the use of overt or subtle racial appeals in political campaigns;
and
- g. the extent to which members of the minority group have been elected to public office in the jurisdiction.

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

FACTUAL BACKGROUND

The 2020 Census

36. Between 2010 and 2020, Georgia’s population increased by more than 1 million people.

37. The population growth during this period is entirely attributable to the increase in Georgia’s minority population. The 2020 census results indicate that Georgia’s Black population grew by over 15 percent and now comprises 33 percent of Georgia’s total population. Meanwhile, Georgia’s white population *decreased* by

4 percent over the past decade. In total, Georgia's minority population now comprises just under 50 percent of the state's total population.

The 2021 Legislative Redistricting Plan

38. In enacting Georgia's new State Senate and House maps, the Republican-controlled General Assembly diluted the political power of the state's minority voters.

39. On November 9, 2021, the Georgia State Senate passed SB 1EX, which revised that chamber's district boundaries. The House passed SB 1EX on November 15.

40. On November 10, 2021, the Georgia House of Representatives passed HB 1EX, which revised that chamber's district boundaries; the State Senate passed HB 1EX on November 12.

41. On December 30, 2021, Governor Kemp signed SB 1EX and HB 1EX into law.

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

43. The Republican majority’s refusal to draw districts that reflected the past decade’s growth in the state’s minority communities was noted by lawmakers. Commenting on the new State Senate map, Senator Michelle Au observed, “It’s our responsibility to ensure the people in this room are a good reflection of the people in this state. This map before us does not represent the Georgia of today. It does not see Georgia for who we have become.” Senator Elena Parent remarked, “This map is designed to shore up the shrinking political power of the majority. As proposed, it fails to fairly reflect Georgians[’] diversity.”

44. Minority lawmakers in the House also objected to their chamber’s new map, noting that it packed minority voters and diluted their voting strength.

45. Rather than create additional State Senate and House districts in which Georgia’s growing minority populations would have the opportunity to elect candidates of their choice, the General Assembly did just the opposite: it packed and cracked Georgia’s minority voters to dilute their influence.

46. SB 1EX packs some Black voters into the southern Atlanta metropolitan area and cracks others into rural-reaching, predominantly white State Senate districts. Specifically, Black voters in the southwestern Atlanta metropolitan area are packed into Senate Districts 34 and 35 and cracked into Senate Districts 16, 28, and 30. In the southeastern Atlanta metropolitan area, Black voters are packed

into Senate Districts 10 and 44 and cracked into Senate Districts 17 and 25. Two additional majority-Black State Senate districts could be drawn in the southern Atlanta metropolitan area without reducing the total number of minority-opportunity districts in the enacted map.

47. SB 1EX also cracks Black voters in the Black Belt among Senate Districts 23, 24, and 25. An additional majority-Black State Senate district could be drawn in this area without reducing the total number of minority-opportunity districts in the enacted map.

48. HB 1EX packs some Black voters into the southern and western Atlanta metropolitan area and cracks others into rural-reaching, predominantly white districts. Specifically, Black voters in the western Atlanta metropolitan area are packed into House District 61 and cracked into House District 64. In the southern Atlanta metropolitan area, Black voters are packed into House Districts 69, 75, and 78 and cracked into House Districts 74 and 117. Two additional majority-Black House districts could be drawn in the southern Atlanta metropolitan area, and one additional majority-Black House district in the western Atlanta metropolitan area, without reducing the total number of minority-opportunity districts in the enacted map.

49. HB 1EX further packs Black voters into two House districts anchored in Bibb County—House Districts 142 and 143—even though two additional majority-Black House districts could be drawn in this area by uncracking House Districts 133, 144, 145, 147, and 149, without reducing the total number of minority-opportunity districts in the enacted map.

50. This combination of cracking and packing dilutes the political power of Black voters in the Atlanta metropolitan area and central Georgia. The General Assembly could have instead created additional, compact State Senate and House districts in which Black voters, including Plaintiffs, comprise a majority of eligible voters and have the opportunity to elect their preferred candidates, as required by Section 2 of the Voting Rights Act. Significantly, this could have been done without reducing the number of other districts in which Black voters have the opportunity to elect candidates of their choice.

51. Unless enjoined, SB 1EX and HB 1EX will deny Black voters throughout the state the opportunity to elect candidates of their choice.

52. The relevant factors and considerations readily require the creation of majority-Black districts under Section 2.

Racial Polarization

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

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

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

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

History of Discrimination

57. Georgia’s past discrimination against its Black citizens, including its numerous attempts to deny Black voters an equal opportunity to participate in the political process, is extensive and well documented. This prejudice is not confined to history books; the legacy of discrimination manifests itself today in state and local

elections marked by racial appeals and undertones. And the consequences of the state's historic discrimination persist to this day, as Black Georgians continue to experience socioeconomic hardship and marginalization.

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

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

upcoming election; and attacking and beating a Black man in his own home to prevent him from voting in an upcoming congressional election.

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

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

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

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

64. Attempts to minimize Black political influence in Georgia have also tainted redistricting efforts. During the 1981 congressional redistricting process, in opposing a bill that would maintain a majority-Black district, Joe Mack Wilson—a Democratic state representative and chair of the House Reapportionment Committee—openly used racial epithets to describe the district; following a meeting with officials of the U.S. Department of Justice, he complained that “the Justice Department is trying to make us draw [n*****] districts and I don’t want to draw [n*****] districts.” Speaker of the House Tom Murphy objected to creating a district where a Black representative would certainly be elected and refused to appoint any Black lawmakers to the conference committee, fearing that they would support a plan to allow Black voters to elect a candidate of their choice. Several senators also

expressed concern about being perceived as supporting a majority-Black congressional district.

65. Indeed, federal courts have invalidated Georgia’s redistricting plans for voting rights violations numerous times. In *Georgia v. United States*, the U.S. Supreme Court affirmed a three-judge panel’s decision that Georgia’s 1972 reapportionment plan violated Section 5 of the Voting Rights Act, at least in part because it diluted the Black vote in an Atlanta-based congressional district in order to ensure the election of a white candidate. *See* 411 U.S. 526, 541 (1973); *see also* *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge panel) (denying preclearance based on evidence that Georgia’s redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff’d*, 459 U.S. 1166 (1983); *Larios v. Cox*, 300 F. Supp. 2d 1320 (N.D. Ga. 2004) (per curiam) (three-judge panel) (invalidating legislative plans that reduced number of majority-minority districts).

66. Due to its lengthy history of discrimination against racial minorities, Georgia became a “covered jurisdiction” under Section 5 of the Voting Rights Act upon its enactment in 1965, prohibiting any changes to Georgia’s election practices or procedures (including the enactment of new redistricting plans) until either the

U.S. Department of Justice or a federal court determined that the change did not result in backsliding, or “retrogression,” of minority voting rights.

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

68. Georgia’s history of racial discrimination in voting, here only briefly recounted, has been thoroughly documented by historians and scholars. Indeed, “[t]he history of the state[’s] segregation practice and laws at all levels has been rehashed so many times that the Court can all but take judicial notice thereof.” *Brooks v. State Bd. of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994); *see also*, e.g., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, slip op. at 41 (N.D. Ga. Nov. 15, 2021), ECF No. 636 (taking judicial notice of fact that “prior to the 1990s, Georgia had a long sad history of racist policies in a number of areas including voting”).

69. Ultimately, as this Court has noted, “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather

than the exception.” *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs*, 950 F. Supp. 2d 1294, 1314 (N.D. Ga. 2013) (quoting *Brooks*, 848 F. Supp. at 1560), *aff’d in part, rev’d in part on other grounds*, 775 F.3d 1336 (11th Cir. 2015).

Use of Racial Appeals in Political Campaigns

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

71. In 2016, Tom Worthan, former Republican Chair of the Douglas County Board of Commissioners, was caught on video making racist comments aimed at discrediting his Black opponent, Romona Jackson-Jones, and a Black candidate for sheriff, Tim Pounds. During the recorded conversation with a Douglas County voter, Worthan asked, “Do you know of another government that’s more black that’s successful? They bankrupt you.” Worthan also stated, in reference to Pounds, “I’d be afraid he’d put his black brothers in positions that maybe they’re not qualified to be in.”

72. In the 2017 special election for Georgia’s Sixth Congressional District—a majority-white district that had over the previous three decades been represented by white Republicans Newt Gingrich, Johnny Isakson, and Tom Price—the husband of the eventual Republican victor, Karen Handel, shared an image over

social media that urged voters to “[f]ree the black slaves from the Democratic plantation.” The image also stated, “Criticizing black kids for obeying the law, studying in school, and being ambitious as ‘acting white’ is a trick the Democrats play on Black people to keep them poor, ignorant and dependent.” The image was then shared widely by local and national media outlets.

73. During that same election, Jere Wood—the Republican Mayor of Roswell, Georgia’s eighth-largest city—insinuated that voters in the Sixth Congressional District would not vote for Democratic candidate Jon Ossoff because he has an “ethnic-sounding” name. When describing voters in that district, Wood said, “If you just say ‘Ossoff,’ some folks are gonna think, ‘Is he Muslim? Is he Lebanese? Is he Indian?’ It’s an ethnic-sounding name, even though he may be a white guy, from Scotland or wherever.”²

74. On a separate occasion, State Senator Fran Millar alluded to the fact that the Sixth Congressional District was gerrymandered in such a way that it would not support candidate Ossoff—specifically, because he was formerly an aide to a

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

Black member of Congress. State Senator Millar said, “I’ll be very blunt. These lines were not drawn to get Hank Johnson’s protégé to be my representative. And you didn’t hear that. They were not drawn for that purpose, OK? They were not drawn for that purpose.”

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

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

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

78. The 2020 campaigns for Georgia’s two U.S. Senate seats were also rife with racial appeals. In one race, Republican incumbent Kelly Loeffler ran a paid

advertisement on Facebook that artificially darkened the skin of her Democratic opponent, now-Senator Raphael Warnock. In the other race, Republican incumbent David Perdue ran an advertisement against Democratic nominee Ossoff that employed a classic anti-Semitic trope by artificially enlarging now-Senator Ossoff's nose.

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

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

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

Ongoing Effects of Georgia’s History of Discrimination

82. State-sponsored segregation under Georgia’s Jim Crow laws permeated all aspects of daily life and relegated Black citizens to second-class status. State lawmakers segregated everything from public schools to hospitals and graveyards. Black Georgians were also precluded from sitting on juries, which effectively denied Black litigants equal justice under the law. Moreover, Black Georgians were excluded from the most desirable manufacturing jobs, which limited their employment opportunities to primarily unskilled, low-paying labor. And in times of economic hardship, Black employees were the first to lose their jobs.

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

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

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

86. Black Georgians also have lower homeownership rates than white Georgians. The 2019 ACS 1-Year Estimate shows that 52.6 percent of Black Georgians live in renter-occupied housing, compared to 24.9 percent of white Georgians. And Black Georgians also spend a higher percentage of their income on rent than white Georgians. The 2019 ACS 1-Year Estimate shows that in Georgia, the percent of income spent on rent is a staggering 54.9 percent for Black Georgians, compared to 40.6 percent for white Georgians.

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

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

CAUSES OF ACTION

COUNT I:

SB 1EX Violates Section 2 of the Voting Rights Act

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

90. Section 2 of the Voting Rights Act prohibits the enforcement of any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or” membership in a language minority group. 52 U.S.C. § 10301(a).

91. The Georgia State Senate district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

92. Black Georgians in the southern Atlanta metropolitan area and the central Georgia Black Belt region are sufficiently numerous and geographically compact to constitute a majority of eligible voters in three additional State Senate

districts, without reducing the number of minority-opportunity districts already included in the enacted map.

93. Under Section 2 of the Voting Rights Act, the General Assembly was required to create three additional State Senate districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

94. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

95. The totality of the circumstances establishes that the current State Senate map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

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

**COUNT II:
HB 1EX Violates Section 2 of the Voting Rights Act**

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

98. The Georgia House of Representative district boundaries, as currently drawn, crack and pack minority populations with the effect of diluting their voting strength, in violation of Section 2 of the Voting Rights Act.

99. Black Georgians in the southern and western Atlanta metropolitan area and central Georgia are sufficiently numerous and geographically compact to constitute a majority of eligible voters in five additional House districts, without reducing the number of minority-opportunity districts already included in the enacted map.

100. Under Section 2 of the Voting Rights Act, the General Assembly was required to create five additional House districts in which Black voters in these areas would have the opportunity to elect their candidates of choice.

101. Black voters in Georgia, particularly in and around these areas, are politically cohesive. Elections in these areas reveal a clear pattern of racially polarized voting that allows blocs of white voters usually to defeat Black voters' preferred candidates.

102. The totality of the circumstances establishes that the current House map has the effect of denying Black voters an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that SB 1EX and HB 1EX violate Section 2 of the Voting Rights Act;

B. Enjoin Defendants, as well as their agents and successors in office, from enforcing or giving any effect to the boundaries of the Georgia State Senate districts as drawn in SB 1EX and the boundaries of the Georgia House of Representatives districts as drawn in HB 1EX, including an injunction barring Defendants from conducting any further legislative elections under the current maps;

C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid legislative redistricting plan that includes three additional Georgia State Senate districts and five additional Georgia House of Representatives districts in which Black voters would have opportunities to elect their preferred candidates, as required by Section 2 of the Voting Rights Act, without reducing the number of minority-opportunity districts currently in SB 1EX and HB 1EX;

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

Dated: October 28, 2022

By: **Adam M. Sparks**

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CERTIFICATE OF COMPLIANCE

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

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

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

Dated: October 28, 2022

Adam M. Sparks

Counsel for Plaintiffs