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

L. LIN WOOD, JR., individually,

Plaintiff,

v.

BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board; DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

Case No.:
1:20-cv-05155-TCB

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MOTION TO INTERVENE AND INCORPORATED BRIEF IN SUPPORT

COME NOW THE DEMOCRATIC PARTY OF GEORGIA and the DSCC (collectively, the "Democratic Political Party Committees" or "Proposed Intervenors"), by and through their undersigned counsel of record, and file this *Motion to Intervene and Incorporated Brief in Support* in the above-referenced matter. Intervention is appropriate under Federal Rule of Civil Procedure 24(a) and (b) for the following reasons.

I. INTRODUCTION

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This lawsuit is a latest in an increasingly long line of actions filed by L. Lin Wood, Jr.—either as counsel on behalf of others or in his own name as the plaintiff—to upend Georgia's ability to administer its elections. Just as in the previous actions, Wood's complaint is replete with outrageous and unfounded accusations of fraud and wrongdoing that have no basis in reality. But because his requested relief seeks to invalidate a litany of standard election procedures in the administration of the runoff election in which Georgia voters are currently casting ballots to choose both of their U.S. Senators, Proposed Intervenors should be granted leave to intervene to protect their substantial legal interests directly threatened by this action. For the reasons set forth below, Proposed Intervenors are entitled to intervene as a matter of right under Rule 24(a)(2). In the alternative, Proposed Intervenors request permissive intervention pursuant to Rule 24(b). In accordance with Rule 24(c), a

proposed answer is attached as Exhibit 1. A proposed motion to dismiss is attached as Exhibit 2, with a brief in support of the proposed motion to dismiss as Exhibit 3.

II. BACKGROUND

Practically since the second that the last voter cast a ballot in the recently completed November election, Georgia's state and federal courts have been subject to a seemingly never-ending barrage of lawsuits, nearly all brought by Republican political committees and candidates, or their supporters. First, those suits sought to draw into question the validity of the presidential election results, never mind that the ballots in that race were counted not just once, or twice, but *three* times, with each count arriving at the same result that was clear the first time: President-elect Biden won, and the Republicans' claims that fraud or irregularities tainted the results were completely unfounded fantasies. Now, over the past few weeks, the same baseless theories have animated a slew of legal complaints brought by the same or similar sets of plaintiffs, seeking to change the rules in the middle of the ongoing runoff election, in which Georgia voters are already casting ballots. Every single one of these cases have been rejected by the courts.

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This is the *third* of these lawsuits that L. Lin Wood, Jr. has been personally involved in. He has treated the judicial system as his own personal carousel for his baseless conspiracy theories, undeterred by basic pleading requirements, ethical

obligations that demand officers of the court have a good faith basis for their claims, or his and others' repeated losses in identical or nearly-identical suits. Each has sought extraordinary relief, asking the judiciary to interfere in completed or ongoing elections to reject ballots already cast or make it harder for lawful Georgia voters to cast and have their ballots counted. *First*, just a few weeks ago, Wood unsuccessfully challenged the legality of the same signature matching procedures he challenges again here (raising largely the same legal claims). Proposed Intervenors were granted intervention in that case, *see Wood v. Raffensperger*, No. 1:20-cv-04651-SDG (N.D. Ga. Nov. 19, 2020), ECF No. 52, and Wood's request for injunctive relief was squarely rejected first by the district court and then affirmed by the Eleventh Circuit, *see Wood v. Raffensperger (Wood I)*, No. 1:20-cv-04651-SDG (N.D. Ga. Nov. 17, 2020), ECF No. 6, *aff'd*, No. 20-14418, 2020 WL 7094866 (11th Cir. Dec. 5, 2020), *petition for cert. filed*, No. 20-799. *Second*, just a few days after the district court squarely denied his request for injunctive relief, Wood participated as counsel in an even more outlandish lawsuit before this Court that challenged the same signature matching procedures, the same absentee ballot processing rules, and on the same baseless theory regarding Georgia's use of the Dominion voting machines; the suit sought nothing less than a judicial fiat "requiring Governor Kemp transmit certified election results that state that President Donald Trump is the winner of the election."

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Pearson v. Kemp, No. 1:20-cv-04809-TCB (N.D. Ga. Nov. 25, 2020), ECF No. 1, ¶ 211(3). Proposed Intervenors were granted intervention in that case shortly after it was filed. *See id.* at ECF No. 42. This Court subsequently dismissed that case, as well. *See Pearson*, No. 1:20-cv-04809-TCB (N.D. Ga. Dec. 7, 2020), ECF No. 74.

Wood's initial lawsuits focused on the presidential election, but in the past few weeks, the Republican-initiated attacks on Georgia's elections procedures have focused on the runoff election, with at least three separate cases being initiated (and quickly rejected) in federal court. *See, e.g.*, *Twelfth Congressional Dist. Republican Comm. v. Raffensperger*, 1:20-cv-00180-JRH-BKE, ECF No. 1 (S.D. Ga. Dec. 9, 2020) (challenging Georgia's signature matching procedures, absentee ballot processing rules, and drop box rules); *Georgia Republican Party v. Raffensperger* ("*GRP I*"), No. 1:20-cv-05018-ELR, ECF No. 1 (N.D. Ga. Dec. 17, 2020) (challenging Georgia's signature matching regime); *Georgia Republican Party v. Raffensperger* ("*GRP II*"), No. 2:20-cv-00135-LGW-BWC, ECF No. 1 (S.D. Ga. Dec. 17, 2020) (bringing vote dilution claims for unlawful balloting under the Equal Protection Clause and well as First and Fourteenth Amendments). Proposed Intervenors were granted intervention in two of these cases prior to dismissal. *See Twelfth Congressional Dist. Republican Comm.*, No. 1:20-cv-00180-JRH-BKE, ECF No. 14 (S.D. Ga. Dec. 14); *GRP I*, No. 1:20-cv-05018-ELR, ECF No. 15 (N.D.

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Ga. Dec. 14, 2020). All of these lawsuits have been swiftly dismissed. *GRP I*, No. 1:20-cv-05018-ELR, ECF No. 46 (N.D. Ga. Dec. 17, 2020); *Twelfth Congressional Dist. Republican Comm.*, 1:20-cv-00180-JRH-BKE, ECF No. 47 (S.D. Ga. Dec. 17, 2020); *GRP II*, No. 2:20-cv-00135-LGW-BWC, ECF No. 31 (S.D. Ga. Dec. 18, 2020). In addition, in the case of *GRP I*, the Eleventh Circuit on Monday denied the plaintiffs' motion for an injunction pending appeal. *GRP I*, No. 20-14741-RR (11th Cir. Dec. 21, 2020).

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On December 18, Wood decided to rejoin the fray, filing this, his third lawsuit challenging Georgia's election procedures, but this time, pivoting toward the runoff election. By the time he filed his complaint, that election was already well underway: advance voting had begun four days earlier and the absentee voting process has been going on for weeks. Hundreds of thousands of Georgia voters have already voted, including by absentee ballots whose validity elections officials have already affirmed. To make matters worse, Wood's current lawsuit is merely a re-run of his previous two, incorporating select claims from the failed *Twelfth District Republican Committee* case as well. Wood contests the validity of the same signature matching procedures he challenged in *Wood I* and *Pearson*, recycles his debunked conspiracy theories about the Dominion machines from *Wood I* and *Pearson*, and challenges two emergency rules authorizing county registrars to establish drop box locations

and open and process absentee ballots prior to Election Day on the same failed theories presented in the *Twelfth District* case.

As in each of these other cases, Wood's complaint is fatally flawed and his claims must fail. But the mere initiation of this action, which is clearly intended as much as a public relations stunt meant to continue to fan the flames of conspiracy surrounding Georgia's elections and undermine public confidence in the same, threatens the interests of Proposed Intervenors, their candidates, and members. For the reasons that follow, the motion to intervene should be granted.

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III. ARGUMENT

A. This Court should grant the motion to intervene as of right.

The Proposed Intervenors qualify for intervention as of right. Intervention as of right must be granted when (1) the motion to intervene is timely; (2) the proposed intervenors possess an interest in the subject matter of the action; (3) denial of the motion to intervene would affect or impair the proposed intervenors' ability to protect their interests; and (4) the proposed intervenors' interests are not adequately represented by the existing parties to the lawsuit. Fed. R. Civ. P. 24(a)(2); *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1250 (11th Cir. 2002). The Proposed Intervenors satisfy each of these factors.

1. The motion to intervene is timely.

The Democratic Party of Georgia is the Democratic Party's official state party committee for the State of Georgia, and its mission is to elect Democratic Party candidates to offices up and down the ballot across Georgia. The DSCC is the national party committee dedicated to electing candidates of the Democratic Party to the U.S. Senate, including specifically in and from Georgia. Both the candidates that the Proposed Intervenors support and the voters among their membership and with whom they affiliate will be irreparably and severely injured if Wood's requested relief is provided.

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The motion to intervene is unquestionably timely. Wood filed his Complaint and an Emergency Motion for Injunctive Relief just a few days ago on December 18, 2020. *See* ECF Nos 1, 2. This motion follows on the first business day after these filings, before any significant public action on their merits has occurred. As there has been no delay, there is no risk of prejudice. *See Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989). In the meantime, the Court has set a briefing schedule ordering the Defendants' response be submitted by 5:00 p.m. December 23 and any reply submitted by 5:00 p.m. December 27; it has set a hearing, if necessary, for December 30 at 10:00 am. ECF No. 11. Proposed Intervenors are prepared to comply with that schedule, without delay.

2. Proposed Intervenors have a strong interest in this litigation.

Proposed Intervenors have significant and cognizable interests in intervening in this case to ensure that eligible Democratic voters have every opportunity to cast ballots in next month's runoff election and to defend their organizational interests. When considering the interests needed for intervention, the Court's inquiry is "a flexible one, which focuses on the particular facts and circumstances surrounding" the motion. *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir. 1989) (quoting *United States v. Perry Cnty. Bd. of Educ*., 567 F.2d 277, 279 (5th Cir. 1978)); *see also U.S. Army Corps of Eng'rs*, 302 F.3d at 1251 ("To determine whether [the proposed intervenor] possesses the requisite interest for intervention purposes, we look to the subject matter of the litigation.").

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As noted above, this is yet another attempt by third parties to challenge the well-settled tenets of Georgia's election administration. *See supra* 2–4. Courts, including this very Court, have four times found Proposed Intervenors' interest in protecting against these nearly identical attacks provides sufficient interest to justify intervention. *See Twelfth Congressional Dist. Republican Comm.*, 1:20-cv-00180-JRH-BKE, ECF No. 38 (S.D. Ga. Dec. 16, 2020); *GRP I*, No. 1:20-cv-05018-ELR, ECF No. 46 (N.D. Ga., Dec. 17, 2020); *Pearson*, No. 1:20-cv-04809-TCB, slip op. at 1–2, ECF No. 42 (N.D. Ga., Dec. 3, 2020); *Wood*, No. 1:20-cv-04651-SDG, slip

op. at 2, ECF No. 52 (N.D. Ga., Dec. Nov. 19, 2020). The Court should do the same here.

Wood seeks to invalidate the absentee ballot and drop box procedures that hundreds of thousands of the Proposed Intervenors' voters relied on in three prior elections and are currently relying on during advance voting for the runoff. Should Wood be granted his requested relief, Proposed Intervenors' supported candidates would lose lawfully cast votes and their members would be disenfranchised. They have a clear interest in avoiding this result. "The right to vote includes the right to have the ballot counted," *Reynolds v. Sims*, 377 U.S. 533, 555 n.29 (1964), and courts have repeatedly held that where proposed relief carries with it the prospect of disenfranchising a political party's members, political party committees have a legally cognizable interest at stake. *See, e.g.*, *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 n.7 (2008) (agreeing with unanimous view of Seventh Circuit that Indiana Democratic Party had standing to challenge a voter identification law that risked disenfranchising Democratic voters); *Ne. Ohio Coal. for the Homeless v. Husted*, 696 F.3d 580 (6th Cir. 2012) (Ohio Democratic Party allowed to intervene in case where challenged practice would lead to disenfranchisement of Democratic voters); *Stoddard v. Winfrey*, No. 20-014604-CZ (Mich. Cir. Ct. Nov. 6, 2020) (granting intervention to Democratic National Committee in a lawsuit seeking to

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stop counting ballots in Detroit); Order, *Donald J. Trump for President, Inc. v. Boockvar*, No. 20-cv-2078 (M.D. Pa. Nov. 12, 2020), ECF No. 72 (granting intervention to Democratic National Committee in lawsuit seeking to invalidate ballots in Pennsylvania); Order, *Constantino v. City of Detroit*, No. 20-014789-AW (Mich. Cir. Ct. Nov. 13, 2020) (granting Michigan Democratic Party's motion to intervene).[1]

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[1] While standing is not a separate consideration on a motion to intervene, courts have consistently recognized that political party committees have standing to advance claims to avoid the disenfranchisement of their members, thus recognizing their legitimate and cognizable interest in such claims. *See, e.g.*, *Crittenden*, 347 F. Supp. 3d at 1337 (holding Democratic Party of Georgia had standing to sue on behalf of its voters to challenge the state's rejection of absentee ballots); *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 573–74 (6th Cir. 2004) (holding Ohio Democratic Party, among other local party organizations, had standing to sue on behalf of its voters who would vote in the upcoming election and whose provisional ballots may be rejected); *Fla. Democratic Party v. Hood*, 342 F. Supp. 2d 1073, 1079 (N.D. Fla. 2004) (holding Florida Democratic Party "has standing to assert, at least, the rights of its members who will vote in the November 2004 election"); *Fla. Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1254 (N.D. Fla. 2016) (holding Florida Democratic Party had standing to assert the rights of voters "who intended to register as Democrats and will be barred from voting" given the state's closure of voter registration); *Texas Democratic Party et al. v. Hughs*, No. SA-20-CV-08-OG, 2020 WL 4218227, at *4–5 (W.D. Tex. July 22, 2020) (at motion to dismiss stage, holding Texas Democratic Party, DCCC, and DSCC had adequately alleged associational standing on behalf of their members who will be registering to vote); *DSCC and DCCC v. Simon*, No. 62-CV-20-585, Dkt. No. 83 at *18 (Minn. Dist. Ct. July 28, 2020) (at motion to dismiss stage, holding DSCC and DCCC had adequately pled associational standing on behalf of their "members, constituents, canvassers, and volunteers" who wished to engage in voter assistance).

Finally, because this litigation also attacks the Joint Settlement Agreement and Release (the "Settlement Agreement") to which Proposed Intervenors where a party, the Democratic Political Party Committees are quintessential "real parties in interest in the transaction which is the subject of the proceeding." *Chiles*, 865 F.2d at 1214; *Democratic Party of Ga., Inc. v. Raffensperger*, No. 1:19-cv-5028-WMR (N.D. Ga. Mar. 6, 2020), ECF No. 56 (Settlement Agreement). A decision by the Court directly holding the Settlement Agreement is unconstitutional or indirectly invalidating the Settlement Agreement will indisputably impede the ability of the Democratic Political Party Committees to realize their interest in that agreement. *See Turn Key Gaming, Inc. v. Oglala Sioux Tribe*, 164 F.3d 1080, 1081–82 (8th Cir. 1999) (finding interest requirement "easily satisfie[d]" where "[t]he disposition of the lawsuit . . . may require resolution of legal and factual issues bearing on the validity of [] agreements" in which proposed intervenor had interests); *see also Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d at 1258 (granting intervention where proposed intervenor had a contractual interest in the dispute and "[b]ecause a final ruling in this case may adversely impact [proposed intervenor's] ongoing lawsuit against" defendant); *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1246 (11th Cir. 2006) (intervention is proper where proposed intervenor "anchor[s] its request in the dispute giving rise to the pending lawsuit . . . [and] demonstrate[s]

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'an interest relating to the property or transaction which is the subject of the action.'" (citation and emphasis omitted)).

Accordingly, Proposed Intervenors clearly satisfy the requirement that they have an interest in this matter sufficient to entitle them to intervention as of right.

3. Disposition of this matter would impair Proposed Intervenors' ability to protect their interests as a practical matter.

Proposed Intervenors' legally-cognizable interests will also be impaired by the disposition of this lawsuit if intervention is not granted. The Proposed Intervenors have an interest in preventing the infringement of their members' constitutional right to vote. Wood's sought-after relief would disrupt—and possibly disqualify—the counting of thousands of already cast and soon to be cast ballots by Proposed Intervenors' voters. "[T]o refuse to count and return the vote as cast [is] as much an infringement of that personal right as to exclude the voter from the polling place." *United States v. Saylor*, 322 U.S. 385, 387–88 (1944).

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The disruptive and potentially disenfranchising effects of Wood's requested relief would also require Proposed Intervenors to divert resources to educate voters about new voting procedures during an ongoing election, thus implicating another of their protected interests. *See, e.g.*, *Husted*, 837 F.3d at 624 (finding concrete, particularized harm where organization had to "redirect its focus" and divert its

"limited resources" due to election laws); *Crawford v. Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007) (concluding that electoral change "injure[d] the Democratic Party by compelling the party to devote resources" that it would not have needed to devote absent new law), *aff'd*, 553 U.S. 181 (2008); *Democratic Nat'l Comm. v. Reagan*, 329 F. Supp. 3d 824, 841 (D. Ariz. 2018) (finding standing where law "require[d] Democratic organizations . . . to retool their [get-out-the-vote] strategies and divert [] resources"), *rev'd on other grounds sub nom. Democratic Nat'l Comm. v. Hobbs*, 948 F.3d 989 (9th Cir. 2020) (en banc); *see also Issa v. Newsom*, No. 20-cv-01044-MCE-CKD, 2020 WL 3074351, at *3 (June 10, 2020) (granting intervention and citing this protected interest). The Georgia Senate runoff election may be the most expensive Senate races in U.S. history, and the Democratic Political Party Committees have spent millions of dollars getting out the vote and supporting their candidates. Changing rules and procedures in the middle of the election will undermine much of this work and investment and require additional spending that would otherwise be used to support other projects of the Proposed Intervenors.

Wood's requested relief would also threaten the Proposed Intervenors candidates' electoral prospects. Courts have often concluded that such interference with a political party's electoral prospects constitutes a legally cognizable injury.

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See, e.g., *Benkiser*, 459 F.3d at 586–87 (recognizing that “harm to [] election prospects” constitutes “a concrete and particularized injury”); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir. 1981) (holding that “the potential loss of an election” is sufficient injury to confer Article III standing). In circumstances where political parties have faced similar risks of harm to their electoral prospects and mission, courts have routinely granted intervention, including just this past week. *See, e.g.*, *Twelfth Congressional Dist. Republican Comm.*, 1:20-cv-00180-JRH-BKE (S.D. Ga, Dec. 14, 2020), ECF No. 14 (granting Proposed Intervenors motion to intervene in a lawsuit regarding the same runoff election at issue in this case); *GRP I*, No. 1:20-cv-05018-ELR, ECF No. 46 (N.D. Ga. Dec. 17, 2020) (same); *Democratic Party of Ga., Inc. v. Crittenden*, No. 18-cv-5181 (N.D. Ga. Nov. 14, 2018), ECF No. 40 (granting intervention to political party in voting rights lawsuit); *Parnell v. Allegheny Bd. of Elections*, No. 20-cv-01570 (W.D. Pa. Oct. 22, 2020), ECF No. 34 (granting intervention to DCCC in lawsuit regarding processing of ballots).

Here, the requested remedy and harm is extreme—Wood seeks relief that would not just burden the Democratic Political Party Committees’ voters but has the potential to disrupt their members’ ability to cast their ballot and have it counted.

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4. Proposed Intervenors' interests are not adequately represented by the existing parties.

The Proposed Intervenors' interests are not adequately represented by the Defendants. While the Secretary and election officials have undeniable interests in defending the state's laws and their exercises of authority pursuant to those laws, the Democratic Political Party Committees have different focuses: ensuring that they and their members' fundamental rights are protected, and that their members' eligible and legally cast votes are counted. As one court recently explained while granting intervention under similar circumstances:

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> Although Defendants and the Proposed Intervenors fall on the same side of the [present] dispute, Defendants' interests in the implementation of the [challenged law] differ from those of the Proposed Intervenors. While Defendants' arguments turn on their inherent authority as state executives and their responsibility to properly administer election laws, the Proposed Intervenors are concerned with ensuring their party members and the voters they represent have the opportunity to vote in the upcoming federal election . . . and allocating their limited resources to inform voters about the election procedures. As a result, the parties' interests are neither "identical" nor "the same."

Issa, 2020 WL 3074351, at *3 (citation omitted). Here, while Defendants have an interest in defending the actions of state officials, Proposed Intervenors have different objectives: ensuring that the valid ballot of every Democratic voter in Georgia is counted and safeguarding the election of Democratic candidates. Courts have "often concluded that governmental entities do not adequately represent the

interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003); *accord Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 899 (9th Cir. 2011) ("[T]he government's representation of the public interest may not be 'identical to the individual parochial interest' of a particular group just because 'both entities occupy the same posture in the litigation.'" (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009))). That is the case here. Proposed Intervenors have specific interests and concerns—from their overall electoral prospects to the most efficient use of their limited resources—that neither Defendants nor any other party in this lawsuit share. *See Paher*, 2020 WL 2042365, at *3 (concluding that "Proposed Intervenors . . . have demonstrated entitlement to intervene as a matter of right" where they "may present arguments about the need to safeguard [the] right to vote that are distinct from [state defendants'] arguments").

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Although a would-be intervenor has some burden to establish that its interest is not adequately protected by the existing parties to the action, "the burden of making that showing should be treated as minimal," and it is sufficient "if the applicant shows that representation of his interest 'may be' inadequate." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n. 10 (1972) (citing 3B J. Moore, Federal Practice 24.09—1 (4) (1969)); *Chiles*, 865 F.2d at 1214. Especially where

one of the parties to the suit is a government entity whose "views are necessarily colored by its view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it," courts have found that "the burden [of establishing inadequacy of representation] is comparatively light." *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998) (citing *Conservation Law Found. of New Eng., Inc. v. Mosbacher*, 966 F.2d 39, 44 (1st Cir. 1992), and *Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996)); *see also Meek v. Metro. Dade Cnty., Fla.*, 985 F.2d 1471, 1478 (11th Cir. 1993), *abrogated on other grounds by Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324 (11th Cir. 2007) ("Any doubt concerning the propriety of allowing intervention should be resolved in favor of the proposed intervenors because it allows the court to resolve all related disputes in a single action.").

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Because the particular interests of the Democratic Political Party Committees are not shared by the present parties, they cannot rely on Defendants or anyone else to provide adequate representation. They have thus satisfied the four requirements for intervention as of right under Rule 24(a)(2).

B. Proposed Intervenors are also entitled to permissive intervention.

Even if Proposed Intervenors were not entitled to intervene as of right, permissive intervention is warranted under Rule 24(b). The Court has broad

discretion to grant a motion for permissive intervention when it determines that: (1) the proposed intervenors' claim or defense and the main action have a question of law or fact in common, and (2) the intervention will not unduly delay or prejudice the adjudication of the original parties' rights. *See* Fed. R. Civ. P. 24(b)(1)(B) and (b)(3); *Chiles*, 865 F.2d at 1213; *Ga. Aquarium, Inc. v. Pritzker*, 309 F.R.D. 680, 690 (N.D. Ga. 2014). Even where courts find intervention as of right may be denied, permissive intervention may nonetheless be proper or warranted. Moreover, "the claim or defense clause of Rule 24(b)(2) is generally given a liberal construction." *Id*. The Democratic Political Party Committees easily meet these requirements.

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First, Proposed Intervenors' claims and defenses will inevitably raise common questions of law and fact because they seek to defend the constitutional right to vote of all the eligible voters who will cast valid ballots in the January 5, 2021 runoff election. *See Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017) ("Thus, applicant['s] claims and the main action obviously share many common questions of law and perhaps of fact."); *see also supra* at 9-11.

Second, for the reasons set forth above, the motion to intervene is timely, and given the early stage of this litigation, intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. Proposed Intervenors are prepared to proceed in accordance with the schedule this Court has set, and

intervention will only serve to contribute to the complete development of the factual and legal issues before the Court.

IV. CONCLUSION

For these reasons, Proposed Intervenors respectfully request that the Court grant their motion to intervene.

Dated: December 21, 2020.

Respectfully submitted,

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**Pro Hac Vice Application Forthcoming*

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Defendants.

CIVIL ACTION FILE NO.
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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of L.R. 5.1, using font type of Times New Roman and a point size of 14.

Dated: December 21, 2020.

<u>Adam M. Sparks</u>
Counsel for Proposed Intervenor-Defendants

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Plaintiff,

v.

BRAD RAFFENSPERGER, in his official capacity as Secretary of State of the State of Georgia, REBECCA N. SULLIVAN, in her official capacity as Vice Chair of the Georgia State Election Board; DAVID J. WORLEY, in his official capacity as a member of the Georgia State Election Board, MATTHEW MASHBURN, in his official capacity as a member of the Georgia State Election Board, and ANH LE, in her official capacity as a member of the Georgia State Election Board,

Defendants.

CIVIL ACTION FILE NO.
1:20-cv-05155-TCB

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: December 21, 2020.

Adam M. Sparks
Counsel for Proposed Intervenor-Defendants