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

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

DEFENDANTS' RESPONSE TO PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Defendants Brad Raffensperger, in his official capacity as Secretary of State; and State Election Board Members William S. Duffey, Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, also in their official capacities (collectively, "Defendants") pursuant to Local Civil Rule 56.1(B)(2)(a), provides their Response to Plaintiffs' Statement of Undisputed Material Facts [Doc. 173-2], showing the Court the following:

Plaintiffs' Statement No. 1.

Between 2010 and 2020, Georgia's population grew by over 1 million people to 10.71 million, up 10.57% from 2010. Ex. 1 ("Cooper Report") ¶ 13, fig.1.1.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of population is not relevant in a Section 2 case.

Plaintiffs' Statement No. 2.

Georgia's population growth since 2010 can be attributed entirely to gains in the overall minority population. Cooper Report ¶ 14, fig.1.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

Plaintiffs' Statement No. 3.

Between 2010 and 2020, Georgia's Black population increased by 484,048 people, up almost 16% since 2010. Cooper Report ¶ 15, fig.1.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

Plaintiffs' Statement No. 4.

Between 2010 and 2020, 47.26% of the state's population gain was attributable to Black population growth. Cooper Report fig.1.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

Plaintiffs' Statement No. 5.

Georgia's Black population, as a share of the overall statewide population, increased between 2010 and 2020, from 31.53% in 2010 to 33.03% in 2020. Cooper Report ¶ 16, fig.1.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 6.

As a matter of total population, any-part ("AP") Black Georgians comprise the largest minority population in the state, at 33.03%. Cooper Report fig.1.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 7.

Between 2010 and 2020, Georgia's white population decreased by 51,764 people, or approximately 1%. Cooper Report ¶ 15, fig.1.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 8.

Non-Hispanic white Georgians now comprise a majority of the state's population at 50.06%. Cooper Report ¶ 17.

RESPONSE: Objection. The evidence cited does not support the fact stated because the citation only refers to the percentage, not to the timeline for when Non-Hispanic white Georgians compromised a majority of the state's population.

Plaintiffs' Statement No. 9.

Georgia's Black population has increased in absolute and percentage terms since 1990, from about 27% in 1990 to 33% in 2020. Cooper Report ¶ 22, fig.3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of Georgia's Black population is not relevant in a Section 2 case.

Plaintiffs' Statement No. 10.

Over the same time period, the percentage of the population identifying as non-Hispanic white has dropped from about 70% to 50%. Cooper Report ¶ 22, fig.3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 11.

Since 1990, the Black population has more than doubled: from 1.75 million to 3.54 million, an increase that is the equivalent of the populations of more than two congressional districts. Cooper Report ¶ 23, fig.3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 12.

The non-Hispanic white population has also increased, but at a much slower rate: from 4.54 million to 5.36 million, amounting to an increase of about 18% over the three-decade period. Cooper Report ¶ 23, fig.3.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 13.

Georgia has a total voting-age population of 8,220,274, of whom 2,607,986 (31.73%) are AP Black. Cooper Report ¶ 18, fig.2.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 14.

The total estimated citizen voting-age population in Georgia in 2021 was 33.3% AP Black. Cooper Report ¶ 20, fig.2.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 15.

As defined by the U.S. Office of Management and Budget, the Atlanta Metropolitan Statistical Area ("MSA") consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. Cooper Report ¶ 12 n.3.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 16.

The Atlanta MSA has been the key driver of population growth in Georgia during this century, led in no small measure by a large increase in the region's Black population. Cooper Report ¶ 25, fig.4.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 17.

The population gain in the Atlanta MSA between 2010 and 2020 amounted to 803,087 persons—greater than the population of one of the state's congressional districts—with about half of the gain coming from an increase in the region's Black population, which increased by 409,927 (or 23.07%). Cooper Report ¶ 30, fig.5.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 18.

Under the 2000 census, the population in the 29-county Atlanta MSA was 29.29% AP Black, increasing to 33.61% in 2010 and then to 35.91% in 2020. Cooper Report ¶ 26, fig.4.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 19.

The Black population in the Atlanta MSA has grown from 1,248,809 in 2000 to 2,186,815 in 2020—an increase of 938,006 people—accounting for

75.1% of the statewide Black population increase and 51.4% of the Atlanta MSA's total population increase. Cooper Report ¶ 26, fig.4.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case. Further, the evidence cited does not support the fact.

Plaintiffs' Statement No. 20.

According to the 2020 census, the 11 core counties comprising the Atlanta Regional Commission ("ARC") service area account for more than half (54.7%) of the statewide Black population. Cooper Report ¶ 28.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 21.

After expanding the region to include the 29 counties in the Atlanta MSA (including the 11 ARC counties), the Atlanta metropolitan area encompasses 61.81% of the state's Black population. Cooper Report ¶ 28.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 22.

Under the 2000 census, the population in the Atlanta MSA was 60.42% non-Hispanic white, decreasing to 50.78% in 2010 and then to 43.71% in 2020. Cooper Report ¶ 27, fig.4.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 23.

Between 2010 and 2020, the non-Hispanic white population in the Atlanta MSA decreased by 22,736 persons. Cooper Report ¶ 30, fig.5.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 24.

According to the 2020 census, the Atlanta MSA has a total voting-age population of 4,654,322 persons, of whom 1,622,469 (34.86%) are AP Black. Cooper Report ¶ 31, fig.6.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 25.

The non-Hispanic white voting-age population in the Atlanta MSA is 2,156,625 (46.34%). Cooper Report ¶ 31, fig.6.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 26.

Based on the 2020 census, the combined Black population in Cobb, Fulton, Douglas, and Fayette counties is 807,076 persons, more than would be sufficient to constitute an entire congressional district—or a majority in two congressional districts. Cooper Report ¶ 42, fig.8.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 27.

More than half (53.27%) of the total population increase in these four counties since 2010 can be attributed to the increase in the Black population. Cooper Report ¶ 43.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

Plaintiffs' Statement No. 28.

The enacted congressional plan reduces Congressional District 6's AP Black voting-age population ("BVAP") from 14.6% under the prior congressional plan to 9.9%. Cooper Report ¶ 40.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the change in minority population from a prior district is not a factor to be considered in a Section 2 case.

Plaintiffs' Statement No. 29.

Under the enacted plan, Congressional District 13 has an AP BVAP of 66.75%. Cooper Report ¶ 41.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 30.

Another district in the Atlanta MSA, Congressional District 4, also has an AP BVAP in the 60% range. Cooper Report ¶ 40.

RESPONSE: Disputed. Mr. Cooper's Exhibit K-1 shows the AP Black VAP percentage of Congressional District 4 as 54.52%.

Plaintiffs' Statement No. 31.

As Plaintiffs' mapping expert, William S. Cooper, concluded—and Defendants' mapping expert, John Morgan, does not dispute—the Black population in the Atlanta metropolitan area is sufficiently numerous to allow for the creation of an additional majority-Black congressional district. Cooper Report ¶ 10; Ex. 8 ("Morgan Dep.") at 65:10–66:13 (not disputing this conclusion).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 32.

Mr. Cooper prepared an illustrative congressional plan with an additional majority-Black district anchored in the western Atlanta metropolitan area—Congressional District 6. Cooper Report ¶¶ 10, 86–87.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 33.

Mr. Cooper's illustrative congressional plan adds an additional majority-Black district without reducing the number of preexisting majority-Black districts in the enacted congressional plan. Cooper Report ¶ 73, fig.14; Morgan Dep. 65:10–66:13 (not disputing this conclusion).

RESPONSE: Undisputed when majority-Black is defined as using AP Black VAP; disputed if majority-Black is defined using Non-Hispanic Black CVAP. Report of William Cooper [Doc. 176-1] ("Cooper Report") ¶ 73, fig.14.

Plaintiffs' Statement No. 34.

Given the increase in the Atlanta metropolitan area's Black population during this century, Mr. Cooper used this area as the focal point for his illustrative majority-Black district. Cooper Report ¶ 35.

RESPONSE: Undisputed that Mr. Cooper states this in his report.

Plaintiffs' Statement No. 35.

Mr. Cooper's illustrative Congressional District 6 encompasses all of Douglas and parts of Cobb, Fayette, and Fulton counties: Cooper Report ¶ 51, Ex. I-2.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 36.

Mr. Cooper's illustrative Congressional District 6 has an AP Black population of 396,891 people, or 51.87% of the district's population. Cooper Report fig.11.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 37.

Mr. Cooper's illustrative Congressional District 6 has an AP Black voting-age population of 50.23%. Cooper Report ¶ 73, fig.14; Ex. 6 ("Morgan Report") ¶ 12 (agreeing that Mr. Cooper's illustrative Congressional District 6 has "50.23% any-part Black voting age population").

RESPONSE: Undisputed.

Plaintiffs' Statement No. 38.

Mr. Cooper's illustrative Congressional District 6 has a non-Hispanic Black citizen voting-age population of 50.18%. Cooper Report ¶ 73, fig.14.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 39.

Mr. Cooper's illustrative Congressional District 6 has a non-Hispanic Department of Justice ("DOJ") Black citizen voting-age population of 50.98% Cooper Report ¶ 73, fig.14. FOOTNOTE 2: The non-Hispanic DOJ Black citizen voting-age population includes voting-age citizens who are either non-Hispanic single-race Black or non-Hispanic Black and white. Cooper Report ¶ 57 n.10.

RESPONSE: Objection. The fact and its footnote do not comply with LR 56.1(B)(1) because they are not separately numbered.

Plaintiffs' Statement No. 40.

Plaintiffs' racially polarized voting expert, Dr. Maxwell Palmer, analyzed the performance of Black-preferred candidates in Mr. Cooper's illustrative Congressional District 6. Ex. 2 ("Palmer Report") ¶ 23.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 41.

In each of the 31 statewide races from 2012 through 2021, the Black-preferred candidate won a larger share of the vote in Mr. Cooper's illustrative Congressional District 6, with an average of 66.1%. Palmer Report ¶¶ 9, 23, 25, fig.5, tbl.8.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 42.

In the 31 statewide races from 2012 through 2021, the Black-preferred candidate also won a larger share of the vote in Mr. Cooper's illustrative Congressional District 13 (the only district from which Mr. Cooper's illustrative Congressional District 6 was drawn that previously performed for Black-preferred candidates), with an average of 62.3%. Palmer Report ¶ 26.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 43.

As Mr. Cooper, concluded—and Mr. Morgan does not dispute—the Black population in the Atlanta metropolitan area is sufficiently geographically compact to allow for the creation of an additional majority-Black congressional district consistent with traditional redistricting principles. Cooper Report ¶ 10; Morgan Dep. 65:10–66:13 (not disputing this conclusion).

RESPONSE: Objection. The evidence cited does not support the fact stated in that Mr. Morgan did not agree with that statement and Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Deposition of William Cooper [Doc. 167] ("Cooper Dep.") 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7.

Plaintiffs' Statement No. 44.

In drafting his illustrative plan, Mr. Cooper sought to minimize changes to the enacted congressional plan while abiding by traditional redistricting principles: population equality, compactness, contiguity, respect for political subdivision boundaries, respect for communities of interest, and the non-dilution of minority voting strength. Cooper Report ¶¶ 48, 50.

RESPONSE: Disputed. This fact is refuted by the fact that Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Cooper Dep. 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7.

Plaintiffs' Statement No. 45.

Mr. Cooper balanced these considerations, and no one factor predominated. Cooper Report ¶ 50.

RESPONSE: Disputed. This fact is refuted by the fact that Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Cooper Dep. 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7. Further, Mr. Cooper agreed that population equality was the "most important principle" in priority. Cooper Dep. 68:15-69:2.

Plaintiffs' Statement No. 46.

The guidelines for drafting congressional plans adopted by the redistricting committees of the Georgia State Senate and Georgia House of Representatives during the 2021 cycle included the following: population equality ("plus or minus one person from the ideal district size"), contiguity, compactness, consideration of the boundaries of counties and precincts, and consideration of communities of interest. Exs. 10–11.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 47.

Mr. Cooper's illustrative Congressional District 6 has a total population of 765,137 people. Cooper Report fig.11.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 48.

As in the enacted congressional plan, population deviations in Mr. Cooper's illustrative plan are limited to plus-or-minus one person from the ideal district population of 765,136. Cooper Report ¶ 53, fig.11; Morgan Dep. 62:4–7 (not disputing that Mr. Cooper's illustrative congressional plan achieves population equality).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 49.

The districts in Mr. Cooper's illustrative congressional plan are contiguous. Cooper Report ¶ 52; Morgan Dep. 62:14–17 (not disputing that districts in Mr. Cooper's illustrative congressional plan are contiguous).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 50.

The average and low compactness scores of Mr. Cooper's illustrative congressional plan are similar or identical to the corresponding scores for the enacted congressional plan and Georgia's prior congressional plan, and within the norm for plans nationwide. Cooper Report ¶ 78 & n.12, fig.13; Morgan Report ¶ 22 (agreeing that "Cooper [] congressional plan has similar mean compactness scores to the 2021 enacted plan"); Morgan Dep. 55:18–57:5 (agreeing that Mr. Cooper's illustrative congressional plan has similar mean compactness scores to enacted congressional plan and same mean Polsby-Popper score as enacted congressional plan).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact as to the low compactness scores because there is no definition of the term "similar."

Plaintiffs' Statement No. 51.

The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. Cooper Report ¶ 79 n.13.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 52.

The Polsby-Popper test computes the ratio of each district area to the area of a circle with the same perimeter. The measure is always between 0 and 1, with 1 being the most compact. Cooper Report ¶ 79 n.14.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 53.

The following table compares the compactness scores for Mr. Cooper's illustrative congressional plan, the enacted congressional plan, and the state's prior congressional plan adopted in 2012:

	Reock	Polsby-Popper
	Mean	Low	Mean	Low

Illustrative Plan	.43	.28	.27	.18
Enacted Plan	.44	.31	.27	.16
Prior Plan	.45	.33	.26	.16

Cooper Report ¶ 79, fig.13.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 54.

The Reock score for Mr. Cooper's illustrative Congressional District 6 is 0.45, which is more compact than the average Reock score of the enacted congressional plan (0.44) and the Reock score of the enacted Congressional District 6 (0.42). Cooper Report Exs. L-1 & L-3; Morgan Dep. 57:15–59:6 (agreeing that Mr. Cooper's illustrative Congressional District 6 scores 0.03 higher on Reock scale than enacted Congressional District 6).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 55.

The Polsby-Popper score for Mr. Cooper's illustrative Congressional District 6 is 0.27, which is as compact as the average Polsby-Popper score of the enacted congressional plan (0.27) and more compact than the Polsby-Popper score of the enacted Congressional District 6 (0.20). Cooper Report Exs. L-1 & L-3; Morgan Dep. 59:7–60:2 (agreeing that Mr. Cooper's

illustrative Congressional District 6 scores 0.07 higher on Polsby-Popper scale than enacted Congressional District 6).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 56.

Mr. Cooper drew his illustrative plan to follow, to the extent possible, county boundaries. Cooper Report ¶ 49.

RESPONSE: Disputed. This fact is refuted by the fact that Mr. Cooper introduced a new split of Cobb County on his current illustrative plan from his prior plan and did not follow city boundaries when he split counties as he claimed he did. Cooper Dep. 51:3-19, 52:20-53:12, 87:25-90:12.

Plaintiffs' Statement No. 57.

Where Mr. Cooper split counties to comply with one-person, one-vote requirements, he generally used whole 2020 census voting districts ("VTDs") as sub-county components; where VTDs were split, he followed census-block boundaries that are aligned with roads, natural features, municipal boundaries, census-block groups, and post-2020-census county commission districts. Cooper Report ¶ 49.

RESPONSE: Disputed. This fact is refuted by the fact that Mr. Cooper did not follow city boundaries when he split counties as he claimed he did. Cooper Dep. 87:25-90:12.

Plaintiffs' Statement No. 58.

Mr. Cooper's illustrative congressional plan is comparable to—if not better than—the enacted congressional plan and prior congressional plan in terms of split counties and municipalities and county, municipality, and VTD splits. Cooper Report ¶ 81, fig.14.

RESPONSE: Objection. The evidence cited does not support the fact stated because it offers no opinion about how comparable to or better than the various plans are in the number of split jurisdictions. Further, the fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact by making judgments about which plan is "better" than other plans on certain metrics.

Plaintiffs' Statement No. 59.

The following table compares political subdivision splits (excluding unpopulated areas) for Mr. Cooper's illustrative congressional plan, the enacted congressional plan, and the prior congressional plan:

	Split Counties	County Splits	Split Cities/Towns	City/Town Splits	VTD Splits
Illustrative Plan	15	18	37	78	43
Enacted Plan	15	21	43	91	46

Prior Plan 16 22 40 85 43

Cooper Report ¶ 81, fig.14.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 60.

Although both Mr. Cooper's illustrative congressional plan and the enacted congressional plan split 15 counties, the illustrative plan scores better across the other four categories: county splits (i.e., unique county/district combinations), split municipalities, municipality splits (i.e., unique municipality/district combinations), and VTD splits. Cooper Report ¶ 82, fig.14; Morgan Report ¶ 20 (agreeing that "[t]he Cooper [] congressional plan splits the same number of counties as the 2021 adopted congressional plan at 15"); Morgan Dep. 44:6–46:16, 54:7–11, 54:18–55:6 (not disputing numbers of split counties, county splits, split cities/towns, city/town splits, and VTD splits reported by Mr. Cooper).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact by making judgments about which plan is "better" than other plans on certain metrics.

Plaintiffs' Statement No. 61.

Mr. Cooper's illustrative plan splits majority-non-white Cobb County among three congressional districts, whereas the enacted congressional plan divides the county among four, including three majority-white districts—Congressional Districts 6, 11, and 14.

Cooper Report ¶¶ 60, 65, 73, fig.14, Exs. G & H-1.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 62.

Under the enacted congressional plan, southwest Cobb County is in Congressional District 14, which stretches to the suburbs of Chattanooga in northwest Georgia:

Cooper Report ¶ 60, Ex. G.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 63.

Mr. Cooper's illustrative Congressional District 6 unites Atlanta-area urban, suburban, and exurban voters, whereas the enacted congressional plan combines Appalachian north Georgia with the Atlanta suburbs. Cooper Report ¶ 68.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he included in Illustrative District 6, is rural. Cooper Dep. 54:6-20.

Plaintiffs' Statement No. 64.

Mr. Cooper's illustrative congressional plan combines voters in the western Atlanta metropolitan area: Illustrative Congressional District 6 unites all or part of Cobb, Douglas, Fulton, and Fayette counties, all of which are core counties under the ARC. Cooper Report ¶ 68.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he included in Illustrative District 6, is rural. Cooper Dep. 54:6-20.

Plaintiffs' Statement No. 65.

Douglas County is contained entirely in Mr. Cooper's illustrative Congressional District 6, whereas the enacted congressional plan divides the county between Congressional Districts 6 and 11, splitting Douglasville (population 34,650). Cooper Report ¶ 70.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 66.

In Cobb County, Mr. Cooper's illustrative congressional plan assigns all but noncontiguous zero-population areas of Marietta (population 60,972) to Congressional District 6, whereas the enacted congressional plan divides populated areas of Marietta between Congressional Districts 6 and 11. Cooper Report ¶ 69.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 67.

The enacted congressional plan also divides populated areas of Smyrna (population 55,663) between Congressional Districts 11 and 13, whereas Smyrna is not split in Mr. Cooper's illustrative plan. Cooper Report ¶ 69, Ex. M-4.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because neither reference addresses Smyrna in relation to Mr. Cooper's illustrative plan.

Plaintiffs' Statement No. 68.

Mr. Cooper's illustrative plan leaves six of the 14 districts in the enacted plan unchanged: Congressional Districts 1, 2, 5, 7, 8, and 12. Cooper

Report ¶¶ 11, 51; Morgan Report ¶ 18 (agreeing that "[i]n the Cooper [] congressional plan, six districts are the same as the enacted plan (1, 2, 5, 7, 8 and 12)").

RESPONSE: Undisputed.

Plaintiffs' Statement No. 69.

Dr. Palmer conducted a racially polarized voting analysis of enacted Congressional Districts 3, 6, 11, 13, and 14, both as a region (the "focus area") and individually. Palmer Report ¶ 10, fig.1.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 70.

Dr. Palmer employed a statistical method called ecological inference ("EI") to derive estimates of the percentages of Black and white voters in the focus area that voted for each candidate in 40 statewide elections between 2012 and 2022. Palmer Report ¶¶ 8, 11, 13–14; Ex. 9 ("Alford Dep.") at 36:11–37:12 (agreeing that EI is best available method for estimating voting behavior by race and with Dr. Palmer's methodology and results).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 71.

Dr. Palmer's EI analysis relied on precinct-level election results and voter turnout by race, as compiled by the State of Georgia. Palmer Report ¶ 11.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 72.

Dr. Palmer's EI process proceeded as follows: First, he examined each racial group's support for each candidate to determine if members of the group voted cohesively in support of a single candidate in each election and, if a significant majority of the group supported a single candidate, then identified that candidate as the group's candidate of choice; and second, he compared the preferences of white voters to the preferences of Black voters. Palmer Report ¶ 14.

RESPONSE: Objection. The evidence cited does not support the fact stated. This fact purports to explain how "Dr. Palmer's EI process proceeded," but in reality deals with the way Dr. Palmer interprets the results of his EI analysis.

Plaintiffs' Statement No. 73.

Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 16, figs.2

& 3, tbl.1; Ex. 3 ("Suppl. Palmer Report") ¶ 5, fig.1, tbl.1; Ex. 7 ("Alford Report") at 3 ("Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022. Nor does it vary in any meaningful degree from the top of the ballot elections for U.S. President to down-ballot contests like Public Service Commissioner."); Alford Dep. 37:13–15 (agreeing with Dr. Palmer's conclusion that Black Georgians are politically cohesive).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 74.

The following table presents the estimates of support for the Black-preferred candidates in the 40 elections Dr. Palmer examined; the solid dots correspond to an estimate in a particular election, and the gray vertical lines behind each dot (which might not be visible because they are relatively small) are the 95% confidence intervals for the estimate:

Palmer Report ¶ 15 & n.13, fig.2.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 75.

On average, across the focus area, Black voters supported their candidates of choice with 98.4% of the vote in the 40 elections Dr. Palmer examined. Palmer Report ¶¶ 7, 16.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 76.

Black voters are also extremely cohesive in each congressional district that comprises the focus area, with a clear candidate of choice in all 40 elections Dr. Palmer examined:

Palmer Report ¶ 19, fig.4, tbls.2, 3, 4, 5 & 6.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 77.

On average, in the 40 elections Dr. Palmer examined, Black voters supported their candidates of choice with 97.2% of the vote in Congressional District 3, 93.3% in Congressional District 6, 96.1% in Congressional District 11, 99.0% in Congressional District 13, and 95.8% in Congressional District 14. Palmer Report ¶ 19.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 78.

White voters in Georgia are highly cohesive in voting in opposition to the Black-preferred candidate in every election Dr. Palmer examined. Palmer Report ¶ 17, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 (noting that "estimated white voter opposition to the Black-preferred candidate is typically above 80 percent" and is "remarkably

stable"); Alford Dep. 38:20–39:8 (agreeing that white voters generally vote in opposition to Black voters, which can operate to defeat minority-preferred candidates).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 79.

On average, across the focus area, white voters supported Black-preferred candidates with only 12.4% of the vote, and in no election that Dr. Palmer examined did this estimate exceed 17%. Palmer Report ¶¶ 7, 17.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 80.

White voters are also highly cohesive in voting in opposition to the Black-preferred candidate in each district that comprises the focus area. Palmer Report ¶ 20, fig.4, tbls.2, 3, 4, 5 & 6.

RESPONSE: Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider "highly cohesive voting" by white voters. Report of Maxwell Palmer [Doc. 174-3] ("Palmer Report"), tbl 3.

Plaintiffs' Statement No. 81.

On average, in the 40 elections Dr. Palmer examined, white voters supported Black-preferred candidates with 6.7% of the vote in Congressional District 3, 20.2% in Congressional District 6, 16.1% in Congressional District 11, 15.5% in Congressional District 13, and 10.3% in Congressional District 14. Palmer Report ¶ 20.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 82.

Across the focus area, white-preferred candidates won the majority of the vote in all 40 elections Dr. Palmer examined. Palmer Report ¶¶ 8, 22, tbl.7.

RESPONSE: Objection. The evidence cited does not support the fact stated. The focus area for Dr. Palmer's report includes CD 13, where the Black-preferred candidate uniformly won the majority of the vote in all 40 elections Dr. Palmer examined. Palmer Report, n. 1.

Plaintiffs' Statement No. 83.

The white-preferred candidate also received a larger share of the vote than the Black-preferred candidate in all 40 elections Dr. Palmer examined in Congressional Districts 3, 6, 11, and 14. Palmer Report ¶¶ 8, 22, tbl.7.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 84.

Only in the majority-Black Congressional District 13 did the Black-preferred candidate win a larger share of the vote in the 40 elections Dr. Palmer examined. Cooper Report ¶ 73, fig.14; Palmer Report ¶¶ 8, 22, tbl.7.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 85.

These findings were confirmed by the endogenous election results from the 2022 general election, in which Black-preferred candidates were defeated in Congressional Districts 3, 6, 11, and 14. Suppl. Palmer Report ¶ 4.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 86.

Georgia has an extensive and well-documented history of discrimination against its Black citizens that has touched upon their right to register, vote, and otherwise participate in the political process; as Dr. Orville Vernon Burton explained, throughout the history of the state of Georgia, voting rights have followed a pattern where, after periods of increased nonwhite voter registration and turnout, the State has passed legislation, and often used extralegal means, to disenfranchise minority voters. Ex. 4 ("Burton Report") at 10.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 87.

Between 1867 and 1872, at least one-quarter of the state's Black legislators were jailed, threatened, bribed, beaten, or killed. Burton Report 14.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 88.

This violence, often perpetrated by the Ku Klux Klan, enabled white Georgians to regain control of the levers of power in the state. Burton Report 14–17.

RESPONSE: Undisputed that Dr. Burton made statements concerning the violence of the Ku Klux Klan during the 1800s in his report.

Plaintiffs' Statement No. 89.

After seizing control of the state legislature through a campaign of violence and intimidation, white Democrats called a new constitutional convention chaired by the former Confederate secretary of state; that convention resulted in the Constitution of 1877, which effectively barred

Black Georgians from voting through the implementation of a cumulative poll tax. Burton Report 17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to "seizing control" and "barred Black Georgian from voting."

Plaintiffs' Statement No. 90.

Violence, and the threat of it, was constant for many Black Georgians as white Democrats controlled the state in the late-19th and first part of the 20th centuries. Burton Report 23.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to "constant" violence and threat of violence.

Plaintiffs' Statement No. 91.

In addition to mob violence, Black Georgians endured a form of state-sanctioned violence through debt peonage and the convict lease system, which effectively amounted to "slavery by another name." Burton Report 24.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact as to "mob violence" and "amounted to 'slavery by another name'."

Plaintiffs' Statement No. 92.

Violence against Black Georgians surged after the First World War, with many white Georgians holding "a deep antipathy" toward Black veterans. Burton Report 25.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to "violence … surged."

Plaintiffs' Statement No. 93.

Between 1875 and 1930, there were 462 lynchings in Georgia; only Mississippi had more reported lynchings during that time. Burton Report 26.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 94.

These lynchings "served as a reminder for Black Georgians who challenged the status quo, and in practice lynchings did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared to participate in the franchise." Burton Report 26.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report concerning the lynchings in Georgia from 1875 through 1930.

Plaintiffs' Statement No. 95.

"While Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War." Burton Report 10 (quoting Laughlin McDonald, A Voting Rights Odyssey: Black Enfranchisement in Georgia 2–3 (2003)).

RESPONSE: Undisputed that Dr. Burton included this quote in his report.

Plaintiffs' Statement No. 96.

Although Georgia's 1865 constitution abolished slavery, it limited the franchise to white citizens and barred Black Georgians from holding elected office. Burton Report 11.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 97.

The federal government forced Georgia to extend the right to vote to Black males in 1867, but the State responded with a series of facially neutral policies that had the intent and effect of "render[ing] black participation in politics improbable." Burton Report 12, 18.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact that "the State responded" with "intent and effect."

Plaintiffs' Statement No. 98.

Georgia's 1877 constitution, for example, did not explicitly disenfranchise Black citizens but made it practically impossible for Black Georgians to vote by implementing a cumulative poll tax for elections, such that a potential voter had to pay all previous unpaid poll taxes before casting a ballot. Burton Report 17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, it is duplicative, is stated as argument rather than as a statement of fact and includes facts that are not stated in Dr. Burton's report.

Plaintiffs' Statement No. 99.

Relatedly, Georgia prohibited Black voters from participating in Democratic Party primaries; because Georgia was a one-party Democratic state, the "white primary" effectively eliminated Black participation in the state's politics. Burton Report 19.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as argument rather than as a

statement of fact, and is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 100.

In 1908, Georgia enacted the Felder-Williams Bill, which broadly disenfranchised many Georgians but contained numerous exceptions that allowed most white citizens to vote, including owning 40 acres of land or 500 dollars' worth of property; being able to write or to understand and explain any paragraph of the U.S. or Georgia constitution; and being "persons of good character who understand the duties and obligations of citizenship." Burton Report 20 (quoting McDonald, supra, at 41).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 101.

In conjunction with the Felder-Williams Bill, Georgia enacted a voter-registration law allowing any citizen to contest the right of registration of any person whose name appeared on the voter list. Burton Report 21.

RESPONSE: Undisputed that Dr. Burton gives this opinion of the 1910 Code in his report.

Plaintiffs' Statement No. 102.

These laws "were devastatingly effective at eliminating both Black elected officials from seats of power and Black voters from the franchise": At the time of the Felder-Williams Bill, there were 33,816 Black Georgians registered to vote, while two years later, only 7,847 Black voters were registered—a decrease of more than 75%. Burton Report 22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 103.

From 1920 to 1930, the combined Black vote total in Georgia never exceeded 2,700, and by 1940, the total Black registration in Georgia was still only approximately 20,000, around 2–3% of eligible Black voters. Burton Report 22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 104.

By contrast, less than 6% of white voters were disenfranchised by Georgia's new election laws. Burton Report 22.

RESPONSE: Undisputed that Dr. Burton gives this opinion pertaining to the time period of 1920 to 1930 in his report.

Plaintiffs' Statement No. 105.

Congress enacted the Voting Rights Act of 1965 to address these discriminatory practices; among its provisions was the preclearance requirement that prohibited certain jurisdictions with well-documented practices of discrimination— including Georgia—from making changes to their voting laws without approval from the federal government. Burton Report 36.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it in part states a legal conclusion concerning the enactment of the Voting Rights Act that is not in Dr. Bruton's report at the cited page.

Plaintiffs' Statement No. 106.

The Voting Rights Act, however, did not translate into instant success for Black political participation in Georgia. Burton Report 36.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 107.

Among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens by 1976, and these disparities were directly

attributable to Georgia's continued efforts to enact policies designed to circumvent the Voting Rights Act's protections and suppress the rights of Black voters. Burton Report 36.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact stated.

Plaintiffs' Statement No. 108.

Between 1965 and 1980, nearly 30% of the U.S. Department of Justice's objections to voting-related changes under Section 5 were attributable to Georgia—more than any other state in the country. Burton Report 3, 39.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 109.

When Congress reauthorized the Voting Rights Act in 1982, it specifically cited systemic abuses by Georgia officials intended to obstruct Black voting rights. Burton Report 3, 42.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 110.

Throughout the first two decades of the 21st century, the State initiated investigations of Black candidates and organizations dedicated to protecting the franchise rights of Georgia's minority voters; investigations into alleged voter fraud in the predominantly Black City of Quitman and the efforts of the New Georgia Project and the Asian American Legal Advocacy Center ended without convictions or evidence of wrongdoing. Burton Report 45–46.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 111.

After the U.S. Supreme Court effectively ended the Voting Rights Act's preclearance requirement in Shelby County v. Holder, 570 U.S. 529 (2013), Georgia was the only former preclearance state that proceeded to adopt "all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures." Burton Report 48–49.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is factually incorrect because (1)

Georgia adopted photo ID before Shelby County, *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1346 (11th Cir. 2009) (noting 2005 adoption); (2) state officials are not responsible for polling place closures, *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at *49 (N.D. Ga. Feb. 16, 2021); and (3) Georgia's list-maintenance procedures are not applied differently to any class of voters, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at *62 (N.D. Ga. Mar. 31, 2021). Further, this statement relies on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 112.

In 2015, for example, Georgia began closing polling places in primarily Black neighborhoods. Burton Report 49.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case and is factually incorrect because the state of Georgia is not responsible for closing polling places—county officials are. *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at *49 (N.D. Ga. Feb. 16, 2021).

Plaintiffs' Statement No. 113.

By 2019, 18 counties in Georgia closed more than half of their polling places and several closed almost 90%, depressing turnout in affected areas and leading to substantially longer waiting times at the polls. Burton Report 50.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is immaterial to the claims and defenses in this case, and is factually incorrect because the state of Georgia is not responsible for closing polling places—county officials are. *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at *49 (N.D. Ga. Feb. 16, 2021). The statement also relies on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Further, the evidence cited does not support the fact because the citation does not establish any connection between precinct closure in 18 Georgia counties and "longer waiting times at the polls" in two precincts.

Plaintiffs' Statement No. 114.

According to one study, in 2020, about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state's polling places. Burton Report 50.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

Plaintiffs' Statement No. 115.

Georgia also engaged in "systematic efforts to purge the voting rolls in ways that particularly disadvantaged minority voters and candidates" in the aftermath of Shelby County. Burton Report 50.

RESPONSE: Objection. The fact is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur.*

Co., 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

Plaintiffs' Statement No. 116.

In the period from 2012 to 2018, Georgia removed 1.4 million voters from the eligible voter rolls—purges that disproportionately impacted Black voters. Burton Report 50–51.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and conflicts with the findings of this Court that the list-maintenance process was not applied differently to any class of voters. *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at *62 (N.D. Ga. Mar. 31, 2021).

Plaintiffs' Statement No. 117.

Following significant increases in Black voter turnout, Georgia enacted Senate Bill ("SB") 202 in the spring of 2021, which targeted methods of voting that Black voters used extensively in the 2020 general election; among other things, SB 202 (1) increases identification requirements for absentee voting, (2) bans state and local governments from sending unsolicited absentee-ballot applications, (3) limits the use of absentee-ballot drop boxes, (4) bans mobile polling places (except when the governor declares an emergency), and (5)

prohibits anyone who is not a poll worker from giving food or drink to voters in line to vote. Burton Report 53.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible."). Defendants further state that the provisions of SB 202 are being challenged in separate litigation.

Plaintiffs' Statement No. 118.

The growth of Georgia's nonwhite population over the past 20 years and the corresponding increase in minority voting power has, as Dr. Burton explained, "provide[d] a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote." Burton Report 60.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 119.

Georgia's legislative and congressional districts were grievously malapportioned in the years preceding the enactment of the Voting Rights Act. Burton Report 32.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact with respect to the use of the term "grievously malapportioned."

Plaintiffs' Statement No. 120.

In 1957, the Atlanta-based Congressional District 5 was the second-most populous congressional district in the United States, with an estimated population of 782,800—about twice the size of the average congressional district. Burton Report 32.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 121.

By 1960, Fulton County was the most underrepresented county in a state legislature of any county in the United States; DeKalb County was the third- most-underrepresented county. Burton Report 32.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 122.

Georgia's redistricting plans were subject to the Voting Rights Act's preclearance requirement, and in the 40 years following its enactment, Georgia did not complete a redistricting cycle without objection from the U.S. Department of Justice. Burton Report 40–44.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 123.

The Atlanta metropolitan area was often the focal point of Georgia's efforts to suppress Black political influence through redistricting; for

example, the U.S. Department of Justice rejected Georgia's 1971 congressional plan, which cracked voters throughout Congressional Districts 4, 5, and 6 to give the Atlanta-based Congressional District 5 a substantial white majority. Burton Report 40; Georgia v. United States, 411 U.S. 526, 541 (1973) (affirming that Georgia's 1972 reapportionment plan violated Section 5 of Voting Rights Act).

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 124.

The U.S. Department of Justice also rejected the congressional redistricting plan passed by Georgia following the 1980 census, which contained white majorities in nine of the state's 10 congressional districts, even though Georgia's population was nearly 30% Black. Burton Report 40; Busbee v. Smith, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge court) (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); Ex. 12 (1982 objection letter from U.S. Department of Justice asserting that "the proposed [congressional] plan divides an apparently cohesive black community of Fulton and DeKalb Counties").

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 125.

During the 1990 redistricting cycle, the U.S. Department of Justice twice rejected Georgia's state reapportionment plan before finally approving the third submission. Burton Report 42; Ex. 13 (1992 objection letter from U.S. Department of Justice asserting that "the submitted [congressional] plan minimizes the electoral potential of large concentrations of black population in several areas of the state").

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 126.

During the 2000 redistricting cycle, the U.S. District Court for the District of Columbia refused to preclear Georgia's State Senate redistricting plan, which decreased the Black voting-age population in the districts surrounding Chatham, Albany, Dougherty, Calhoun, Macon, and Bibb counties. Burton Report 43.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 127.

In 2015, after Shelby County, the General Assembly engaged in mid-cycle redistricting, reducing the Black and Latino voting-age populations in House Districts 105 and 111, both of which had become increasingly diverse over the prior half-decade. Burton Report 40, 44.

RESPONSE: Objection. The act does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case because the referenced redistricting was not found to be unlawful.

Plaintiffs' Statement No. 128.

Dr. Palmer found strong evidence of racially polarized voting across the focus area he examined and in each of Congressional Districts 3, 6, 11, 13, and 14. Palmer Report ¶ 7; Suppl. Palmer Report ¶ 4; Alford Report 3 ("As evident in Dr. Palmer's [reports], the pattern of polarization is quite striking."); Alford Dep. 44:8–16, 45:10–12 ("This is clearly polarized voting, and the stability of it across time and across office and across geography is really pretty remarkable.").

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) to the extent the term "racial polarization" is a legal conclusion as distinct from

the mere observation using statistical analysis that two races are voting cohesively for different candidates in a given election.

Plaintiffs' Statement No. 129.

Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 16, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 ("Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022. Nor does it vary in any meaningful degree from the top of the ballot elections for U.S. President to down- ballot contests like Public Service Commissioner."); Alford Dep. 37:13–15 (agreeing with Dr. Palmer's conclusion that Black Georgians are politically cohesive).

RESPONSE: Undisputed.

Plaintiffs' Statement No. 130.

On average, across the focus area, Black voters supported their candidates of choice with 98.4% of the vote in the 40 elections Dr. Palmer examined. Palmer Report ¶¶ 7, 16.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 131.

Black voters are also extremely cohesive in each congressional district that comprises the focus area, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 19, fig.4, tbls.2, 3, 4, 5 & 6.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 132.

On average, in the 40 elections Dr. Palmer examined, Black voters supported their candidates of choice with 97.2% of the vote in Congressional District 3, 93.3% in Congressional District 6, 96.1% in Congressional District 11, 99.0% in Congressional District 13, and 95.8% in Congressional District 14. Palmer Report ¶ 19.

RESPONSE: Undisputed

Plaintiffs' Statement No. 133.

White voters in Georgia, by contrast, are highly cohesive in voting in opposition to the Black-preferred candidate in every election Dr. Palmer examined. Palmer Report ¶ 17, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 (noting that "estimated white voter opposition to the Black-preferred candidate is typically above 80 percent" and is "remarkably stable"); Alford Dep. 38:20–39:8 (agreeing that white voters

generally vote in opposition to Black voters, which can operate to defeat minority-preferred candidates).

RESPONSE: Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider "highly cohesive voting" by white voters. Palmer Report, tbl 3.

Plaintiffs' Statement No. 134.

On average, across the focus area, white voters supported Black-preferred candidates with only 12.4% of the vote, and in no election that Dr. Palmer examined did this estimate exceed 17%. Palmer Report ¶¶ 7, 17.

RESPONSE: Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider "highly cohesive voting" by white voters. Palmer Report, tbl 3.

Plaintiffs' Statement No. 135.

White voters are also highly cohesive in voting in opposition to the Black-preferred candidate in each district that comprises the focus area. Palmer Report ¶ 20, fig.4, tbls.2, 3, 4, 5 & 6.

RESPONSE: Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider "highly cohesive voting" by white voters. Palmer Report, tbl 3.

Plaintiffs' Statement No. 136.

On average, in the 40 elections Dr. Palmer examined, white voters supported Black-preferred candidates with 6.7% of the vote in Congressional District 3, 20.2% in Congressional District 6, 16.1% in Congressional District 11, 15.5% in Congressional District 13, and 10.3% in Congressional District 14. Palmer Report ¶ 20.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 137.

Dr. Burton explored the relationship between race and partisanship in Georgia politics. Burton Report 57–62.

RESPONSE: Undisputed that Dr. Burton gives opinions concerning race and partisanship in Georgia in his report opining that race and partisanship are inextricably intertwined and cannot be separated in Georgia. Report of Orville Burton [Doc. 174-5] ("Burton Report"), p. 4 and Deposition of Orville Burton [Doc. 185] ("Burton Dep.") p. 64:10-17.

Plaintiffs' Statement No. 138.

As Dr. Burton explained, "[s]ince Reconstruction, conservative whites in Georgia and other southern states have more or less successfully and continuously held onto power. While the second half of the twentieth century was generally marked by a slow transition from conservative white Democrats to conservative white Republicans holding political power, the reality of conservative white political dominance did not change." Burton Report 57.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and because it is stated as argument rather than as a statement of fact.

Plaintiffs' Statement No. 139.

Notably, the Democratic Party's embrace of civil rights legislation—and the Republican Party's opposition to it—was the catalyst of this political transformation, as the Democratic Party's embrace of civil rights policies in

the mid- 20th century caused Black voters to leave the Republican Party (the "Party of Lincoln") for the Democratic Party. Burton Report 57–58.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 140.

In turn, the Democratic Party's embrace of civil rights legislation sparked what Earl Black and Merle Black describe as the "Great White Switch," in which white voters abandoned the Democratic Party for the Republican Party. Burton Report 58.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 141.

The 1948 presidential election illustrated this phenomenon: South Carolina Governor J. Strom Thurmond mounted a third-party challenge to Democratic President Harry Truman in protest of Truman's support for civil rights, including his integration of the armed forces. Thurmond ran on the ticket of the so- called Dixiecrat Party, which claimed the battle flag of the Confederacy as its symbol. Thurmond's campaign ended Democratic dominance of Deep South states by winning South Carolina, Alabama, Mississippi, and Louisiana. Burton Report 58.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 142.

This trend continued into the 1964 and 1968 elections. In 1964, the Republican nominee, Barry Goldwater, won only six states in a landslide defeat to President Lyndon B. Johnson: his home state of Arizona and all five states comprising the Deep South (South Carolina, Georgia, Alabama, Mississippi, and Louisiana). Goldwater was the first Republican presidential candidate to win Georgia's electoral votes. Burton Report 58.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 143.

Goldwater told a group of Republicans from Southern states that it was better for the Republican Party to forgo the "Negro vote" and instead court white Southerners who opposed equal rights. Burton Report 59.

RESPONSE: Undisputed that Dr. Burton gives this opinion in his report.

Plaintiffs' Statement No. 144.

Four years later, Georgia's electoral votes were won by George Wallace, another third-party presidential candidate who ran on a platform of vociferous opposition to civil rights legislation. Burton Report 58.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 145.

The effectiveness of what was called the "Southern strategy" during Richard Nixon's presidency had a profound impact on the development of the nearly-all-white modern Republican Party in the South. Burton Report 59.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 146.

Matthew D. Lassiter, an historian of the Atlanta suburbs, observed that "the law-and-order platform at the center of Nixon's suburban strategy

tapped into Middle American resentment toward antiwar demonstrators and black militants but consciously employed a color-blind discourse that deflected charges of racial demagoguery." Burton Report 60 (quoting Matthew D. Lassiter, The Silent Majority: Suburban Politics in the Sunbelt South 234 (2006)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 147.

As Dr. Burton concluded, "[w]hite southerners abandoned the Democratic Party for the Republican Party because the Republican Party identified itself with racial conservatism. Consistent with this strategy, Republicans today continue to use racialized politics and race-based appeals to attract racially conservative white voters." Burton Report 59.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 148.

Georgia is a flash point of this modern strategy: According to Dr. Peyton McCrary, an historian formerly with the U.S. Department of Justice, "[i]n Georgia politics since 2002, state government is dominated by the Republican Party, the party to which now most non-Hispanic white persons belong. The greatest electoral threat to the Republican Party and Georgia's governing elected officials is the growing number of African American, Hispanic, and Asian citizens, who tend strongly to support Democratic candidates. The increase in minority population and the threat of increasing minority voting strength provides a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote. That is what has happened." Burton Report 60 (quoting Expert Rep. of Dr. Peyton McCrary at 8, Fair Fight Action v. Raffensperger, No. 1:18-cv-05391-SCJ (N.D. Ga. Apr. 24, 2020), ECF No. 339)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 149.

Dr. Burton explained that racial bloc voting "is so strong, and race and partisanship so deeply intertwined, that statisticians refer to it as multicollinearity, meaning one cannot, as a scientific matter, separate partisanship from race in Georgia elections." Burton Report 61.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and Defendants object to whether Dr. Burton is qualified to provide that opinion.

Plaintiffs' Statement No. 150.

Dr. Burton further noted that while "Republicans nominated a Black candidate—Herschel Walker, a former University of Georgia football legend—to challenge Senator Raphael Warnock in the 2022 general election for U.S. Senate," "Walker's nomination only underscores the extent to which race and partisanship remain intertwined. Republican leaders in Georgia admittedly supported Walker because they wanted to 'peel[] off a handful of Black voters' and 'reassure white swing voters that the party was not racist.'" Burton Report 61 (quoting Cleve R. Wootson Jr., Herschel Walker's Struggles Show GOP's Deeper Challenge in Georgia, Wash. Post, https://www.washingtonpost.com/politics/2022/09/22/ herschel-walker-georgia-black-voters (Sept. 22, 2022)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 151.

The significant impact of race on Georgia's partisan divide can be further seen in the opposing positions taken by officeholders in the two major political parties on issues inextricably linked to race; for example, the Democratic and Republican members of Georgia's congressional delegation consistently oppose one another on issues relating to civil rights, based on a report prepared by the NAACP. Burton Report 74–75.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 152.

The Pew Research Center found a similar divergence on racial issues between Democratic and Republican voters nationwide. Burton Dec. 75–76.

RESPONSE: Objection. The fact relied on is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 153.

In a poll of 3,291 likely Georgia voters conducted just before the 2020 election, among voters who believed that racism was the most important issue facing the country, 78% voted for Joe Biden and 20% voted for Donald Trump; among voters who believed that racism was "not too or not at all serious," 9% voted for Biden and 90% voted for Trump; and among voters who believe that racism is a serious problem in policing, 65% voted for Biden and 33% voted for Trump. Burton Report 76.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 154.

Georgia—from the end of the Civil War to the present day—has enacted a wide variety of discriminatory voting procedures that have burdened Black Georgians' right to vote, including unusually large election districts and majority- vote requirements. Burton Report 11–55.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and fails to give a specific page citation for this fact.

Plaintiffs' Statement No. 155.

Georgia deliberately malapportioned its legislative and congressional districts to dilute the votes of Black Georgians throughout the 20th century; in 1957, for example, Georgia's Congressional District 5—consisting of Fulton, DeKalb, and Rockdale counties—was the second-most-populous congressional district in the United States. Burton Report 31.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is not supported by the evidence cited as to the reference "deliberately" which is not used by Dr. Burton.

Plaintiffs' Statement No. 156.

By 1960, Fulton County was the most underrepresented county in its state legislature of any county in the United States; DeKalb County was the third- most-underrepresented county. Burton Report 31.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is duplicative, is not separately numbered and the evidence cited does not support the fact stated.

Plaintiffs' Statement No. 157.

After enactment of the Voting Rights Act, numerous Georgia counties with sizeable Black populations shifted from voting by district to at-large voting, ensuring that the white population could elect all representatives in the voting district at issue. Burton Report 32–33.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is a legal conclusion and stated as an argument and not fact to the extent that intent inferred by the use of the word "ensuring." By way of further objection, the fact does not comply with LR 56.1(B)(1) because county decisions are immaterial to the claims and defenses in this case.

Plaintiffs' Statement No. 158.

Georgia also adopted a majority-vote requirement, "numbered-post voting," and staggered voting in the 1960s and 1970s to limit Black voting strength. Burton Report 34.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 159.

These efforts have persisted well into the 21st century: Georgia shuttered polling places in predominantly Black communities beginning in 2015, perpetrated extensive purges from the state's voter-registration rolls that disproportionately affected Black voters from 2012 to 2018, and enacted SB 202 in the spring of 2021, which restricted methods of voting used by Black Georgians to vote in record numbers during the 2020 election. Burton Report 49–55.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is legally incorrect because the state of Georgia does not close polling places, which is the responsibility of county officials. *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at *49 (N.D. Ga. Feb. 16, 2021).

Plaintiffs' Statement No. 160.

Georgia has no history of candidate slating for congressional elections. ECF No. 97 at 211.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence.

Plaintiffs' Statement No. 161.

Dr. Loren Collingwood concluded that, "[o]n every metric, Black Georgians are disadvantaged socioeconomically relative to non-Hispanic White Georgians," disparities that "have an adverse effect on the ability of Black Georgians to participate in the political process, as measured by voter turnout and other forms of political participation." Ex. 5 ("Collingwood Report") at 3.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 162.

The data show a significant relationship between turnout and disparities in health, employment, and education; as health, education, and employment outcomes increase, so does voter turnout in a material way. Collingwood Report 3.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 163.

The unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%). Collingwood Report 4.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report, based on data in the 2015-2019 American Community Survey (ACS).

Plaintiffs' Statement No. 164.

White households are twice as likely as Black households to report an annual income above $100,000. Collingwood Report 4.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report, based on data in the 2015-2019 American Community Survey (ACS).

Plaintiffs' Statement No. 165.

Black Georgians are more than twice as likely as white Georgians to live below the poverty line—and Black children more than three times as likely. Collingwood Report 4.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Collingwood's opinion on page 4 of his Report is in error. The

figures included in Table 1 on page 5 of Dr. Collingwood's Report from the 2015-2019 ACS for children below the poverty line are 31.3% for Black children and 11.5% for white children, which is less than a three-fold difference.

Plaintiffs' Statement No. 166.

Black Georgians are nearly three times more likely than White Georgians to receive SNAP benefits. Collingwood Report 4.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 167.

Black adults are more likely than white adults to lack a high school diploma—13.3% as compared to 9.4%. Collingwood Report 4.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Collingwood's Report on page 4 qualifies the referenced opinion by limiting the adults to those over the age of 25.

Plaintiffs' Statement No. 168.

Thirty-five percent of white Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24% of Black Georgians over the age of 25. Collingwood Report 4.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 169.

These racial disparities across economics, health, employment, and education hold across nearly every county in the state. Collingwood Report 4–6.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 170.

The socioeconomic data provided by Mr. Cooper (based on the 5-Year 2015–2019 American Community Survey) further demonstrate that socioeconomic disparities by race exist at the county and municipal levels throughout Georgia, with non-Hispanic white Georgians consistently maintaining higher levels of socioeconomic wellbeing. Cooper Report ¶¶ 83–85.

RESPONSE: Objection. The evidence cited does not support the fact stated. Mr. Cooper testified that he only reviewed county-level ACS data and not municipal-level data and offered no opinions about what those facts demonstrate. Cooper Dep. 97:25-99:1.

Plaintiffs' Statement No. 171.

Extensive literature in the field of political science demonstrates a strong and consistent link between socioeconomic status and voter turnout. Collingwood Report 7.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 172.

In general, voters with higher income and education are disproportionately likely to vote and participate in American politics. Collingwood Report 7.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 173.

In elections between 2010 and 2020, Black Georgians consistently turned out to vote at lower rates than white Georgians—a gap of at least 3.1 percentage points (during the 2012 general election) that reached its peak of 13.3 percentage points during the 2022 general election. Collingwood Report 7–8.

RESPONSE: Objection. The evidence cited does not support the fact stated. The data cited on page 8 of Dr. Collingwood's Report show a gap in

turnout of 5.5% in 2010, 3.1% in 2012, 6.9% in 2014, 11.6% in 2016, 8.3% in 2018, 12.6% in 2020, and 13.3% in 2022. Thus, there is not a "consistent[]" trend in the data as implied by the allegation of a "peak" in Plaintiff's SMF ¶ 173. Rather, the gap narrowed from 2010 to 2012, widened from 2012 to 2016, narrowed again from 2016 to 2018, and widened again from 2018 to 2022.

Plaintiffs' Statement No. 174.

This trend can be seen at the local level as well: During each general election, white voters exceeded the turnout rates of Black voters in all but a handful of Georgia's 159 counties, and of 1,957 precincts Dr. Collingwood analyzed, white voters had higher rates of turnout in 79.2% of precincts. Collingwood Report 8–15.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 175.

Voter turnout in the Atlanta metropolitan area is consistent with the overall statewide trend. Collingwood Report 16–19.

RESPONSE: Objection. The evidence cited does not support the fact stated. Defendants admit that Dr. Collingwood's Report analyzes data from the Atlanta-Sandy Springs-Alpharetta Metropolitan Area and so opines on

pages 16-19 of his Report. But the report also deny the statement in part, because Dr. Collingwood's Report concedes on page 16 that Black turnout exceeded White turnout in Clayton, Henry, and Rockdale Counties.

Plaintiffs' Statement No. 176.

Each 10-percentage-point increase in the size of the Black population without a high school degree decreases Black turnout by 3.5 percentage points, and Black turnout rises 2.3 percentage points for each 10-percentage-point increase in the percentage of the Black population with a four-year degree. Collingwood Report 24–26.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 177.

Black turnout falls 4.9 percentage points for each 10-percentage-point increase in the percentage of the Black population below the poverty line. Collingwood Report 28.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 178.

White Georgians are more likely than Black Georgians to participate in a range of political activities, including attending local meetings,

demonstrating political participation through lawn signs and bumper stickers, working on campaigns, attending protests and demonstrations, contacting public officials, and donating money to campaigns and political causes. Collingwood Report 34–38.

RESPONSE: Objection. The evidence cited does not support the fact stated. Defendants admit Dr. Collingwood states in his Report at page 38 that "White Georgians engage in a wide range of political activity at higher rates than Black Georgians, including activities like donating to campaigns, contacting public officials, and posting political signs." But Defendants deny the statement because Dr. Collingwood concluded on page 35 of his Report that "there are three [of the eight] questions where significant statistical differences do not emerge," namely, political protest, being contacted by a political campaign, and running for office.

Plaintiffs' Statement No. 179.

Although explicit racial appeals are no longer commonplace, implicit racial appeals remain common and contribute to Georgia's racially polarized voting. Burton Report 62.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 180.

In the words of Princeton University political scientist Tali Mendelberg, an implicit racial appeal "contains a recognizable—if subtle—racial reference, most easily through visual references." Burton Report 63–64 (quoting Tali Mendelberg, The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality 9, 11 (2001)).

RESPONSE: Objection. The fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 181.

Ian Haney López, the Chief Justice Earl Warren Professor of Public Law at Berkeley Law, described an implicit racial appeal as a "coded racial appeal," with "one core point of the code being to foster deniability" since the "explicit racial appeal of yesteryear now invites political suicide"; accordingly, one characteristic of implicit racial appeals is that they are usually most successful when their racial subtext goes undetected. Burton Report 63 (quoting Ian Haney López, Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism and Wrecked the Middle Class 4, 130 (2013)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 182.

Implicit racial appeals use coded language to activate racial thinking and prime racial attitudes among voters; such racial cues include phrases like "welfare queen," "lazy," "criminal," "taking advantage," "corruption," "fraud," "voter fraud," and "law and order." Burton Report 63–64.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 183.

Dr. Burton explained that "[r]acism, whether dog whistled or communicated directly, became a hallmark of" Georgia politics during the second half of the 20th century. Burton Report 66.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact.

Plaintiffs' Statement No. 184.

During his first successful campaign for Congress in 1978, future U.S. Speaker of the House Newt Gingrich ran against Virginia Shephard, a white Democrat; he distributed a flyer showing his opponent in a photo with Black Representative Julian Bond, which read: "If you like welfare cheaters, you'll love Virginia Shephard. In 1976, Virginia Shephard voted to table a bill to cut down on welfare cheaters. People like Mrs. Shephard, who was a welfare worker for five years, and Julian Bond fought together to kill the bill." Burton Report 65 (quoting Dana Milbank, The Destructionists: The Twenty-Five Year Crack-up of the Republican Party 66 (2022)).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact.

Plaintiffs' Statement No. 185.

One of Gingrich's campaign aides later said, "[W]e went after every rural southern prejudice we could think of." Burton Report 65 (quoting Milbank, supra, at 66).

RESPONSE: Objection. The fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802;

Macuba v. DeBoer, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

Plaintiffs' Statement No. 186.

In the 1990s, Republican Congressman Bob Barr addressed the Council of Conservative Citizens, a descendant of the Jim Crow-era white citizens councils. Burton Report 66.

RESPONSE: Undisputed that Dr. Burton cites this incident in his report.

Plaintiffs' Statement No. 187.

North Georgia Congresswoman Marjorie Taylor Greene has recorded videos stating, among other things, that Black people's progress is hindered by Black gang activity, drugs, lack of education, Planned Parenthood, and abortions. Burton Report 69.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because the evidence relied upon is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

Plaintiffs' Statement No. 188.

Georgia's more recent campaigns were rife with racial appeals; for example, during the 2018 gubernatorial election, now-Governor Brian Kemp circulated a photograph of members of the New Black Panther Party attending a rally for his opponent, Stacey Abrams, with the accompanying message: "The New Black Panther Party is a virulently racist and antisemitic organization whose leaders have encouraged violence against whites, Jews, and police officers. SHARE if you agree that Abrams and the Black Panthers are TOO EXTREME for Georgia!" Burton Report 67.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence relied upon is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 189.

During that same election, a robocall created by a fringe right-wing group circulated in the Atlanta suburbs before the election, with a speaker imitating Oprah Winfrey and stating, "This is the magical Negro, Oprah

Winfrey, asking you to make my fellow Negro, Stacey Abrams, governor of Georgia." Burton Report 68.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact. Further, the fact is also objectionable because it is immaterial to the claims and defenses in this case because Dr. Burton did not analyze the impact of the call on any election in Georgia or did not research how widely the call was distributed in Georgia. Burton Dep. 125:7-126:5.

Plaintiffs' Statement No. 190.

Ultimately, as one commentator noted following the 2018 election, the use of racial appeals in Georgia and elsewhere helped candidates during that election cycle. Burton Report 68 (citing Jarvis DeBerry, The Dirty South: Racist Appeals Didn't Hurt White Candidates; Did They Help Them Win?, NOLA.com (Nov. 17, 2018), https://www.nola.com/opinions/article_2affbc92-aaf4-5c6c-88d6-9fe1db466 492.html).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence does not support the fact because the citation misstates the page of Dr. Burton's report. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-

92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

Plaintiffs' Statement No. 191.

The 2020 election for the U.S. Senate also saw use of racial appeals, with attacks on now-Senator Raphael Warnock and the Ebenezer Baptist Church, where Senator Warnock preaches. Burton Report 68–69.

RESPONSE: Undisputed that Dr. Burton includes this statement in his report.

Plaintiffs' Statement No. 192.

During that election, Warnock's opponent, former Senator Kelly Loeffler, was photographed with Chester Doles, a former "Grand Klaliff" of the Ku Klux Klan in North Georgia and a member of the neo-Nazi National Alliance, and did an interview on the One America News Channel with Jack Posobiec, "a TV pundit associated with white supremacy and Nazism." Burton Report 69 (quoting Leon Stafford, Campaign Check: Warnock Tests Loeffler's View That She's Not Racist, Atlanta J.-Const. (Dec. 22, 2020), https://www.ajc.com/politics/senate- watch/campaign-check-warnock-tests-loefflers-view-that-shes-not-racist/SOWX3 GL3ARDJNBFDWWZYQ75BVM).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the

statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 193.

During the 2022 gubernatorial election—a rematch between Governor Kemp and Stacey Abrams—Governor Kemp's campaign deliberately darkened images of Abrams's face in campaign advertisements "in an effort to create a darker, more menacing image." Burton Report 70.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact stated.

Plaintiffs' Statement No. 194.

Governor Kemp repeatedly attacked Abrams in the general election as "upset and mad"—"evoking the trope and dog whistle of the 'angry Black woman'"—while his Republican primary opponent, former Senator David Perdue, said in a televised interview that Abrams was "demeaning her own race" and should "go back where she came from." Burton Report 70 (first quoting Abby Vesoulis, Did Brian Kemp Deploy a Dog Whistle During His Debate Against Stacey Abrams?, Mother Jones (Oct. 18, 2022),

https://www.motherjones.com/politics/2022/10/ Georgia-debate-governor-abrams-kemp; and then quoting Ewan Palmer, David Perdue Doubles Down on 'Racist' Stacey Abrams Remarks in TV Interview, Newsweek (May 24, 2022), https://www.newsweek.com/david-perdue-racist- stacey-abrams-go-back-georgia-1709429).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.,* 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

Plaintiffs' Statement No. 195.

After Abrams planned a campaign rally in Forsyth County, in suburban Atlanta, the Republican Party of Forsyth County issued a digital flyer that was "a 'call to action' encouraging 'conservatives and patriots' to 'save and protect our neighborhoods,'" and accused both Abrams and Senator Warnock of being "designers of destructive [radicalism]" that would be "crossing over our county border"; the flier carried echoes of the infamous pogrom in Forsyth County in 1912, when most of the Black people in the county were forcibly expelled. Burton Report 70 (quoting Maya King, In

Georgia County With Racist History, Flier Paints Abrams as Invading Enemy, N.Y. Times (Sept. 16, 2022), https://www.nytimes.com/2022/09/16/us/politics/stacey-abrams-forsyth-georgia-republicans.html).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 196.

Governor Kemp and other Georgia politicians have also spread the unsubstantiated specter of "voter fraud" in the Atlanta metropolitan area and other areas with large Black populations—another coded term that echoes the efforts of conservative white Georgians during and after Reconstruction to restrict and eliminate Black suffrage. Burton Report 70–74.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur.*

Co., 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 197.

Plurality-Black Fulton County has been at the center of these allegations of voter fraud, with former President Donald Trump promoting baseless conspiracy theories about the county as part of his effort to overturn the 2020 election results in Georgia. Cooper Report Ex. D; Burton Report 73–74.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 198.

Two Black poll workers in Fulton County, Ruby Freeman and Shaye Moss, were targeted by former President Trump, his campaign, and Rudy Giuliani with allegations that they had engaged in "surreptitious illegal activity"; the two women received harassing phone calls and death threats, often laced with racial slurs, with suggestions that they should be "strung up from the nearest lamppost and set on fire"—in Dr. Burton's words, "horribly echoing the calls for lynchings of Black citizens from earlier years who were attempting to participate in the political process." Burton Report 73–74 (quoting Jason Szep & Linda So, Trump Campaign Demonized Two Georgia

Election Workers—and Death Threats Followed, Reuters (Dec. 1, 2021), https://www.reuters.com/investigates/special-report/usa-election- threats-georgia).

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.,* 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 199.

During the 2022 election cycle, other political candidates—including Governor Kemp, Congressman Jody Hice (running for secretary of state), and State Senator Butch Miller (running for lieutenant governor)—continued to sound the drumbeat of voter fraud, with particular focus remaining on Fulton County. Burton Report 74.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case because Jody Hice and Butch Miller were not successful in being elected to office.

Plaintiffs' Statement No. 200.

Since the 2016 election, local, state, and national news outlets have repeatedly reported on instances of racial appeals in Georgia campaigns. Exs. 14– 25.

RESPONSE: Objection. The evidence on which the statement relies is inadmissible because it is hearsay. *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

Plaintiffs' Statement No. 201.

At the time of the Voting Rights Act's passage, Black Georgians constituted 34% of the voting-age population, and yet the state had only three elected Black officials. Burton Report 35.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 202.

By 1980, Black Georgians comprised only 3% of county officials in the state, the vast majority of whom were elected from majority-Black districts or counties. Burton Report 41.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because Dr. Burton's report does not cite to any evidence supporting this fact.

Plaintiffs' Statement No. 203.

While more Black Georgians have been elected in recent years, those officials are almost always from near-majority- or outright-majority-Black districts. Burton Report 55–57.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 204.

In the 2020 legislative elections, no Black members of the Georgia House of Representatives were elected from districts where white voters exceeded 55% of the voting-age population, and no Black members of the Georgia State Senate were elected from districts where white voters exceeded 47% of the voting- age population. Burton Report 56.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 205.

After the 2020 elections, the Georgia Legislative Black Caucus had only 16 members in the Georgia State Senate and 52 members in the Georgia House of Representatives—less than 30% of each chamber. Burton Report 56.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

Plaintiffs' Statement No. 206.

Senator Raphael Warnock is the first Black Georgian to serve Georgia in the U.S. Senate after more than 230 years of white senators. Burton Report 53, 68.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 207.

Black Georgians face clear and significant disadvantages across a range of socioeconomic indicators, including education, employment, and health. Collingwood Report 3; Cooper Report ¶¶ 83–85.

RESPONSE: Objection. The evidence cited does not support the fact stated. While it is undisputed that Dr. Collingwood gives that opinion in his report, Mr. Cooper testified that he only reviewed county-level ACS data and not municipal-level data and offered no opinions about what those facts demonstrate. Cooper Dep. 97:25-99:1.

Plaintiffs' Statement No. 208.

As Dr. Collingwood explained, "[i]t follows that the political system is relatively unresponsive to Black Georgians; otherwise, we would not observe such clear disadvantages in healthcare, economics, and education." Collingwood Report 4.

RESPONSE: Undisputed that Dr. Collingwood gives that opinion in his report.

Plaintiffs' Statement No. 209.

During the 117th Congress, the U.S. House of Representatives voted to remove Congresswoman Marjorie Taylor Greene from the House Committee on the Budget and the House Committee on Education and Labor "in light of conduct she has exhibited." Exs. 26–27.

RESPONSE: Objection. The fact is immaterial to the claims and defenses in this case because the status of Congresswoman Greene's committees is not relevant to any issue under Section 2 of the Voting Rights Act.

Plaintiffs' Statement No. 210.

The enacted congressional plan splits majority-non-white Cobb County into parts of four districts, including three majority-white districts: Congressional Districts 6, 11, and 14. Cooper Report ¶¶ 60, 65, 73, fig.14.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 211.

Under the enacted congressional plan, southwest Cobb County is included in Congressional District 14, which stretches into Appalachian north Georgia and the suburbs of Chattanooga:

Cooper Report ¶¶ 60, 68, Ex. G.

RESPONSE: Undisputed. Further, this statement is duplicative of Statement No. 62.

Plaintiffs' Statement No. 212.

Under the enacted congressional plan, western Douglas County is included in Congressional District 3, which stretches west and south into majority- white counties along the Alabama border:

Cooper Report Exs. D & G.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 213.

While the population requirements of congressional districts might sometimes require mixing urban and rural voters, Mr. Cooper's illustrative congressional plan demonstrates that the western Atlanta metropolitan area can be united in a district with all or part of Cobb, Douglas, Fulton, and Fayette counties, all of which are core counties under the ARC. Cooper Report ¶ 68, Ex. H-1.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he

included in Illustrative District 6, is rural. Cooper Dep. 54:6-20. This Statement is largely duplicative of Statement No. 64.

Plaintiffs' Statement No. 214.

Georgia's enacted congressional plan includes two majority-Black districts based on percentage Black voting-age population, three majority-Black districts based on percentage non-Hispanic Black citizen voting-age population, and four majority-Black districts based on percentage non-Hispanic DOJ Black citizen voting-age population. Cooper Report ¶ 73, fig.14.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 215.

Mr. Cooper's illustrative congressional plan includes three majority-Black districts based on percentage Black voting-age population, three majority- Black districts based on percentage non-Hispanic Black citizen voting-age population, and five majority-Black districts based on percentage non-Hispanic DOJ Black citizen voting-age population. Cooper Report ¶ 73, fig.14.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 216.

Only 49.96% of Black voters in Georgia reside in majority-Black districts under the enacted congressional plan, while 82.47% of non-Hispanic

white voters live in majority-white districts—a difference of 32.51 percentage points. Cooper Report ¶ 74, fig.15.

RESPONSE: Undisputed.

Plaintiffs' Statement No. 217.

Under Mr. Cooper's illustrative congressional plan, 57.48% of the Black voting-age population resides in majority-Black districts, while 75.50% of the non-Hispanic white voting-age population resides in majority-white districts—a difference of 18.01 percentage points. Cooper Report ¶ 74, fig.15.

RESPONSE: Undisputed.

Respectfully submitted this 19th day of April, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/Bryan P. Tyson

Bryan P. Tyson