

Pendergrass, Coakley, 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

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

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The DEPOSITION of:

COAKLEY PENDERGRASS

Being taken pursuant to stipulations herein:

Before Kathryn Taylor, CCR

THURSDAY, DECEMBER 15, 2022

Commencing at 3:00 p.m.

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

Job No. 5623315

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## A P P E A R A N C E S

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## I N D E X

DEPONENT PAGE

COAKLEY PENDERGRASS

Cross-Examination by MS. CLAPP.....6

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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 No. 1	Notice	8
Exhibit No. 2	Complaint	37

(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

3:00 p.m.

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

(Witness sworn.)

MS. CLAPP: Good afternoon everyone. This will be the deposition of Reverend Coakley Pendergrass, taken by Defendant Secretary of State Brad Raffensperger and members of the State Election Board for the purposes of discovery and all purposes allowed under the Federal Rules of Civil Procedure.

All objections, except those going to the form of the question and the responsiveness of the answer, are reserved until trial or the first use of the deposition.

Mr. Jones, are those stipulations agreeable to you?

MR. JONES: They are.

MS. CLAPP: Perfect. And how do you wish to handle signature?

MR. JONES: We're going to review, and then we will be able to sign.

MS. CLAPP: Okay. Perfect. Thank you.

Whereupon,

1 COAKLEY PENDERGRASS,  
2 was called as a witness herein and, having first been  
3 duly sworn, was deposed and testified as follows:

4 CROSS-EXAMINATION

5 BY MS. CLAPP:

6 Q. Reverend Pendergrass, will you please state  
7 your full name for the record?

8 A. My name is Coakley Purdy Pendergrass.

9 Q. Well, it's nice to meet you. Thank you for  
10 being here today. My name is Hannah Clapp, and I'm an  
11 attorney with Taylor, English, Duma.

12 A. Okay.

13 Q. And the purpose of this deposition is not to  
14 confuse you. So if I ask you a question that you don't  
15 fully understand, can we agree that you will please let  
16 me know?

17 A. I will.

18 Q. Thank you. For the court reporter, please  
19 speak clearly and loud enough so that she can hear you.  
20 And be sure to say yes and no, as opposed to uh-huh or  
21 uh-uh. And try to give audible answers, as opposed to  
22 nodding your head up and down. Do you understand?

23 A. Yes, I understand.

24 Q. Thank you. It's important that we not speak  
25 at the same time, especially since we are appearing

1 over Zoom. So please wait until I complete my question  
2 before you answer.

3 A. Yes, I will.

4 Q. If you need a break, please let me know, but  
5 I will ask you to answer any pending question before we  
6 take a break. Do you understand?

7 A. Yes.

8 Q. Thank you. We also ask that you not have any  
9 electronic devices available during your deposition,  
10 including a cell phone, e-mail, any TV on. Do you  
11 understand?

12 A. Yes.

13 Q. Okay. Perfect. Certainly, you will need to  
14 keep Zoom open on your computer, but we will go ahead  
15 and get going here.

16 MS. CLAPP: All right. Ms. Taylor, am I able  
17 to share my screen?

18 THE COURT REPORTER: Let me check. Yes, you  
19 should be able to.

20 MS. CLAPP: Okay. Perfect.

21 BY MS. CLAPP:

22 Q. Reverend Pendergrass, can you see my screen?

23 A. Yes, I do.

24 Q. Okay. Great. And do you recognize this as  
25 your notice to take the deposition of your -- your

1 deposition?

2 A. Yes. I recognize this as my deposition.

3 Q. Okay. Great. Thank you.

4 MS. CLAPP: And, Ms. Taylor, we will mark  
5 this as Exhibit 1.

6 THE COURT REPORTER: Okay. Thank you.

7 (Whereupon, Defendants' Exhibit No. 1 was  
8 identified for the record.)

9 BY MS. CLAPP:

10 Q. All right. Reverend Pendergrass, have you  
11 ever given testimony before, either at deposition or a  
12 trial?

13 A. Yes.

14 Q. And what instances would that have been?

15 A. In the capacity as a peace officer in the  
16 state of New York.

17 Q. And was that a trial or a deposition?

18 A. It was a trial.

19 Q. And what kind of trial was that?

20 A. A larceny case. Someone took something from  
21 another -- another person. A person attempted or  
22 robbed a lady, and I happened to make the arrest.

23 Q. Okay. So you are an old pro at testifying?

24 A. I wouldn't say that, but . . .

25 Q. All right. So you've only testified the one



1 time, and that was for a larceny trial; is that  
2 correct?

3 A. That's correct.

4 Q. And do you remember the name of that case?

5 A. No.

6 Q. All right. And have you taken any  
7 medications that would keep you from fully and  
8 truthfully participating in today's deposition?

9 A. No, I have not.

10 Q. And do you have any medical conditions that  
11 would keep you from fully and truthfully participating  
12 in today's deposition?

13 A. I do not.

14 Q. All right. Have you ever been involved with  
15 any previous lawsuits, whether that be yourself or a  
16 family member with any election-related cases?

17 A. To the best of my knowledge, no.

18 Q. And have you ever made any prior claims,  
19 whether that be yourself, individually, or a family  
20 member with any election-related claims?

21 A. I have not.

22 Q. Have you ever been charged with a crime?

23 A. No, I have not.

24 Q. Have you ever been arrested?

25 A. I have not.

1 Q. And I have to ask this question too: Have  
2 you ever been convicted of a crime?

3 A. I have not.

4 Q. All right. And without going into the  
5 details of any discussions with your attorney, have you  
6 discussed this case with anyone, other than your  
7 lawyer?

8 A. No, I have not.

9 Q. Have you discussed this deposition with  
10 anyone, other than your lawyer?

11 A. I have not.

12 Q. You didn't seem so sure there.

13 MR. JONES: Objection, objection. Asked and  
14 answered.

15 MS. CLAPP: Okay.

16 BY MS. CLAPP:

17 Q. Moving on. Have you reviewed anything to  
18 prepare for your deposition?

19 A. Yes, I have.

20 Q. What did you look at?

21 A. The deposition itself. What was sent out to  
22 me.

23 Q. Do you mean the notice of deposition?

24 A. Yes.

25 Q. Okay. Did you review the complaint?

1 A. Yes.

2 Q. Thank you. And did those documents help  
3 refresh your recollection as to the events that you  
4 will testify to here today?

5 A. Yes.

6 Q. All right. And do you have any documents or  
7 notes with you today?

8 A. No, I don't.

9 Q. And do you have any notes or memos or other  
10 documents that relate in any way to this case?

11 A. I do not.

12 Q. All right. Moving on, we will talk a little  
13 bit about your background.

14 Can you please state your full name again for  
15 the record, and your current address?

16 A. My name is Coakley Purdy, P-u-r-d-y,  
17 Pendergrass. That was my grandfather's name, so don't  
18 laugh at me.

19 Q. I'm not laughing. I think it's a really  
20 unique name.

21 And what's your current address?

22 A. [REDACTED], Marietta, Georgia [REDACTED]

23 Q. And since we're appearing virtually today,  
24 where are you testifying from?

25 A. From my home at [REDACTED].

1 Q. Thank you. And how long have you lived at  
2 that address?

3 A. Twenty-plus years.

4 Q. And how long have you lived in Cobb County?

5 A. I'd say twenty-five -- twenty-five-plus  
6 years.

7 Q. What about the state of Georgia?

8 A. Twenty-five-plus years.

9 Q. And what was that other Cobb County address?

10 A. I don't remember. I'm sorry.

11 Q. That's okay. And, again, my questions aren't  
12 to confuse you. So if you don't know the answer to one  
13 of my questions, saying "I don't know," is a perfectly  
14 fine answer.

15 A. Thank you.

16 Q. Have you ever resided in any other county in  
17 Georgia?

18 A. No.

19 Q. Have you ever resided in any other state?

20 A. Yes.

21 Q. And what states would that be?

22 A. New York.

23 Q. Is that where you are originally from?

24 A. No. I was born and raised between New York  
25 and South Carolina.

1 Q. Okay. What part of New York did you reside  
2 in?

3 A. Brooklyn. Brooklyn/Queens/Manhattan.

4 Q. Do you know what time period that would have  
5 been?

6 A. I'd have to try to figure it out.

7 Q. That's okay. And what made you move to  
8 Georgia?

9 A. The -- the politics, and the -- the general  
10 attitude of the big city life.

11 Q. When you say "the big city life," are you  
12 referring to New York or Atlanta?

13 A. No, no, no. I've never lived in -- in the  
14 city of Atlanta, but in the -- in -- in New York, it's  
15 a -- it's a lifestyle. It's a change. I was looking  
16 for a change.

17 Q. When you say you moved because of the  
18 politics, can you elaborate?

19 A. Not everything is politics. The various  
20 groups that were in charge that were creating an  
21 environment -- I wanted to -- to change and get to a  
22 quieter, a more down to earth, relaxed lifestyle. Plus  
23 the big cities are drug infested or energy infested.  
24 They are running in all kinds of directions.

25 Q. And do you feel like you -- do you feel like

1 you achieved that by moving to Marietta, Georgia?

2 A. I do.

3 Q. Okay. I can see that your attorney is not  
4 there with you today.

5 MS. CLAPP: Mr. Jones, you're appearing  
6 remotely as well?

7 MR. JONES: I am.

8 MS. CLAPP: Okay.

9 BY MS. CLAPP:

10 Q. Reverend Pendergrass, do you have anyone else  
11 there with you in the room?

12 A. No, I do not.

13 Q. Okay. Great. Thank you. All right.  
14 Talking a little bit about your education, where did  
15 you go to high school?

16 A. I went to high school in -- in New York City.

17 Q. What high school was that?

18 A. Eli Whitney. Back in the day, it was called  
19 Eli Whitney Vocational High School.

20 Q. Okay. And what year did you graduate?

21 A. Oh, Lord. Okay. Let me try -- I should have  
22 thought about this. In '66, '65. Somewhere in there.  
23 I went in the military in '66.

24 Q. What branch?

25 A. Army, United States Army.

1 Q. Well, thank you for your service.

2 A. Thank you.

3 Q. I feel like saying that is, you know, never  
4 enough gratitude, but I appreciate that.

5 A. Thank you again.

6 Q. And how long were you in the Army?

7 A. Three years.

8 Q. So that would have been 1966-ish to 1969?

9 A. Yes.

10 Q. Okay. And what did you do in the Army?

11 A. I was a personnel specialist. We -- we --  
12 you would call us human resources.

13 Q. Okay. Probably saw some pretty interesting  
14 things.

15 A. Yes.

16 Q. Did you have any other specialized training  
17 after high school?

18 A. No. Went to -- went to college for a couple  
19 of years, and then I -- I joined the police department,  
20 training within the high school environment, and then  
21 training within the police department.

22 Q. And was your college attendance after you  
23 were in the Army?

24 A. I beg your pardon?

25 Q. Was your college attendance after you were in

1 the Army?

2 A. That's correct, yes.

3 Q. Okay. And do you know about what time period  
4 that would have been?

5 A. I would say late '60s, going into the '70s.

6 Q. And where did you attend school?

7 A. Brooklyn College, New York City Community  
8 College.

9 Q. All right. And after that is when you went  
10 to the police department?

11 A. That's correct.

12 Q. And what year would that have been?

13 A. Everything was happening in and around that  
14 time.

15 Q. Okay. So early to mid-'70s?

16 A. Yes.

17 Q. And how long were you a police officer?

18 A. Eighteen years. Eighteen-plus years.  
19 Somewhere in there.

20 Q. And did you have any specialized training as  
21 a police officer?

22 A. No. Well, it's -- in -- being a police  
23 officer is a specialty. You have to -- in the physical  
24 sense, you have to protect and preserve -- what's the  
25 term? Protect and -- and -- and it's about -- it's



1 about always reducing -- reduction of tension in an  
2 environment. It is -- there's other terminology. My  
3 mind is not -- not clasp onto it at this point in  
4 time, but protect and serve and -- and to be able to  
5 reduce tension in an environment.

6 Q. That's a tough job to do. Especially for 18  
7 years. What made you want to leave?

8 A. A combination of a failed marriage, taking  
9 those -- those issues that you encounter in a job like  
10 that, you take it home with you, and it stays with you.  
11 And it can affect your personality. And -- and you --  
12 you bring that into your -- your home setting.

13 Q. And what did you do after you left the police  
14 force?

15 A. Made plans to -- to leave New York, and  
16 started -- my first attempt was to go back to my home,  
17 which was -- I consider it my home, South Carolina,  
18 Sumter, South Carolina. So I did -- I did a bit of  
19 travel, which I finally -- my first marriage  
20 deteriorated, of course, in that process, and I found  
21 myself coming -- coming to Georgia to try to find a  
22 home.

23 Q. Not a bad place to end up.

24 A. And I wanted to -- I wanted to get into  
25 ministry. I wanted to -- I wanted to do something

1 other -- in -- and being in the -- the pressure cooker,  
2 I wanted to -- I had a -- it was a calling on my life,  
3 the ministry, and I -- I wanted to leave that  
4 environment, and then the calling was to go to a -- go  
5 to some place where I was comfortable. I was always a  
6 country boy in the -- in the big city. I was  
7 uncomfortable with that.

8 Q. Makes sense to me. What years were you in  
9 Sumter, South Carolina?

10 A. Are you talking about where I was born  
11 or . . .

12 Q. After you left New York.

13 A. Oh, I didn't state -- I -- my trips to Sumter  
14 were visits.

15 Q. Okay.

16 A. Research trips. Of course, to be around  
17 family, and I found that -- that that area was a little  
18 too calm for me, so I came -- I came to Atlanta on a  
19 visit, and I found that I liked this place and I could  
20 live here.

21 Q. And do you own the home that you live in now?

22 A. I do with my wife. With my second wife.

23 Q. And would you say you resided anywhere else  
24 during the time that you lived in Georgia? Did you --  
25 sorry, go ahead and answer that question.

1           A.     Yeah.  We -- we had an apartment.  We moved  
2     from the apartment and bought a house.

3           Q.     Was the apartment in Georgia?

4           A.     In Georgia, yes.

5           Q.     Okay.  Was it also in Cobb County?

6           A.     Yes.

7           Q.     Okay.  All right.  And when did you become a  
8     reverend?

9           A.     I have to go back about three years.

10          Q.     You said you felt a calling to become a  
11     reverend?

12          A.     Yes.  I joined -- I went to -- I visited a  
13     number of churches in the process of finding a place to  
14     live or a city to live.  Finding a church is the same.  
15     You visit, you -- you make that contact, and if the  
16     Spirit tells you this is where you belong, at least  
17     that's what I did, it made me -- made me aware that  
18     this is my church home.  And I spent time meeting, of  
19     course, the pastor and the other leaders of the church,  
20     and I found that I could -- that this would be the  
21     church for me.

22          Q.     That's great.  I know sometimes you have to  
23     go to school to become a reverend or a pastor.  Did you  
24     have any formal training for that?

25          A.     I -- the AME church sends you, you know, to a

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1 five-year training program, and so I did their five  
2 years. I did some -- some formal training besides that  
3 in the training -- ministry training locations. There  
4 is a -- there's a uniqueness here. At my age, when I  
5 joined -- I was 55 when I accepted my call to preach.  
6 I went through their training, and I -- I was advanced  
7 through a process within the -- the AME, where I would  
8 not -- I wasn't on the track to become a pastor, but I  
9 was on the track to become a minister.

10 Q. So you would consider yourself a --

11 A. That may not make any sense to you, but that  
12 was the structure.

13 Q. So you would consider yourself a minister, as  
14 opposed to a pastor?

15 A. Yes.

16 Q. Okay. Thank you for that clarification. And  
17 can you explain what AME stands for?

18 A. African Methodist Episcopal.

19 Q. Great. And what was that first church you  
20 went to in Georgia?

21 A. Oh, I don't have a clue. All I know is that  
22 Turner Chapel AME is my -- my church home, and from  
23 that point where I was -- where I felt convicted that  
24 this is my church home, that's been my church home ever  
25 since.

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1 Q. And could you repeat that name? Was it  
2 Turner Chapel?

3 A. Oh, yes, of course. Turner, T-u-r-n-e-r,  
4 Chapel African Methodist Episcopal Church.

5 Q. And what year did you join that church?

6 A. I've been there approximately 23, 24 years.

7 Q. And where is it located?

8 A. We bought a new building. Let me get that --  
9 give me a minute, I can get the address for you.

10 Q. Do you know what city it is in?

11 A. Oh.

12 Q. I don't think I need the exact address.

13 A. It's off Fairground in the city of Marietta.

14 Q. Great.

15 A. And you can Google Turner Chapel and make  
16 sure it is Fairground. It will pop up -- right up  
17 there for you.

18 Q. All right. Perfect. Thank you. All right.  
19 I'm going to go through your voter registration history  
20 a little bit. Are you registered to vote in Georgia?

21 A. Yes, ma'am.

22 Q. Do you remember where you registered to vote?

23 A. Where I'm registered to vote?

24 Q. Where you registered?

25 A. You're not asking me when I first registered?

1 Q. Yes, sir.

2 A. Oh, God knows. In the -- in the Cobb  
3 County -- it's on Whitlock, if that helps you, in Cobb  
4 County. That was our -- the main office. It's been a  
5 long time. But all I can tell you at this point in  
6 time, it would be the Whitlock office in -- in Cobb  
7 County in Marietta.

8 Q. Okay. I'm sure we can find it. Do you  
9 remember what year that was?

10 A. I need a minute, if you don't mind.

11 Q. Sure. Can you go ahead and answer my  
12 question on, do you know what year that was?

13 A. Oh, goodness. I had been voting for as long  
14 as I -- as I've been here. So when I first settled  
15 into Cobb -- Cobb County, one of the first things I had  
16 to do was find a church home and register to vote.

17 Q. Very important things.

18 A. Yeah.

19 Q. Does five minutes give you enough time?

20 A. I'm good. I just had to reposition my leg.  
21 I had a knee replacement and things went astray, and if  
22 I don't get it repositioned, I -- it became -- the  
23 replacement is fine. It's just that they put a toxic  
24 chemical on the leg to perform the operation, and that  
25 broke the entire kneecap area out.

1 Q. Oh, my goodness. I'm sorry to hear that.

2 A. So I don't -- I'm beginning the battle, I  
3 apologize.

4 Q. That's okay. If you need a break at any  
5 time, let me know. I'm happy to -- happy to do that  
6 for you, but we've got to finish the question before  
7 we --

8 A. Please, go ahead.

9 Q. Okay. All right. Did you ever register  
10 anywhere else to vote?

11 A. No. Well -- well, I -- of course, I was  
12 registered when I was in -- in New York. And then when  
13 I moved here, I registered here.

14 Q. Okay.

15 A. That is what you're asking me, right?

16 Q. Yes, sir.

17 A. Okay.

18 Q. I'll try to be a little clearer with my  
19 questions.

20 A. Uh-huh. You're fine. I'm just a little slow  
21 on the pickup. I apologize.

22 Q. All right. Are you registered to vote at  
23 your current address?

24 A. Of course, yes.

25 Q. And do you know what district you resided in

1 before the recent redistricting took effect?

2 A. I'm in District 11.

3 Q. Do you know if that was different before the  
4 redistricting?

5 A. No, no, no. That -- they were just -- there  
6 were -- the redistricting has not affected my area.

7 Q. Okay. Thank you. And have you voted in each  
8 election since you've been registered to vote in  
9 Georgia?

10 A. Yes.

11 Q. Presidential primaries?

12 A. Yes.

13 Q. Does that include general elections?

14 A. To the best of my knowledge, every election  
15 that I have -- I have had the opportunity to vote for,  
16 I voted.

17 Q. Great. Thank you. Do you know what precinct  
18 you voted in for the November 2022 election?

19 A. What precinct?

20 Q. Yes, sir.

21 A. Not offhand, no.

22 Q. Do you remember what location it was?

23 A. Yes. In 2022 it was at the -- the big  
24 chicken. You don't know about the big chicken.

25 Q. The KFC?



1 A. Yes.

2 Q. Of course I know the big chicken.

3 A. Okay. Yeah, they moved it from Whitlock over  
4 to that area. That's now the main voting area. You're  
5 familiar -- are you -- okay. So you are familiar with  
6 our area.

7 Q. A little bit. I moved here in 2016, so . . .

8 A. Yes, yes.

9 Q. All right. And how about the runoff? Did  
10 you vote in the same location?

11 A. No. The runoff, that would -- that would --  
12 early voting was at the Whitlock office.

13 Q. Okay.

14 A. And I voted early and -- and try to do my  
15 duty. Civics 101.

16 Q. All right. Moving on to your political  
17 affiliations. Do you consider yourself to be a member  
18 of the Democratic Party?

19 A. I do.

20 Q. Do you know when you became a member of the  
21 Democratic Party?

22 A. No. I don't know exactly when, no.

23 Q. Has it been since you started voting?

24 A. Yeah.

25 Q. Okay.

1 A. Yes. Since I started voting, yes.

2 Q. Okay. And have you held any leadership  
3 positions in the Democratic Party?

4 A. In the -- yes. I have been a state committee  
5 member for the Democratic Party. I have been vice  
6 president of the Cobb County Democratic Committee, I  
7 have been vice president of the Democratic Party of  
8 Georgia, Georgia's African American Caucus.

9 Q. All right. So -- and with your state  
10 committee member position, what years would that have  
11 been?

12 A. My -- I was replaced this year, so it would  
13 have been for the last six years.

14 Q. So would that have been 2016?

15 A. Yes.

16 Q. Okay. Lawyers are notoriously bad at math,  
17 so I wanted to make sure that that was correct.

18 A. And I'm -- and I'm feverishly trying to  
19 figure it out as we speak. I do believe it would have  
20 included 2016.

21 Q. Okay. What about the time period for the --  
22 was a vice president of the Cobb Democratic Committee?

23 A. Let's see, that would have been -- when was  
24 it? '14, '13, '12 -- I think '12 -- '11, and I think  
25 the -- I think that's -- somewhere there is -- it

1 began.

2 Q. Somewhere in 2011?

3 A. Yes.

4 Q. Okay. And when did it end?

5 A. Last -- let's see, this is 2022. 2021 --  
6 beginning of 2021. You know, don't hold this against  
7 me, but I'd have to say this, give or take a year. I  
8 don't have it written down.

9 Q. That's okay. I won't expect you to know the  
10 exact dates.

11 And what made you want to leave the --  
12 deposition?

13 A. I have -- I've been doing this type of work  
14 I'd say for the last 25 years, and I -- January 10th, I  
15 turn 78.

16 Q. Well, happy early birthday.

17 A. Thank you. And COVID and all of this other  
18 stuff, all this community activity, and then -- okay.  
19 And that's basically -- that's basically it.

20 Q. And what years were you vice president of the  
21 Democratic Party Georgia African American Caucus?

22 A. Somewhere within the first -- first four  
23 years of the time period that I gave you.

24 Q. Okay. Starting in 2011?

25 A. Somewhere in there, yes.

1 Q. Okay. Thank you. Have you ever participated  
2 in any activities of the Democratic Party?

3 A. You'll have to repeat that.

4 Q. Have you ever participated in any activities  
5 at the Democratic Party, other than these committees?

6 A. Activity such as?

7 Q. Voter registration drives, things like that.

8 A. For the DPG, as opposed to our local caucus.  
9 Is that what you are asking me?

10 Q. Either one.

11 A. Yes. Voter registration is -- remains  
12 steady.

13 Q. Okay. Can you think of any other activities?

14 A. No.

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

17 A. No.

18 Q. Is it fair to say you generally support  
19 Democratic candidates for election in Georgia?

20 A. Yes.

21 Q. Have you ever voted for a Republican  
22 candidate?

23 A. Yes.

24 Q. Do you remember who?

25 A. I crossed over, and no, I don't remember. I

1 don't remember. I'm not sure if Lindsay was -- in New  
2 York City, Mayor Lindsay was a -- that was the  
3 beginning of my -- my working in the -- working in the  
4 field of politics. I worked at his administration, but  
5 I can't remember the Republican that I -- that I voted  
6 for.

7 Q. You said you worked in someone's  
8 administration?

9 A. Passing out signs, not -- not salary, not  
10 anything like that. Just, you know, volunteer.

11 Q. Okay. Great. And he was a Republican?

12 A. I don't remember. I vaguely remember that  
13 the process of the cross over was not to benefit the  
14 Republican Party, but to shift votes.

15 Q. Can you elaborate what you mean on shift  
16 votes?

17 A. If -- if there is two candidates and they are  
18 in a primary, and it was -- I think this has something  
19 to do with -- it had to have been done in New York  
20 because you were able to vote for any candidate. And -  
21 - and it's employee that is used quite a bit by both  
22 sides where it's offered. We were picking the weaker  
23 of the two candidates.

24 Q. And have you ever been a member or held a  
25 position in any other political party?

1 A. No.

2 Q. And you've already mentioned that you worked  
3 on this one political campaign. Have you ever worked  
4 on any other political campaigns?

5 A. I've supported candidates. I've held  
6 different candidates in Cobb County running for office.

7 Q. How did you support them?

8 A. I would volunteer or donate.

9 Q. Do you remember which candidates in Cobb  
10 County?

11 A. Almost every Democratic candidate that's run  
12 starting -- you could take it back with some -- from  
13 one -- it would be -- it would behoove you to  
14 financially support a candidate. So a few dollars of  
15 donation, that type of thing, or to pick up or to get a  
16 yard sign or that type -- you know, or that type of  
17 activity.

18 Q. All right. Moving onto the history of this  
19 case. When did you first learn about this lawsuit?

20 A. Locally, I was -- my name was put in, and I  
21 was recommended to consider being a part of it.

22 Q. Do you know what time period that was?

23 A. I'd say -- I really don't. Things have been  
24 happening so fast, and particularly my situation with  
25 my knee, I -- I'm just -- things have been a blur.

1 Q. Okay. Thank you for your honest answer. Do  
2 you remember who recommended you?

3 A. I think our state leaders. One of our County  
4 leaders. I guess based upon my stability and my -- and  
5 my response in a discussion, I -- I think I expressed  
6 my thoughts, and the next thing I know I was brought  
7 into it.

8 Q. All right. And without going into any  
9 details about anything that was discussed, when were  
10 you approached or contacted by an attorney in this  
11 case?

12 A. I'm not quite sure. I think it was some part  
13 -- some early part of this year.

14 Q. Okay. Do you know -- do you remember who  
15 that was?

16 A. Who originally approached me, no. It was  
17 somewhere in that mix, attorney -- this attorney with  
18 us here today contacted me.

19 Q. So that would have been Mr. Jones?

20 A. Yeah, I'm sorry. I'm having a senior moment.

21 Q. That's okay.

22 A. I didn't want to embarrass myself and blurt  
23 out the wrong name, so I sort of waited for it to come  
24 to me.

25 Q. That's okay.

1 THE WITNESS: I'm sorry, Attorney Jones.

2 MR. JONES: No problem.

3 BY MS. CLAPP:

4 Q. And what made you decide to sue the Secretary  
5 of State?

6 A. It's clear for me it's good and it's evil,  
7 it's right and it's wrong, and if something is  
8 happening that I think is wrong, I can't just talk  
9 about it. Somebody has to step up and -- and put the  
10 time and effort on the line. And this I thought was a  
11 good cause.

12 Q. And when you say it's good, it's evil, it's  
13 right, it's wrong, what is -- what are you referring to  
14 when you say "it"?

15 A. You have to look at this from my point of  
16 view. What is positive for my community? What's best  
17 for my community? When I analyze actions that take  
18 place that can affect my community, then I have to take  
19 -- I have to take -- take it seriously and make a  
20 decision based upon what's best for my children or best  
21 for my grandchildren. You can't just stand there and  
22 do nothing, and you can't just -- you can't just -- as  
23 you can -- I have the tendency to talk too much, and I  
24 think that I wanted to do something other than just  
25 talk.



1 Q. And how would you define your community?

2 A. A -- a cluster of like-minded, the majority  
3 of us are people of color, and there's a mixture of all  
4 -- all races. I want to specifically say, though, that  
5 the community as a positive area. We -- we work for  
6 and we take care of our property. Therefore, taking  
7 care of each other's property. We -- we -- we are  
8 politically involved with our education for children,  
9 with our sanitation, our awareness of our leadership.  
10 Those folks that are put in -- our put in a position of  
11 leadership, sanitation. My community is one where we  
12 are -- we are -- how we treat our -- how we carry  
13 ourselves is how we treat each other. And that  
14 probably has nothing to do with your question.

15 Q. That's okay. It's a tough question to  
16 answer. I think we eventually made it there. And what  
17 are you hoping this lawsuit accomplishes?

18 A. To slow the society down, and -- and to -- to  
19 let those folks that have all the power, to let them  
20 understand that stop, we are here. We love ourselves,  
21 and we love you. Don't do anything to hurt us. And  
22 when you deny me my voice, when you deny my community  
23 its voice, then you are hurting us. You're taking  
24 something from us.

25 Q. All right. You mentioned that you had

1 attended a meeting, and that's where -- sorry, I'm just  
2 looking back at my notes.

3 Okay. You mentioned you had attended a  
4 meeting where one of the county leaders wanted to get  
5 you involved based on your response in a discussion.  
6 What was that meeting initially about?

7 A. A monthly meeting for the Democratic Party,  
8 such as all organizations have to discuss the events of  
9 the game plan, how to move forward. And you bring  
10 someone -- you know, someone in who has something to  
11 share, and something -- something similar happening  
12 with -- for the last 11 years, I'm one of the founding  
13 members of the Kiwanis of Greater South Cobb. Well, I  
14 was at a meeting, and someone came in, one of the --  
15 the seniors, and they stated that what they wanted to  
16 set up a Kiwanis group in South Cobb. And they,  
17 because of my activity, asked me to involve myself, and  
18 so we've been in place for 11 years, fortunately. And  
19 I just wanted to give you an example of how this --  
20 this goes. I know you didn't ask me all of that.

21 Q. And I like learning a little bit more about  
22 your background, how involved you are. It's very  
23 helpful for us. And you mentioned that this was a  
24 monthly meeting for the Democratic Party. Was this the  
25 Cobb County group?

1 A. Yes. Cobb County Democratic Committee.

2 Q. Okay.

3 A. CCDC, better known as.

4 Q. That's an easy acronym to remember.

5 A. Uh-huh.

6 Q. And what kind of research did you do  
7 concerning the issues in this case?

8 A. It's in the news and generally discussed,  
9 Google, and if you're a news head, which I happen to  
10 be, it's -- with what I watch and what I involve myself  
11 in, these issues of the day are readily discussed.

12 Q. Okay. And do you have a preferred news  
13 outlet?

14 A. MSNBC.

15 Q. And what research did you do concerning your  
16 attorneys?

17 A. I beg your pardon?

18 Q. What research did you perform when you are  
19 deciding to hire your attorneys?

20 A. I was given the organization's name, and then  
21 the attorney's name, and I called the state  
22 organization and called said attorney to research to  
23 find out just what was going on and can we work  
24 together.

25 Q. Great. Thank you. I just don't want to

1 venture too much into, you know, what you said when you  
2 call your attorneys, so . . .

3 A. He didn't object, so I thought it was -- I  
4 thought it was all right.

5 Q. All right. And do you have any kind of fee  
6 contract with your attorneys?

7 A. Have I -- any kind of what?

8 Q. Fee contracts?

9 A. Did you say "fee contract"?

10 Q. Yes sir, f-e-e.

11 A. No, no, no, no.

12 Q. Okay.

13 A. No. No money has changed hands anywhere.

14 Q. Okay. And just to follow up on that, have  
15 you been paid or received anything of value in exchange  
16 for your participation?

17 A. No, ma'am.

18 Q. Okay. I'm going to share my screen again.  
19 Actually, let's stop here and take about a 10-minute  
20 break. Are you okay with that, Reverend Pendergrass?

21 A. I'm fine.

22 Q. Okay. I need to break myself. All right.

23 MS. CLAPP: Can we all agree to be back  
24 here around 4:00?

25 MR. JONES: That's fine, yes.

1 THE WITNESS: Yes. That's fine.

2 MS. CLAPP: Thank you.

3 (Whereupon, a brief break was taken.)

4 BY MS. CLAPP:

5 Q. Thank you for coming back Reverend  
6 Pendergrass. I always worry when we take a short break  
7 that my witnesses are going to come back.

8 All right. So I'm going to go ahead and  
9 start sharing my screen. Let's see. All right. Do  
10 you see the amended complaint before you?

11 A. Yes, I do.

12 Q. Okay.

13 MS. CLAPP: Ms. Taylor, I will go ahead and  
14 mark this as Exhibit 2.

15 THE COURT REPORTER: Okay. Thank you.

16 (Whereupon, Defendants' Exhibit No. 2 was  
17 identified for the record.)

18 BY MS. CLAPP:

19 Q. Reverend Pendergrass, have you ever seen this  
20 document before?

21 A. Yes.

22 Q. Okay. Have you read this document in its  
23 entirety?

24 A. Yes, I have.

25 Q. And you know the allegations contained in

1 this document?

2 A. I do.

3 Q. All right. Okay. Scrolling down to  
4 Paragraph 11 where it mentioned you specifically, do  
5 you agree with the statements in this paragraph?

6 A. I did when I first read it. Let me just  
7 scroll through it again and make sure.

8 Q. Do you need me to zoom in?

9 A. Say that again.

10 Q. Do you need me to zoom in on the paragraph?

11 A. Oh, no, I'm fine.

12 Q. Okay.

13 A. I agree with that, yes.

14 Q. Okay. Let me go ahead and stop sharing my  
15 screen.

16 All right. Did you reach out to any  
17 legislators during the 2021 special session concerning  
18 redistricting issues raised in your complaint?

19 A. No.

20 Q. How about before or after the special  
21 session?

22 A. Did I reach out to any legislators? No, I  
23 did not.

24 Q. Okay. Did you testify in the Georgia  
25 Assembly on those issues or any issues pertaining to

1     redistricting in 2021?

2             A.     I did not.

3             Q.     Did you attend any hearings in the Georgia  
4     legislature pertaining to redistricting?

5             A.     No.

6             Q.     Did you attend any other meetings concerning  
7     redistricting in 2021?

8             A.     I did not.

9             Q.     Do you know what the term "community of  
10    interest means?"

11            A.     I have a vague idea. I read it in the  
12    terminology.

13            Q.     Okay. What's your understanding of what it  
14    means?

15            A.     A community that's sufficient number that --  
16    that could be a district by itself.

17            Q.     And what is that based on?

18            A.     Number.

19            Q.     I'm sorry, what was that answer?

20            A.     I believe that's based upon the number of  
21    people in that community, in that shared community.

22            Q.     No, I mean, how did you come about that  
23    understanding of the definition? Did somebody explain  
24    it to you? Did you just kind of learn it on your own?

25            A.     I --

1 MR. JONES: I'm going to object to the extent  
2 that this question calls for any information  
3 covered by attorney-client privilege. Obviously,  
4 Reverend Pendergrass, please don't divulge the  
5 content of our private conversations, but if you  
6 feel like you can answer the question without  
7 doing so, please feel free to do so.

8 THE WITNESS: I -- to be quite honest with  
9 you, the terminologies are -- it's not something  
10 that I use daily, so I really -- I'm unsure of  
11 myself.

12 BY MS. CLAPP:

13 Q. Okay. I know that you have already mentioned  
14 some political associations that you are involved with.  
15 Do you or have you participated in any neighborhood  
16 associations?

17 A. That's all I do work is neighborhood  
18 community groups. That's what --

19 Q. Are you involved with an HOA or anything like  
20 that?

21 A. No, actually, no. What is an HOA?

22 Q. A homeowners association. They're those  
23 people that bug you about, you know, not taking your  
24 trash can back into your garage at the right time.  
25 That kind of thing.



1           A.    No, we are independent.  We don't -- we don't  
2   -- we are not part of any -- any group like that.

3           Q.    Okay.

4           A.    There's so many acronyms, you can't tell.

5           Q.    I understand.  So you've already mentioned  
6   the church that you attend.  Do you regularly attend  
7   services?

8           A.    I used to prior to COVID.  I was quite  
9   active, because sick and -- and I'm in that age group  
10   where there's issues, and I've just sort of -- I'm a  
11   backslider.

12          Q.    That's okay.  And what activities or groups  
13   are you involved with with the church?

14          A.    Choir, I'm a minister, associate minister.  
15   At least I was an active associate minister.  My  
16   ministry at this point in time is in the community  
17   being an advocate for the people.

18          Q.    Are you involved with any school  
19   associations?

20          A.    No.

21          Q.    Are you involved with any fraternities?

22          A.    No.

23          Q.    All right.  And outside of work and church,  
24   where do you spend most of your time?

25          A.    At home, my office, scared of COVID.  I

1 sincerely -- my world is going back and forth to the  
2 doctors.

3 Q. I'm sorry to hear that. Hopefully they can  
4 get your knee situation straightened out soon.

5 A. Yeah, well, thank you. And what -- what  
6 community groups that I work with these days would be  
7 all virtual. It's on Zoom. And -- and most of the  
8 vacations, at least in my area, are just getting back  
9 to personal visits. And -- in the most alarming thing  
10 is when you hear of places like New York, they are  
11 encouraging folks to use masks again.

12 Q. I saw that. It's probably a smart idea.

13 A. Yeah.

14 Q. All right. We will move on to our next  
15 section. Have you ever been prohibited from  
16 registering to vote based on your race?

17 A. No.

18 Q. Have you ever been prohibited from  
19 participating in the political process based on your  
20 race?

21 A. No.

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

1           A.    No. I believe the redistricting is -- is  
2   upfront and first thing. I think when you deny a  
3   person an opportunity to vote -- if you look at what  
4   just west of us, north and west, Marcus Flowers, there  
5   was not enough Democratic votes for him and that  
6   redistricting area. So I see that as denying -- and  
7   you know is education, housing, health, and the right  
8   to vote.

9           Q.    Can you elaborate on some of those  
10   categories. We can start with education.

11          A.    Where do you want me to go with that? Other  
12   than when you deny me education, when you deny my  
13   children education, when you -- when you deny the  
14   opportunity to -- to vote to get better -- better  
15   hospitals in your community. You know, it's -- this is  
16   all about -- these are things that -- when you deny  
17   proper housing, you know, it's -- it's -- to my way of  
18   thinking, it's -- these are all constructed on each  
19   other.

20          Q.    Okay.

21          A.    When you deny me representation, then you  
22   deny all of those things.

23          Q.    And, Reverend Pendergrass, just to let you  
24   know, when I'm asking these, you know -- these  
25   questions, these probing questions, I'm not agreeing or

1 disagreeing with you. I'm just trying to understand  
2 more about, you know, your perspective and what your  
3 experiences.

4 A. As much as I talk, do you want me to  
5 elaborate even more?

6 Q. Oh, no, I'm not complaining or anything like  
7 that. I just wanted to explain myself a bit and why I  
8 asked --

9 A. Oh, no, we are good. I understand your  
10 purpose and I'm fine.

11 Q. Okay. Great.

12 A. If I -- if the attorney -- my attorney  
13 doesn't object, then we can have a conversation.

14 Q. Okay. Great. In your opinion, do black  
15 voters in Georgia generally vote for Democratic  
16 candidates?

17 A. There are some who don't, but I think the  
18 vast majority do. You're not going to ask me why, are  
19 you?

20 Q. No, I don't have to.

21 A. Okay.

22 Q. And do you know if Georgia uses a majority  
23 vote requirement in its selections?

24 A. What does the majority vote requirement mean?

25 Q. It means that you have to get a majority of

1 the vote to -- to win your election or win on the  
2 issue.

3 A. Do I know? I think so, but I don't -- I  
4 can't -- can't say -- I wouldn't -- I wouldn't bet on  
5 it.

6 Q. Are you familiar with the term "candidate  
7 slating process"?

8 A. Candidate slating?

9 Q. Process.

10 A. I've heard the term. What does it mean?

11 Q. It means that -- I'm trying to figure out the  
12 best way to explain this. Hold on just a second. So  
13 it's when a group of candidates that run for particular  
14 seat or like a multi-position election, they run on a  
15 common platform.

16 MR. JONES: To the extent that this question  
17 is still open, I'm going to object to it on the  
18 basis that is leading, specifically by providing  
19 the explanation of the term that we're asking the  
20 witness to define.

21 Go ahead. Reverend Pendergrass, you may  
22 respond.

23 THE WITNESS: Oh, no, if you feel that I  
24 should let it go, I'm letting it go.

25 MR. JONES: Well, unless I specifically

1           instruct you not to respond, I think you have to.

2           But my objection is preserved for the record.

3           THE WITNESS:   Okay.

4       BY MS. CLAPP:

5           Q.    So just to -- to recap that, you are not  
6           familiar with the term "candidate slating process"?

7           A.    No.   I'm -- I'm not that involved in -- in  
8           the terminology and day-to-day activities of running  
9           candidates, you know, working with candidates.

10          Q.    That's okay.   A lot of people don't know that  
11          term.   So we would just move on, but for the record, do  
12          you know if there is a candidate slating process in  
13          Georgia?

14          MR. JONES:   And I'm going to object based on  
15          a lack of foundation.

16          Reverend Pendergrass, you may respond.

17          THE WITNESS:   I don't know.

18       BY MS. CLAPP:

19          Q.    Okay.   Thank you.   In your opinion, does a  
20          lack of education keep people of color from  
21          participating in Georgia politics?

22          A.    No.   I -- I -- well, yes and no.   Yes,  
23          because there are some people that are just lost to the  
24          reality that they must be involved.   But then there are  
25          the vast majority of people with whatever education

1 they have, they recognize that they have to be involved  
2 in the governing of -- of our world. You have to be  
3 involved. We -- we find that so many people,  
4 particularly young people, educated or not, they  
5 believe that the deck has been so stacked against them  
6 that it doesn't make any difference if they vote or  
7 not.

8 Q. Thank you for that answer. Do you believe a  
9 lack of employment opportunities keep people of color  
10 from voting or participating in Georgia politics?

11 A. Honestly, yes.

12 Q. How?

13 A. If you are not adequately employed, if you  
14 are not at a -- at a point where your -- -- you are  
15 able to take care of your basic needs, your housing,  
16 your food, be it even education, or education for your  
17 children, then you are spending more -- more time  
18 financially trying to -- to find what you need just to  
19 survive.

20 Q. And do you have any personal experience of  
21 this?

22 A. Oh, yes.

23 Q. Can you elaborate?

24 A. I sit in my home, I have my toys around me, I  
25 have cars out on the street. It has not always been --

1     been that way. I've worked hard to educate myself to a  
2     degree -- it may not seem that way, but I work hard at  
3     developing an understanding and to -- take online  
4     courses and -- you know, to put myself in a position  
5     where -- where I can -- I can compete. But I -- I must  
6     come back to that point where it has, in my -- in my  
7     70-plus -- 70-plus years, it hasn't -- it has not  
8     always been this way. And I've seen my life and my  
9     children's life and my grandchildren's life and my --  
10    my family members, education is -- it's imperative. In  
11    this -- in this 21st century, you have to be able to  
12    compete. You have to be able to compete in education.  
13    I wish I had done things different, and I wish I had  
14    gotten my master's degree earlier. Not earlier, but I  
15    wish I had gotten -- got to that point, and I so regret  
16    it.

17           Q.     Thank you, Reverend Pendergrass. Do you  
18    believe a lack of access to health services keep people  
19    of color from participating in Georgia politics?

20           A.     Yes.

21           Q.     How so?

22           A.     If you're not healthy, if you're not -- if  
23    you are -- if you are not in a position where -- where  
24    you can go take care of yourself, then it's about  
25    survival. It's either -- like the rest of society, if



1 you have all of your needs, your comfort needs, and  
2 you're in good health, then you can go about the  
3 business of choosing who -- who's going to be the  
4 leader of that community. And in most cases, in the  
5 black community, folks are -- folks are living from  
6 hand to mouth. If they miss a few paychecks, they are  
7 in trouble. There's no -- there's no year's savings in  
8 the bank in the black community. We just don't have  
9 that because society has positioned us where all we can  
10 do is grind and struggle.

11 Q. Do you have personal experience with this?

12 A. Yes. It's in my life. This is the average  
13 black man or woman in our society. There are a few  
14 folks who have climbed up and gotten a higher education  
15 and became attorneys like you guys from black and white  
16 that are -- that are above that. But the vast majority  
17 in our society is struggling.

18 Q. Okay. Are you familiar with the term "racial  
19 appeals" when used in the context of elections?

20 A. What's the term?

21 Q. Racial appeals.

22 A. No.

23 Q. Okay. I won't explain it. I don't want  
24 another objection. Do you know how many black people  
25 have run for office in Georgia?

1           A.     Do I know how many black folks have run for  
2 office?

3           Q.     Yes, sir.

4           A.     No, I have no clue. No idea.

5           Q.     Do you know how many black people have been  
6 elected to public office in Georgia?

7           A.     Are you asking do I know how many black folks  
8 have been elected for public office?

9           Q.     Yes, sir.

10          A.     I have no idea.

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

14          A.     Yes.

15          Q.     And what particular needs would those be?

16          A.     The average person in my community, black, he  
17 or she, or white, we are all in the same category. We  
18 are all in need, the average. But the vast majority of  
19 folks in this -- in our society, there is a -- there is  
20 a middle class to an upper class. The upper class --  
21 the middle and upper class are doing much better than  
22 the lower middle class, which I consider myself in.  
23 And there's a lot of -- a lot of white and black folks  
24 in my community -- I'm -- I'm lower middle class, but I  
25 am so much better than some folks below me. But there

1 are folks above me that are quite well, quite  
2 comfortable. Did I answer your question anywhere?

3 Q. Not quite. So what are the particular needs  
4 of the minority community in Georgia?

5 A. Better education, better housing, better  
6 health care, better representation in the political  
7 structure. People who are concerned about better  
8 housing, education, and health care for the minorities.

9 Q. And what is that based on?

10 A. Representation. If you don't -- if you don't  
11 represent me, and if you don't know me, and I don't fit  
12 into your country club, if I don't -- if I don't -- if  
13 we haven't spent any time together, you don't care  
14 about me, and you -- when you see it year after year  
15 where the only time you see -- if you see a certain  
16 politician coming to your area, and it's to tell you  
17 that he or she is running for election again, they're  
18 not passing any laws that benefit you, they are not  
19 concerned about you, they don't show concern about you,  
20 guess what? They just don't care about you.

21 What they want -- and that's one of the  
22 problems that we've had -- don't get me wrong, we've  
23 had to train our black politicians who get into  
24 political office, and the only time we would see them  
25 is when they were coming around to get reelected. And

1 we would have to burn their little butts and let them  
2 know that that's not going to work. Either you do  
3 things for us, show up, be in the community, or we will  
4 find somebody else to replace you.

5 So that goes both -- both ways in the  
6 political element. But the bottom line is the person  
7 who -- the person or persons that -- that state that  
8 they want to step out and -- and take that political  
9 seat and they say all of these welcome things that  
10 they're going to be doing, well, they have to do it or  
11 we will replace them.

12 Q. All right. Reverend Pendergrass, I think  
13 that concludes my portion of the deposition.

14 MS. CLAPP: Mr. Jones, do you have anything?

15 MR. JONES: I do just very briefly.

16 MS. CLAPP: Sure.

17 DIRECT EXAMINATION

18 BY MR. JONES:

19 Q. Reverend Pendergrass, I believe you testified  
20 earlier that you -- you believe that most black  
21 Georgians support Democrat; is that correct?

22 A. I believe that most Democrats -- black  
23 Democrats -- or blacks support Democrats, yes.

24 Q. And can you elaborate on why that is?

25 A. Okay. I believe -- can I give you an

1 analogy?

2 Q. Sure.

3 A. Okay. We socialize with the people who look  
4 and walk and talk and have similar life experiences.  
5 Okay?

6 Q. Uh-huh.

7 A. And that being the case, if you don't know me  
8 and you don't -- you don't know what my needs are, what  
9 my family needs are, if you don't know what my  
10 educational needs are for my children, and -- okay. I  
11 want to -- want to put a pin in that, but the bottom  
12 line is that our -- our country is divided. I think  
13 the world is divided, and the major hang-up is racism.  
14 And the bottom line is that -- that -- I mean, you see  
15 it in everything. It's -- and so once you find a  
16 person taking a position of leadership, that happens  
17 with white and black.

18 People become hardened. They become hard  
19 into the fact that I'm in charge and it's my way or the  
20 highway. Okay? They -- and going back to that point I  
21 made about you don't see them in the community anymore.  
22 Well, we -- we have the same problem with our own, but  
23 you know that -- what the situation is like if it's  
24 another nationality that's in that -- in that position.  
25 They are concerned about their own. They are concerned

1 about what their needs are. And to be quite honest  
2 with you, they are -- if they are upper class, then  
3 they are in the position of power and authority, guess  
4 what? They are concerned about upper class. They are  
5 not concerned about middle class and down, white, or  
6 black. Now, that's just my opinion.

7 Q. Okay. Is it fair to say that you believe  
8 that Democrats are more responsive to the needs of your  
9 community?

10 A. And I answered just this way, Democrats --  
11 okay. I need to explain this. Politically, the -- in  
12 the political sense, America has been divided,  
13 Democrats/Republicans. Republicans are concerned about  
14 big business, Democrats are -- are managing people.  
15 Okay? And in that managing of people, you have  
16 extremes. And in the -- in the managing of big  
17 business, you have extremes. The vast majority of  
18 folks that are in the Republican side of -- of the --  
19 of this issue are concerned about big business. They  
20 could care less -- they want -- it seems like they want  
21 to destroy middle class, and they want a upper class  
22 and a low -- lower middle class. I hope that answered  
23 the question.

24 Q. You did. Thank you, Reverend Pendergrass.  
25 At this time, I have no further questions for you.

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1 MS. CLAPP: All right. Reverend Pendergrass,  
2 thank you so much for your time today. I  
3 appreciate it. Ms. Taylor, I think that concludes  
4 our deposition.

5 THE COURT REPORTER: Will you both be  
6 ordering the transcript?

7 MR. JONES: We will.

8 MS. CLAPP: Yes, we will take one as well.

9 \* \* \*

10 (Whereupon, the deposition ended at 4:30 p.m.)  
11

12 (Pursuant to Rule 30(e) of the Federal Rules of Civil  
13 Procedure and/or O.C.G.A. 9-11-30(e), signature of the  
14 witness has been reserved.)  
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## D I S C L O S U R E

STATE OF GEORGIA                      Deposition of COAKLEY PENDERGRASS  
COUNTY OF HENRY                      THURSDAY, DECEMBER 15, 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).

THURSDAY, DECEMBER 15, 2022



---

KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER



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

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## C E R T I F I C A T E

STATE OF GEORGIA )

COUNTY OF 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 Pendergrass, et al. versus Raffensperger, et al., to the best of my ability.

I further certify that the foregoing pages 6 through 55 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 29th



KATHRYN TAYLOR, CCR

No. 5082-8490-7080-9088

CERTIFIED COURT REPORTER

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

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## E R R A T A S H E E T

## DEPOSITION OF COAKLEY PENDERGRASS

Deposition Date: THURSDAY, DECEMBER 15, 2022

Deponent: COAKLEY PENDERGRASS

Case Name: ANNIE LOIS GRANT, et al. v. BRAD

RAFFENSPERGER, in his official capacity as the Georgia  
Secretary of State, et al.\_\_\_\_\_ I have read and examined the foregoing pages and  
the following changes are required:

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Reason: \_\_\_\_\_

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Reason: \_\_\_\_\_

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1 CERTIFICATE OF DEPONENT  
2

3 I hereby certify that I have read and examined the  
4 foregoing transcript, and the same is a true and  
5 accurate record of the testimony given by me.  
6

7 Any additions or corrections that I feel are necessary,  
8 I will attach on a separate sheet of paper to the  
9 original transcript.  
10

11 \_\_\_\_\_  
12 COAKLEY PENDERGRASS

13 I hereby certify that the individual representing  
14 himself/herself to be the above-named individual,  
15 appeared before me this \_\_\_\_ day of \_\_\_\_\_,  
16 20\_\_, and executed the above certificate in my  
17 presence.  
18

19 \_\_\_\_\_  
20 NOTARY PUBLIC IN AND FOR

21 \_\_\_\_\_ County Name

22 MY COMMISSION EXPIRES:  
23  
24  
25

**[05339 - accomplishes]**

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

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

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al.,

Defendants.

CIVIL ACTION

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

**DEFENDANTS' NOTICE TO TAKE THE DEPOSITION  
OF COAKLEY PENDERGRASS**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, counsel for Defendants Brad Raffensperger, in his official capacity as Secretary of State of Georgia; William S. Duffey Jr., in his official capacity as chair of the State Election Board; and Matthew Mashburn, Sara Tindall Ghazal, Edward Lindsey, and Janice Johnston will take the oral examination of Plaintiff Coakley Pendergrass on Thursday, December 15, 2022, beginning at 3:00 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.

**EXHIBIT**

**1**



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 12th day of December, 2022.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 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**

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

Plaintiffs,

v.

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

Defendants.

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

**AMENDED COMPLAINT**

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

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

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

3. The 2020 census data make clear that minority voters in Georgia are sufficiently numerous and geographically compact to form a majority of eligible voters—which is to say, a majority of the voting age population<sup>1</sup>—in multiple congressional districts throughout the state, including an additional majority-Black

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

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

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

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

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

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

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

### **JURISDICTION AND VENUE**

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

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

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

### **PARTIES**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

### **LEGAL BACKGROUND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **FACTUAL BACKGROUND**

### **The 2020 Census**

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

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

### **The 2021 Congressional Redistricting Plan**

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

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



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

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

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

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

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

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

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

### **Racial Polarization**

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

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

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

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

### **History of Discrimination**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Use of Racial Appeals in Political Campaigns**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

### **Ongoing Effects of Georgia’s History of Discrimination**

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

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

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

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

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

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

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

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

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

## **CAUSES OF ACTION**

### **COUNT I:**

#### **SB 2EX Violates Section 2 of the Voting Rights Act**

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

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

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

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

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

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

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

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

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

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

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that this Court:

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



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

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

Dated: October 28, 2022

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**CERTIFICATE OF COMPLIANCE**

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

Dated: October 28, 2022

**Adam M. Sparks**

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

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

Dated: October 28, 2022

**Adam M. Sparks**

*Counsel for Plaintiffs*