

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

VOTEAMERICA; VOTER
PARTICIPATION CENTER; and
CENTER FOR VOTER
INFORMATION,

Plaintiffs,

v.

Case No. 1:21-cv-01390-JPB
Judge J.P. Boulee

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia; SARA
GHAZAL, JANICE JOHNSTON,
EDWARD LINDSEY, and
MATTHEW MASHBURN, in their
official capacities as members of the
STATE ELECTION BOARD,
Defendants,

and

REPUBLICAN NATIONAL
COMMITTEE; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE; and GEORGIA
REPUBLICAN PARTY, INC.,
Intervenor-Defendants.

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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Introduction

Plaintiffs VoteAmerica, Voter Participation Center (“VPC”), and Center for Voter Information (“CVI”) (collectively “Plaintiffs”) seek a preliminary injunction against three provisions of Senate Bill 202 (“SB 202”) that restrict their absentee ballot application communications: (1) a \$100 penalty for every application sent to an individual who has already requested, received, or cast an absentee ballot, with an obligation to monitor certain lists to ensure that such successive applications are not distributed (“Mailing List Restriction”), O.C.G.A. § 21-2-381(a)(3)(A)-(B); (2) a misleading disclaimer that Plaintiffs are required to affix to any absentee ballot application that they distribute (“Disclaimer Provision”), *id.* § 21-2-381(a)(1)(C)(ii); and (3) a prohibition on personalizing absentee ballot applications to registered voters (“Prefilling Prohibition”) (together, “Ballot Application Restrictions”), *id.*

As Plaintiffs prepare their communications for the 2022 general election cycle, the Ballot Application Restrictions are directly stymieing Plaintiffs’ ability to speak and engage in Georgia. Plaintiffs’ pro-absentee voting communications require careful advance planning to effectively reach their broad audience. August 22, 2022 is the first day Georgia voters can apply for an absentee ballot in the upcoming general elections. Absent this Court’s action, during the 2022 election cycle, Plaintiffs VPC/CVI will be forced to dramatically reduce their

communications to potential Georgia voters, alter their communications in ways destined to make them less effective, and include a misleading disclaimer that will dissuade and confuse potential voters. Likewise, Plaintiff VoteAmerica will likely be unable to offer Georgia voters the option to print and mail absentee ballot applications from its online tool. While VoteAmerica will be able to email applications to voters with email and printer access, it will be forced to include a misleading disclaimer that will seriously impair its ability to communicate its core message to voters. To protect their core political speech and association in this upcoming election cycle, Plaintiffs request a preliminary injunction against the three Ballot Application Restrictions.

Plaintiffs and Defendants

Plaintiffs VoteAmerica, VPC, and CVI engage in political expression by encouraging eligible, registered Georgians to vote absentee and providing them with assistance and resources to do so. *See* Declaration of Daniel McCarthy (“McCarthy Decl.”) ¶ 2-21; Declaration of Tom Lopach (“Lopach Decl.”) ¶¶ 7-22.

Plaintiff VoteAmerica is a nonpartisan 501(c)(3) nonprofit organization with a mission to engage eligible voters throughout the country in the electoral process, with an emphasis on voting absentee. McCarthy Decl. ¶ 2. VoteAmerica hosts a set of online resources and tools for voting, including an Absentee Tool that enables

voters to input their information and receive an absentee ballot application form—prefilled with the information they provided—which they can complete and send to their local election official. *Id.* ¶ 7. In 2020, VoteAmerica tested a new feature of its Absentee Tool, offering users in four states the option to receive pre-printed personalized absentee voting applications via postal mail (“print-and-mail”) in addition to its ordinary practice of sending personalized applications by email. *Id.* ¶ 13. This feature—used by over 33,000 voters in those four states alone in 2020—allows VoteAmerica to reach underserved communities with limited access to printers. *Id.* VoteAmerica plans to expand its print-and-mail feature nationally in 2022, *id.* ¶ 14, but cannot do so in Georgia because of the Mailing List Restriction. *See infra.*

Plaintiffs VPC and CVI (together, “VPC/CVI”) are sister—501(c)(3) and 501(c)(4), respectively—nonpartisan nonprofit organizations with a mission to encourage the political participation of historically underrepresented groups, such as young people, people of color, and unmarried women, by providing them with voter registration, early voting, vote by mail, and get-out-the-vote resources and information. Lopach Decl. ¶¶ 2-7. VPC/CVI have designed and implemented direct mail programs to share their pro-voter messaging and resources with eligible, registered voters nationwide, including Georgia. *Id.* ¶ 12. VPC/CVI include a cover

letter with every absentee ballot application communication that explains the organization, contains instructions for submitting the application, and a message persuading the voter to request and cast an absentee ballot. *Id.* ¶ 17. A key component of VPC/CVI expressing their pro-absentee voting views is to include in their mailer communications a personalized absentee ballot application that is prefilled with the voter's information drawn from Georgia's voter registration list. *Id.* ¶¶ 15, 22, 60-66. In the 2020 election, VPC/CVI sent over 9.6 million absentee ballot application communications to Georgia voters. *Id.* ¶ 23. Over 575,000 Georgia voters submitted an application that VPC/CVI provided as part of their mailer communications. *Id.* ¶ 25. Before mailing their communications, VPC/CVI also corresponded with Georgia election officials to coordinate, provide notice, and solicit feedback for VPC/CVI to implement. *See* Exs. C–K to Lopach Decl.

Defendant Raffensperger is the Georgia Secretary of State and chief elections official, responsible for administering Georgia's elections laws, including the challenged Ballot Application Restrictions. *See* O.C.G.A. §§ 21-2-210, 21-2-50, 45-13-20. Defendants Lindsey, Ghazal, Mashburn, and Johnston are members of the State Election Board of Georgia, which promulgates election rules and regulations, investigates violations of election laws, makes criminal referrals, and imposes financial sanctions for violations, including specifically the steep penalties under the

Mailing List Restriction. *See id.* §§ 21-2-31; 21-2-381(a)(3)(B). These State Defendants are all named in their official capacities.

Challenged Ballot Application Restrictions

Plaintiffs challenge, and seek a preliminary injunction of, three SB 202 provisions restricting the distribution of absentee ballot application communications.

Mailing List Restriction. SB 202 restricts to whom Plaintiffs can mail their communications by prohibiting Plaintiffs from distributing absentee ballot applications to individuals who have “already requested, received, or voted an absentee ballot”—even if the individual affirmatively *solicits* the new application, as is the case of applications sent by Plaintiff VoteAmerica. O.C.G.A. § 21-2-381(a)(3)(A); *see also* McCarthy Decl. ¶¶ 25-30. Failure to strictly comply with this restriction can result in fines of up to \$100 “per duplicate application,” and potential criminal penalties, including a misdemeanor with a sentence of confinement up to 12 months. O.C.G.A. §§ 21-2-381(a)(3)(B), 21-2-598, 21-2-603, 21-2-599. To comply, Plaintiffs must continuously compare their distribution lists with Georgia’s constantly changing absentee voter data and remove any electors who appear to have previously requested a ballot. McCarthy Decl. ¶¶ 25-30; Lopach Decl. ¶¶ 51-60.

While there is a safe harbor for entities that rely on information provided by the Secretary of State within five business days before the applications are mailed,

O.C.G.A. § 21-2-381(a)(3)(A), it does not relieve the burden on Plaintiffs. Preparing bulk mailings—how VPC/CVI communicate—takes several weeks in total and at least 20 days from when VPC/ CVI provides their recipient list to the printing vendor until the message is mailed. Lopach Decl. ¶¶ 32, 56. It is logistically impossible for VPC/CVI to complete the data collection, printing, and mailing process within SB 202’s five-day allowance. *Id.* ¶¶ 33, 56. Manually checking millions of already-paid-for-and-printed mailers against the State’s evolving list would be cost-prohibitive. *Id.* ¶¶ 58-59. For VoteAmerica, because electors themselves solicit the applications, VoteAmerica must develop an algorithm to daily collect the State’s absentee voter data to cross-reference against voter-submitted information and reject requests from existing applicants. McCarthy Decl. ¶¶ 25-30. The inherent matching inaccuracies in these fraught processes will result in Plaintiffs curtailing their communications and denying their assistance to eligible voters. *Id.* ¶¶ 31-33; Lopach Decl. ¶¶ 51-59, 71.

Absent this Court’s action, the Mailing List Restriction will force Plaintiffs to drastically alter their civic engagement communications in Georgia in 2022. Plaintiffs VPC/CVI have concluded that the only means by which they can continue their absentee voting operations in Georgia under the Mailing List Restriction is to send a single wave of communications to voters during the first five days of

Georgia’s absentee application timeline. Lopach Decl. ¶¶ 53-57. VPC/CVI must scale back their communications in this way even though VPC/CVI know that voter engagement communications are less effective earlier in an election season and that multiple waves increase the effectiveness of their communications. *Id.* ¶¶ 34, 54. Plaintiff VoteAmerica has no current means of cross-checking the information provided by its users with the State’s constantly shifting data of who has applied for an absentee ballot application in order to comply with the Mailing List Restriction. McCarthy Decl. ¶¶ 26-27. As a result, it may not be able to offer the “print-and-mail” feature of its Absentee Tool to Georgia voters, eliminating this effective means for communicating VoteAmerica’s pro-absentee voting message. *Id.* ¶ 33.

Disclaimer Provision. If Plaintiffs “send” absentee ballot applications to voters, SB 202 requires use of an official government form that includes the official Secretary of State seal and is titled “Application for Georgia *Official* Absentee Ballot.” O.C.G.A. § 21-2-381(a)(1)(C)(ii); *see* Ex. A to Declaration of Valencia Richardson (“Richardson Decl.”). Yet SB 202 also requires Plaintiffs to stamp a “prominent” disclaimer on the same form stating it is “NOT an official government publication,” among other required language and conventions. O.C.G.A. § 21-2-381(a)(1)(C)(ii). Failure to include this contradictory and confusing disclaimer is subject to potential criminal penalties. *Id.* §§ 21-2-598, 21-2-603, 21-2-599.

This compelled speech is false, misleading, and will be confusing to voters. McCarthy Decl. ¶¶ 35-38; Lopach Decl. ¶¶ 67-69; Expert Report of Dr. Donald P. Green (“Green Rep.”) at 6-8. Indeed, the disclaimer appears to have been designed to, and will, dissuade voters from using absentee ballot application forms distributed in Plaintiffs’ communications by leading voters to believe the form is illegitimate, thereby undermining Plaintiffs’ speech. Green Rep. at 6-8. Plaintiffs’ core message is that absentee voting is reliable and trustworthy, and their missions are to educate and empower historically disenfranchised communities to vote absentee by utilizing their resources. McCarthy Decl. ¶¶ 2-5; Lopach Decl. ¶¶ 7-10. The Disclaimer Provision—which requires Plaintiffs to disseminate a false and confusing message to voters they are trying to assist—is directly at odds with their core mission, values, and communications with voters.

Prefilling Prohibition. SB 202 prohibits Plaintiffs VPC/CVI from conveying any absentee ballot applications that are personalized to include any of the elector’s required information prefilled on the distributed application. O.C.G.A. § 21-2-381(a)(1)(C)(ii); Lopach Decl. ¶ 60.¹ Failure to comply with this provision could

¹ Defendants issued a regulation allowing “[w]eb-based tools or applications that allow people who are otherwise eligible to request absentee ballots in Georgia . . . by entering personal information into the web-based tool or application by the voter or eligible family member to partially complete the absentee ballot application,”

result in misdemeanor, or even felony, charges. *See* O.C.G.A. §§ 21-2-598 (criminal misdemeanor provision for “any person who violates any” part of the election code), 21-2-562(a) (felony provision for improper insertions on any election document). The Prefilling Prohibition restricts the content of VPC/CVI’s communications; interferes with their models for voter engagement, assistance, and association; and curtails the most effective means of conveying their speech. Lopach Decl. ¶¶ 61-66. VPC/CVI’s mailers include ballot applications prefilled with information drawn from the voter’s registration records generated by the State. *Id.* ¶¶ 15, 60-62. Based on VPC/CVI’s experience and research, voters are more likely to submit an application per VPC/CVI’s messaging when it is personalized with their prefilled information. *Id.* ¶¶ 22, 61. VPC/CVI also know that neatly typing the voters’ information from the voter file leads to fewer erroneous rejections when election officials receive the application. *Id.* Only sending blank applications will severely

notwithstanding the Prefilling Prohibition. Ga. Comp. R. & Regs 183-1-14-.12(2), Ex. B to Richardson Decl. Based on this regulation, VoteAmerica believes that Defendants have interpreted the Prefilling Prohibition not to reach its model. VoteAmerica has maintained access to its tool for Georgia voters and is not seeking relief from the Court on this provision at this time. However, VoteAmerica notes its concern that Defendants have refused to respond to their Request for Admission asking Defendants to affirm the regulation’s application to their tool. Ex. C to Richardson Decl. at 3-4. VoteAmerica further does not concede the lawfulness—under Georgia law or the U.S. Constitution—of the regulation’s attempts to impose limits on its tool’s functionality. McCarthy Decl. ¶¶ 35-41.

curtail the effectiveness of VPC/CVI's communications. *Id.* ¶ 64.

Legal Standard

A preliminary injunction is warranted if Plaintiffs establish: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent an injunction; (3) the harm they will experience outweighs any injury the opposing party may experience under the injunction; and (4) the injunction would not be adverse to the public interest. *Otto v. City of Boca Raton, Fla.*, 981 F.3d 854, 860 (11th Cir. 2020).

Argument

I. Plaintiffs Have Standing.

Standing requires injury-in-fact, which is “an invasion of a legally protected interest” that “is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1350 (11th Cir. 2009) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992)). In First Amendment cases, this standard is “most loosely applied” to provide broad speech protections. *Pittman v. Cole*, 267 F.3d 1269, 1283 (11th Cir. 2001).

The “credible threat” of civil and criminal penalties under SB 202 chills Plaintiffs’ speech. *Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1304 (11th Cir. 2017) (en banc). When a plaintiff challenging a law is the subject of its enforcement, “there is ordinarily little question that the [government’s] action or

inaction has caused him injury[.]” *Lujan*, 504 U.S. at 561–62. Here, SB 202’s restrictions force Plaintiffs to limit their First Amendment activities due to their “actual and well-founded fear that the law will be enforced against them.” *Virginia v. Am. Booksellers Ass’n, Inc.*, 484 U.S. 383, 393 (1988).

Plaintiffs face a credible threat that SB 202 will be punitively enforced against them. Defendants have a mandate to investigate, criminally report, and/or impose civil penalties for purported election code violations. O.C.G.A. §§ 21-2-31(1)–(2), 21-2-31(5), 21-2-381(a)(3)(B). Defendants have “not disavowed any intention of invoking the” penalties against Plaintiffs for perceived SB 202 violations. *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 302 (1979). To the contrary, the State is “vigorously defend[ing] the [challenged provisions] in court.” *Wollschlaeger*, 848 F.3d at 1305. Indeed, the Secretary of State’s office is reportedly “in the preliminary stages of initiating an investigation” into a campaign mailer that placed the required disclaimer on the mailer’s envelope rather than on the application itself. *See* Ex. D to Richardson Decl. Plaintiffs credibly fear that continuing their Georgia communications as initially planned would risk enforcement proceedings against them. Lopach Decl. ¶¶ 53, 66, 69; McCarthy Decl. ¶¶ 31-33, 41.²

² Plaintiffs also suffered injuries-in-fact based on their diversion of resources. An organization has standing to challenge acts that “impair its ability to engage in its

II. Plaintiffs Are Substantially Likely to Succeed on Their First Amendment Claims Against the Ballot Application Restrictions.

a. The Ballot Application Restrictions Are Subject to Strict Scrutiny.

The Ballot Application Restrictions, individually and collectively, infringe Plaintiffs' First Amendment rights because they (1) limit Plaintiffs' core political speech and expressive conduct; (2) regulate speech based on its content; and (3) limit Plaintiffs' associational activities. For each of these independently sufficient reasons, the Ballot Application Restrictions are subject to strict First Amendment scrutiny. The Disclaimer Provision is also unlawful because it compels Plaintiffs to communicate a confusing and misleading government-drafted message contrary to their views. *See infra* Part II(c). These restrictions, which are poorly tailored to any

projects by forcing the organization to divert resources to counteract” the challenged law. *Common Cause/Georgia*, 554 F.3d at 1350 (quoting *Fla. State Conference of NAACP v. Browning*, 522 F.3d 1153, 1165-66 (11th Cir. 2008)). Plaintiffs have diverted or reasonably anticipate diverting resources in their effort to comply with SB 202, where that is even possible. For example, for VoteAmerica to provide voters with an option to receive a Georgia absentee ballot application by physical mail, it would have to divert substantial resources to develop a Georgia-specific algorithm designed to check potential mailings against the prohibited recipient list. McCarthy Decl. ¶¶ 27-30. For VPC/CVI to continue their communications throughout the application period in subsequent waves, as they seek to do, VPC/CVI would be forced to create a manual process by which staff ensures strict compliance with SB 202. Lopach Decl. ¶¶ 58-59. And Plaintiffs must redirect resources to educate voters about inputting precise information and comprehending the disclaimer in order to counteract the other harmful effects of the challenged provisions. *Id.* ¶¶ 60, 65-70.

legitimate governmental interest, cannot survive strict scrutiny.

i. The Ballot Application Restrictions Limit Core Political Speech and Expressive Conduct.

Each of the Ballot Application Restrictions directly regulate—and limit—the manner, means, and extent to which Plaintiffs can distribute their absentee ballot application communications to eligible Georgia voters. Because Plaintiffs’ activities and communications are core political speech—securing the First Amendment’s most stringent protections—the SB 202 restrictions are subject to strict scrutiny.

Plaintiffs exist for the purpose of engaging in political speech and expressive conduct to disseminate a core viewpoint that all eligible voters should participate in the political process, that voting should be easy and accessible, and that absentee voting is safe, beneficial, and secure. Lopach Decl. ¶¶ 7-10, 17, 63, 68; McCarthy Decl. ¶¶ 2-7, 15-16, 21-22, 38, 46. A crucial means by which Plaintiffs express their viewpoints and encourage voters to participate is through the dissemination of absentee ballot applications to potential voters. Lopach Decl. ¶ 11; McCarthy Decl. ¶¶ 4, 7. Plaintiffs’ distribution of personalized absentee ballot applications encourages and facilitates Plaintiffs’ pro-absentee voting message and is “characteristically intertwined” with expressing that message. *Village of Schaumburg v. Citizens for a Better Env’t*, 444 U.S. 620, 632 (1980); Lopach Decl. ¶¶ 14, 71; McCarthy Decl. ¶¶ 18-19, 33, 41.

Plaintiffs’ civic engagement and education on absentee voting necessarily “involves both the expression of a desire for [an engaged electorate] and a discussion of the merits of [absentee voting].” *Meyer v. Grant*, 486 U.S. 414, 421 (1988). Their “mailing the application packets is inherently expressive conduct that the First Amendment embraces.” *VoteAmerica v. Schwab*, No. CV 21-2253-KHV, 2021 WL 5918918, at *6 (D. Kan. Dec. 15, 2021). Plaintiffs’ activities involve their “communication of information” and “dissemination and propagation of views and ideas” to eligible voters, *Meyer*, 486 U.S. at 422 n.5, which seek to persuade them that political participation is worthwhile, and that absentee voting is safe, accessible, and beneficial. Lopach Decl. ¶¶ 7-10, 17, 63, 68; McCarthy Decl. ¶¶ 4-5, 11-12, 38. Thus, in the ongoing debate about absentee voting, Plaintiffs’ mailer communications take a strong stance in favor by including personalized applications and expressing, for example, that “Your vote matters,” “Voting by mail is EASY,” it “keeps you healthy and safe,” and ensures that “your privacy is protected.” *E.g.*, Exs. A, B to Lopach Decl; Ex. A to McCarthy Decl. This “advocacy of a politically controversial viewpoint is the essence of First Amendment expression.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 347 (1995). It is core political speech for which First Amendment protection is “at its zenith.” *Meyer*, 486 U.S. at 425.

The Supreme Court has twice addressed the stringent First Amendment

protections for this type of core political speech in the context of petition circulation. *See Meyer*, 486 U.S. at 421-22; *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182 (1999). From *Meyer* and *Buckley*, lower courts have routinely ruled that other civic engagement activities constitute core political speech. For example, last year a district court in Kansas enjoined absentee ballot application restrictions like those at issue here that “involve[] direct regulation of communication among private parties who are advocating for particular change—more voting by mail, especially in under-represented populations.” *VoteAmerica*, 2021 WL 5918918, at *17. Several other courts have likewise ruled that absentee ballot application communications are expressive conduct. *See, e.g., Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 224 (M.D.N.C. 2020) (“[A]ssisting voters in filling out a request form for an absentee ballot is ‘expressive conduct’ which implicates the First Amendment.”); *Priorities USA v. Nessel*, 462 F. Supp. 3d 792, 812 (E.D. Mich. 2020) (holding that distributing absentee ballot applications “necessarily involve[s] political communication and association”).³

³ Courts have also repeatedly held that voter registration is expressive activity protected by the First Amendment. *See League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 721 (M.D. Tenn. 2019) (holding that “traditional voter registration drives . . . include central elements of expression and advocacy”); *see also Project Vote v. Blackwell*, 455 F. Supp. 2d 694, 706 (N.D. Ohio 2006); *League of Women Voters of Fla., Inc. v. Lee*, No. 4:21-cv-186-MW/MAF, 2022 WL 969538, at *83-

ii. The Ballot Application Restrictions Are Content-Based Restraints on Speech.

The Ballot Application Restrictions also fail because they are content-based limitations on speech. Content-based restrictions apply “to particular speech because of the topic discussed,” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015), or define the “category of covered documents . . . by their content.” *McIntyre*, 514 U.S. at 345. Such restrictions “are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163 (citation omitted).

The Ballot Application Restrictions are content-based because they impede Plaintiffs’ communications regarding only absentee ballot applications. No similar encumbrances apply to similar topics, such as Plaintiffs’ voter registration communications. *See Buckley*, 525 U.S. at 209 (Thomas, J., concurring) (explaining a restriction was content-based when it limited initiative petitions but not candidate petitions). The restrictions target Plaintiffs’ positive views on absentee voting, which are necessarily intertwined with distributing applications, but do not impede anti-absentee voting communications that do not involve sending absentee ballot applications.

84 (N.D. Fla. Mar. 31, 2022).

Moreover, when the State “compels speakers to utter or distribute speech bearing a particular message[,]” as the Disclaimer Provision does here, “such a policy imposes a content-based burden on speech and is subject to strict scrutiny review.” *McClendon v. Long*, 22 F.4th 1330, 1337-38 (11th Cir. 2022) (citing *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 641-42 (1994)); *see also Lee*, 2022 WL 969538, at *79-83 (government-required disclaimers are content-based restrictions).

iii. The Ballot Application Restrictions Curtail Plaintiffs’ Associational Activities.

Finally, the Ballot Application Restrictions not only infringe Plaintiffs’ core political speech (in a content-based fashion) but also curtail Plaintiffs’ associational activities. “The First Amendment protects political association as well as political expression.” *Buckley v. Valeo*, 424 U.S. 1, 15 (1976). And “the freedom of association encompasses not only the right to associate with others but also the right to choose how one associates with others.” *VoteAmerica*, 2021 WL 5918918, at *7 (quoting *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 653 (2000)). “[S]tate action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.” *NAACP v. Patterson*, 357 U.S. 449, 460–61 (1958); *see also NAACP v. Button*, 371 U.S. 415, 428-31, 437 (1963).

Courts routinely rule that civic engagement activity implicates both freedoms of speech and association. *See, e.g., League of Women Voters*, 400 F. Supp. 3d at

723-24; *Project Vote*, 455 F. Supp. 2d at 706. In *VoteAmerica v. Schwab*, for example, the court held that restricting organizations’ absentee ballot application programs “interferes with their associational rights by prohibiting them from working with [other] organizations . . . and limits their ability to associate for the purposes of assisting” their audience. 2021 WL 5918918, at *7.

The same is true here. Plaintiffs disseminate absentee ballot applications as a tool to “engage in association for the advancement of [their] beliefs and ideas,” *Patterson*, 357 U.S. at 460, namely, their belief that our democracy works best when everyone participates, that voting should be easy and accessible, and that absentee voting is safe, convenient, and secure. VPC/CVI use their communications to build their political community and target historically disenfranchised communities for engagement in the political process. Lopach Decl. ¶¶ 7, 35-39. To this end, VPC/CVI use a unique scannable barcode on the return envelope for absentee ballot applications included in their mailers to track their effective engagement with potential voters and deepen their associations through further targeted communications. *Id.* ¶ 20. Likewise, VoteAmerica uses voter engagement with its tool as a starting point for further communications and engagement with potential voters. McCarthy Decl. ¶ 12. VoteAmerica also offers an embeddable version of its voter engagement tool as a means to build effective partnership with other like-

minded organizations seeking to increase voter participation. *Id.* ¶¶ 10-11, 21.

By sharply limiting Plaintiffs’ tools for associating with partners and voters in Georgia to advance their shared belief in the importance of civic participation, the Ballot Application Restrictions curtail Plaintiffs’ freedom of association.

b. Plaintiffs Are Substantially Likely to Succeed on Their First Amendment Challenge to the Mailing List Restriction.

For the reasons discussed above, Plaintiffs are likely to succeed on their claim that the Mailing List Restriction infringes on Plaintiffs’ First Amendment rights and is subject to strict scrutiny, which it cannot survive. Restrictions unlawfully curtail political speech rights when they (1) “reduc[e] the total quantum of speech on a public issue” by limiting “the number of voices who will convey [the speakers’] message” and “the size of the audience they can reach,”; or (2) restrict the speaker’s “right not only to advocate their cause but also to select what they believe to be the most effective means for so doing.” *Meyer*, 486 U.S. at 422–24. The Mailing List Restriction does both.

In the 2020 election alone, Plaintiffs VPC/CVI sent more than 9.6 million communications that urged registered Georgia voters to participate, described the absentee voting process as easy and secure, and guided voters through that process by including absentee ballot applications. Lopach Decl. ¶ 23; Exs. A, B to Lopach Decl. VPC/CVI sent these communications in several waves over the course of the

election season and has found that using multiple waves is the most effective way to reach and engage voters. *Id.* ¶¶ 34, 54, 71. In fact, VPC/CVI’s communications were highly effective. In the 2020 election, for example, over 575,000 Georgia voters submitted an absentee ballot application that VPC/CVI provided. *Id.* ¶ 25.

Absent injunctive relief, the Mailing List Restriction will have a devastating effect on VPC/CVI’s ability to conduct similar communication campaigns in Georgia during the 2022 election cycle and beyond. *Id.* ¶¶ 51-59. Conducting communications at VPC/CVI’s scale takes time and preparation. *Id.* ¶¶ 30-34. For each specific wave of communications, VPC/CVI’s mailing program frequently takes six weeks or more from start to finish, and at least 20 days from print order to mailing. *Id.* ¶ 32. Thus, the “safe harbor” provision for mailings sent in reliance on “information made available by the Secretary of State within five business days prior to the date such applications are mailed” provides no shelter at all. *Id.* ¶¶ 53-69. And failure to strictly comply could financially devastate VPC/CVI. *Id.* ¶¶ 51, 53, 57-59.

VPC/CVI has concluded that the only means by which it can continue its absentee voting operations in Georgia under the Mailing List Restriction is to send a single wave of communications to voters during the first five days of Georgia’s absentee application timeline even though VPC/CVI knows that voter engagement communications are less effective earlier in an election season and that multiple

waves increase the effectiveness of their communications. *Id.* ¶¶ 34, 53, 54, 57. This will be a dramatic reduction in VPC/CVI’s scale and efficacy, resulting in millions fewer communications with Georgia voters and likely hundreds of thousands of fewer voter engagements. Thus, the Mailing List Restriction will force VPC/CVI to “reduc[e] the total quantum of [their] speech on a public issue,” limit “the size of the audience they can reach,” and curtail their ability “to select what they believe to be the most effective means for [advocating their cause],” *Meyer*, 486 U.S. at 422-24.

Likewise, the Mailing List Restriction will impede Plaintiff VoteAmerica’s ability to effectively communicate with and offer its tool to voters without access to a printer.⁴ In the 2020 election, VoteAmerica tested a new “print-and-mail” feature of its Absentee and Mail Ballot tool. McCarthy Decl. ¶ 13. VoteAmerica offered users in four states—Texas, Montana, Ohio, and Utah—the option to receive pre-printed personalized absentee voting applications via postal mail in addition to email. *Id.* VoteAmerica mailed about 33,040 absentee ballot application forms to voters in these four states, ensuring these voters could submit a paper absentee ballot

⁴ While Plaintiff VoteAmerica believes SB 202’s language could and should be more precise, Defendants have affirmatively stated that the Mailing List Restriction solely applies to “conveyance by postal mail” and does not include email communications. Doc. 40-1 at 24. Thus, VoteAmerica is relying on this admission to continue its communication of absentee ballot applications via email in Georgia.

application even if they did not have access to a printer. *Id.* VoteAmerica is planning to make this print-and-mail feature available to voters nationwide for the 2022 elections. *Id.* at ¶ 14. Expanding the print-and-mail feature will enable VoteAmerica to more effectively communicate a pro-voting message to a broader audience, including low-income and low-propensity voters who may have fewer resources for printing and postage and less access to those services. *Id.* at ¶ 18.

However, absent this Court's action, VoteAmerica will be unable to communicate with Georgians via postal mail without risking serious financial, and potentially criminal, penalties. The voter initiates use of VoteAmerica's Absentee and Mail Ballot Tool by inputting their information and requesting an absentee ballot. *Id.* at ¶ 25. VoteAmerica does not currently have the ability to determine whether a voter using its Absentee and Mail Ballot Tool has previously requested an absentee ballot. VoteAmerica estimates that it would cost tens of thousands, if not hundreds of thousands, of dollars to implement technology that would allow its tool to crosscheck applicants with the Secretary of State's constantly changing absentee voter lists. *Id.* at ¶ 28. VoteAmerica is unsure whether such a system is feasible or reliable; therefore, offering this feature to Georgia voters would come at both considerable cost and risk to VoteAmerica. *Id.* at ¶¶ 30-33. Thus, absent this Court's intervention, VoteAmerica will either have to drain its resources and expose itself to

considerable risk or restrict its communications with Georgia voters to those who can receive applications by email only. *Id.* Either way, the Mailing List Restriction will force VoteAmerica to “reduc[e] the total quantum of [their] speech,” limiting “the size of the audience they can reach,” *Meyer*, 486 U.S. at 423, and impede VoteAmerica’s right “to select what they believe to be the most effective means” of communicating, *id.* at 424; in this case, by offering the print-and-mail feature.

While the Mailing List Restriction imposes these considerable restraints on Plaintiffs’ First Amendment protected communications, it is not appropriately tailored to serve any governmental interest. It certainly cannot overcome the “exacting scrutiny” that *Meyer* demands. 486 U.S. at 420.⁵

⁵ In this context, the Supreme Court has used the terms exacting scrutiny and strict scrutiny somewhat interchangeably. *See McIntyre*, 514 U.S. at 346 n.10 (“In *Meyer*, we unanimously applied strict scrutiny to invalidate an election-related law.”). Regardless of the precise boundaries, the Supreme Court has made clear that the scrutiny that applies in cases like this—“where a statute trenches upon an area in which the importance of First Amendment protections is at its zenith”—is “well-nigh insurmountable.” *Meyer*, 482 U.S. at 425.

What is clear is that the somewhat more permissive *Anderson-Burdick* framework for voting regulations does not apply here. *See* Doc. 57 at 9, fn. 8 (noting Defendants’ inapposite citations to undue burden on the right to vote claims). The Supreme Court has limited *Anderson-Burdick* to laws that only “control the mechanics of the electoral process.” *McIntyre*, 514 U.S. at 345; *id.* at 341 (rejecting Ohio’s argument that its prohibition on anonymous campaign literature was a “reasonable regulation of the electoral process”). Thus, even when a regulation involves the electoral process, the Court applies exacting scrutiny where it “burdens

Defendants offer six purported interests for the Mailing List Restriction: safeguarding election integrity; reducing voter confusion; increasing voter confidence; improving election procedures; addressing the state's management of voter rolls; and running an orderly election. *See* Ex. E to Richardson Decl. at 6-8.

But Defendants must “do more than simply posit the existence of the disease sought to be cured.” *Turner*, 512 U.S. at 664 (citations omitted). Defendants bear the burden of proving, through evidence, “that the recited harms are real, not merely conjectural, and that the regulation [of speech] will in fact alleviate these harms in a direct and material way.” *Id.*; *Otto*, 981 F.3d at 868 (holding that because a content-based restriction “bears the risk of uncertainty, ambiguous proof will not satisfy the demanding standard [of narrow tailoring]”). Though the asserted interests could be “legitimate in the abstract,” the Mailing List Restriction is not “narrowly tailored to actually further those interests.” *Green Party of Georgia v. Kemp*, 171 F. Supp. 3d 1340, 1365 (N.D. Ga. 2016), *aff'd*, 674 F. App'x 974 (11th Cir. 2017). Instead, the Mailing List Restriction is overbroad, imposing criminal penalties and civil

core political speech.” *Id.* at 347; *see also Buckley*, 525 U.S. at 207 (Thomas, J., concurring) (“When a State’s election law directly regulates core political speech, we have always subjected the challenged restriction to strict scrutiny and required that the legislation be narrowly tailored to serve a compelling governmental interest.”).

sanctions on groups while failing to provide a meaningful mechanism with which groups can comply.⁶ *See supra*, at 5-6.

While the Mailing List Restriction is ostensibly aimed at addressing duplicate absentee ballot applications, Georgia’s election systems were *already* designed to identify and discard duplicate applications submitted to election officials. *See* O.C.G.A. § 21-2-381 (2019) (describing the process for processing absentee ballot applications before SB 202 was enacted); *compare with id.* § 21-2-381 (2021) (retaining process for identifying absentee ballot applicants). There is no evidence that these systems are not “adequate to the task” of addressing duplicate ballot applications. *Meyer*, 486 U.S. at 427; *see* Ex. F to Richardson Decl. Moreover, Defendants have provided no explanation as to why the Mailing List Restriction—which regulates third parties, not election officials—“improv[es] election procedures [or] address[es] the state’s own management of voter rolls.” Ex. E to

⁶ Notably, Plaintiffs VPC/CVI *already* seek to vet their communications to remove recipients from their mailing list that have already requested, received, or submitted an absentee ballot, albeit in a manner that is feasible with the timelines for their campaigns. Lopach Decl. ¶¶ 26-27, 47, 56; *see also* Green Rep. at 11 (“It should be stressed that groups that distribute absentee ballot forms already have strong incentives not to send mail to people who have ‘already requested, received, or voted an absentee ballot’; to do so is a complete waste of money.”). Rather than imposing any reasonable requirements on speakers in this sphere, the Mailing List Restriction is tailor made to effectively mute these communications altogether.

Richardson Decl. at 8. The State’s invocation of “voter confusion” and “voter confidence” fare no better. Steep fines and criminal penalties for failure to comply with an unworkable mechanism are far too blunt of instruments to address the purported interest. Defendants provided no explanation why a voter using VoteAmerica’s tool would be confused by receiving the application they requested. Nor have they explained why VPC/CVI’s explicit instructions on this topic—“If you’ve already submitted a request for a ballot by mail ... there is no need to submit another request”—causes confusion. Exs. A, B to Lopach Decl. The purported fear that confused voters “might make an ill-advised choice does not provide the State with a compelling justification for limiting speech.” *Meyer*, 486 U.S. at 426 n.7 (citation omitted).

The State’s invocation of generic election regulation interests untethered to the statute’s requirements and unsupported by any evidence cannot clear the “well-nigh insurmountable” burden of strict scrutiny. *Id.* at 425.⁷

c. Plaintiffs Are Substantially Likely to Succeed on Their First Amendment Challenge to the Disclaimer Provision.

⁷ Defendants’ assertions are not only unsupported but further undercut by evidence that legislators were motivated to drive political outcomes by manipulating turnout, as well as Defendant Raffensperger’s statement that many 2021 election bills in the General Assembly were “reactionary to a three-month disinformation campaign that could have been prevented.” Exs. G-J to Richardson Decl.

In addition to dictating to whom Plaintiffs communicate (in a manner that will upend Plaintiffs' operations altogether), SB 202 also compels Plaintiffs to make a false and misleading representation. SB 202 requires Plaintiffs that disseminate absentee ballot applications to use the official government form that includes the official Secretary of State seal and is titled "Application for Georgia *Official* Absentee Ballot." See O.C.G.A. § 21-2-381(a)(1)(C)(ii) (emphasis added); Ex. A to Richardson Decl. But, in the same breath, SB 202 also requires Plaintiffs to stamp a "prominent" disclaimer on the Secretary of State's absentee ballot application form stating that it is "NOT an official government publication." *Id.* § 21-2-381(a)(1)(C)(ii); Ex. A to Richardson Decl. Plaintiffs do not object to informing their audience of accurate information about their communications. Indeed, VPC/CVI's communications list their organization's name and contact information in several locations and include a prominent and specific disclaimer that they are "not affiliated with state or local election officials." Exs. A, B to Lopach Decl. But Plaintiffs strongly object to providing voters with inaccurate and misleading information. They reasonably believe that the required "prominent" disclaimer will confuse voters and make them reluctant to use the forms Plaintiffs provide, defeating the purpose of their communications. Lopach Decl. ¶¶ 67-69; McCarthy Decl. ¶ 38.

Like the Mailing List Restriction, the Disclaimer Provision implicates the

First Amendment because it restricts the manner in which Plaintiffs engage in core political speech and expression, regulates their associational activities, and does so based on the content of their speech. *See supra*, Part II(a). But the Disclaimer Provision also runs afoul of the First Amendment’s prohibition on compelled speech. “[A] law that compels individuals to speak a particular message by following a government-drafted script[,]” such as the Disclaimer Provision, is “presumptively unconstitutional.” *League of Women Voters*, 400 F. Supp. 3d at 729 (citing *Nat’l Inst. Of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361, 2371 (2018) (“*NIFLA*”)). Such laws are subject to strict scrutiny. *McClendon*, 22 F.4th at 1337.

To justify compelled speech, a state must demonstrate that the perceived harms addressed by the compelled speech are real and will be alleviated in a significant way by the compelled speech. *Tillman v. Miller*, 1996 WL 767477, at *4 (N.D. Ga. Sept. 30, 1996) (citing *Ibanez v. Fla. Dep’t of Business and Profession Regulation*, 114 S. Ct. 2084, 2089 (1994)). The State bears the burden of proof on the issue of whether the Disclaimer Provision is narrowly tailored. *Otto*, 981 F.3d at 868.

The State has asserted that the Disclaimer Provision serves numerous generic election administration interests, including “improving election procedures; addressing the state’s own management of voter rolls; safeguarding voter

confidence; reducing voter confusion; and running an efficient and orderly election.” Ex. E to Richardson Decl. at 6. However, the only specific interest that the State asserts the Disclaimer Provision is designed to address is voters’ “confusion about absentee ballot applications received from third parties” and “whether the applications are being sent from the State and whether the voters are obligated to do anything with the applications they receive.” *Id.* at 6-7.

Because the disclaimer required by the provision is factually incorrect and misleading to the average reader, it cannot possibly achieve the State’s ostensible goals. *See NIFLA*, 138 S. Ct. at 2375; *see also Hargett*, 441 F. Supp. 3d at 633. To the contrary, the Disclaimer Provision *further*s voter confusion and *reduces* voter confidence. The qualitative study conducted by Plaintiffs’ expert demonstrated that, upon reading the form with the required disclaimer included, an average Georgia voter would be dissuaded from using the form and “would just throw it in the trash . . . [b]ecause it is not an official government publication.” Green Rep. at 8. The Disclaimer Provision makes Plaintiffs’ speech less effective by giving Plaintiffs’ speech the impression of illegitimacy. Lopach Decl. ¶¶ 67-69; McCarthy Decl. ¶¶ 35-40. This serves no purpose other than to prevent Plaintiffs from communicating and associating effectively with Georgia voters.

Plaintiffs could theoretically disseminate their own accurate information

disagreeing with the contents of the Disclaimer Provision, but that does not cure the constitutional harms presented by the provision—namely, the forced display of a government message on core political speech in violation of the “right to refrain from speaking at all.” *McClendon*, 22 F.4th at 1336. In any event, such discordant messages within the same communication would likely only compound voter confusion. The Disclaimer Provision violates the First Amendment’s prohibition against government-compelled speech.

d. Plaintiffs VPC/CVI Are Substantially Likely to Succeed on Their First Amendment Challenge to the Prefilling Prohibition.

For all the reasons discussed above, *see supra*, Part II(a), the Prefilling Prohibition is a content-based infringement on Plaintiffs’ First Amendment rights and is subject to strict scrutiny, which it cannot survive. Plaintiffs are likely to succeed on their claim challenging the Prefilling Prohibition.

The Prefilling Prohibition violates VPC/CVI’s core political speech and association because it “reduc[es] the total quantum of speech on a public issue” and impedes Plaintiffs’ “right not only to advocate their cause but also to select what they believe to be the most effective means.” *Meyer*, 486 U.S. at 422-24. VPC/CVI believe, based on their years of experience running direct mail campaigns, that prefilling applications is the most effective means of conveying their message and persuading their audience to vote absentee. *See* Lopach Decl. ¶¶ 22, 60–66, 71.

VPC/CVI's belief in the benefits of prefilling is also objectively justified because numerous studies show that "reducing the transaction costs for voters" and increasing the likelihood of acceptance at the election office most effectively conveys their pro-voter message. Green Rep. at 8-9. Even the Secretary of State's office recognizes the merits of prefilling, with the Georgia Deputy Elections Director requesting that VPC/CVI "go ahead and pre-populate" certain information on the application during an email exchange in June 2020. Lopach Decl. ¶¶ 43, 62. Without the ability to use this most effective means, VPC/CVI may opt to instead speak outside of Georgia to allocate their resources to a state where their speech is effective at conveying their pro-absentee voting message. *Id.* ¶¶ 66, 71-72.

The Prefilling Prohibition is also a content-based restriction because it defines its coverage based on the topics VPC/CVI discuss and the documents used. *See supra*, Part II(a). And the Prefilling Prohibition abridges VPC/CVI's associational rights by limiting how Plaintiffs use effective mailer communications to establish relationships and target future joint efforts with voters and civic organizations to support absentee voting. *See* Lopach Decl. ¶¶ 35-39.

The Prefilling Prohibition is not narrowly tailored to serve a compelling interest. Like the other Ballot Application Restrictions, Defendants offer several generic interests to justify the Prefilling Prohibition, and they note a concern about

purported voter fraud. *See* Ex. E to Richardson Decl. at 7. But “[a] State’s claim that it is enhancing the ability of its citizenry to make wise decisions by restricting the flow of information to them must be viewed with some skepticism.” *Eu v. San Francisco Cty. Democratic Cent. Comm.*, 489 U.S. 214, 228 (1989). And with respect to alleged fraud, Defendants must “satisfy its burden of demonstrating that fraud is a real, rather than a conjectural, problem.” *Buckley*, 525 U.S. at 210. Defendants’ asserted interests in the abstract are not compelling in the reality of this unwarranted restriction on Plaintiffs’ speech.

As with the other Ballot Application Restrictions, Defendants fail to meet the burden of proving that the Prefilling Prohibition is narrowly tailored to support the Defendants’ interests related to election administration. There are less restrictive means to achieve these interests. Local election officials are required to match the information on absentee ballot applications to the voter registration system to identify errors or anomalies. O.C.G.A. § 21-2-381(b)(1). And Plaintiffs were, pre-SB 202, criminally prohibited from inputting a “fraudulent entry” on any application. *Id.* § 21-2-562. Likewise, Plaintiffs draw information from the most reliable possible source: Georgia’s own voter registration list. *Lopach* ¶¶ 60-62. These preexisting processes and safeguards show that Georgia can appropriately regulate the personalization of applications with voters’ information without needing

an over-inclusive total ban. Thus, the Prefilling Prohibition is not narrowly tailored to serve the government's alleged interests.

III. Plaintiffs Will Suffer Irreparable Harm.

Absent a preliminary injunction, Plaintiffs will suffer irreparable harm. The Eleventh Circuit has long recognized that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale*, 11 F.4th 1266, 1286 (11th Cir. 2021) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The “direct penalization” of First Amendment rights is a per se irreparable injury. *Otto*, 981 F.3d at 870; *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006). Plaintiffs’ speech is coordinated around election cycles to engage voters and encourage their participation in the political process. Their work on the 2022 election cycle has already begun. Lopach Decl. ¶¶ 51-53, 70; McCarthy Decl. ¶¶ 22, 34, 44-47. Once Plaintiffs lose out on the opportunity to engage voters during the 2022 election cycle, “there can be no do-over and no redress.” *League of Women Voters of North Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014).

The Ballot Application Restrictions directly penalize Plaintiffs’ speech, causing Plaintiffs to dramatically reduce and alter their communications in Georgia during a hotly contested election season. Absent an injunction, Plaintiffs must either

muffle and distort their speech or risk sanctions and criminal penalties for their communications and associations with Georgia voters. Plaintiffs have a legitimate fear of prosecution; the State of Georgia has already investigated at least one group who attempted to comply with the Ballot Application Restrictions. *See* Lopach Decl. ¶¶ 53, 66, 69; Ex. D to Richardson Decl. The actions already taken by the state thus “render the threat of enforcement ‘non-chimerical’” and constitute irreparable harm. *Fort Lauderdale Food Not Bombs*, 11 F.4th at 1287. Thus, absent an injunction, Plaintiffs will continue to suffer from the ongoing, irreparable harm inflicted by the Ballot Application Restrictions.

IV. The Balance of the Equities Weighs in Plaintiffs’ Favor and a Preliminary Injunction Is Not Adverse to the Public Interest.

The ongoing injury to Plaintiffs’ First Amendment rights outweighs any interest that the Defendants may have in enforcing the Ballot Application Restrictions, and the public will be served by an injunction. As described above, Plaintiffs are suffering from an ongoing harm from the Ballot Application Restrictions, which limit their ability to engage in core political speech and associate with Georgia voters. This is a grave injury that can only be remedied by an injunction; “even a temporary infringement of First Amendment rights constitutes a serious and substantial injury,” and the state “has no legitimate interest in enforcing an unconstitutional [regulation].” *KH Outdoor, LLC*, 458 F.3d at 1272.

Georgia's interests in enforcing an unconstitutional regulation pale in comparison. The absence of the Ballot Application Restrictions will have a minimal effect on the ability of Georgia election officials to process and approve absentee ballot applications. Indeed, the Ballot Application Restrictions disrupt *Plaintiffs'* actions, not the actions of Georgia election officials. An injunction would not upend the status quo, merely requiring Georgia election officials to continue using existing procedures to process absentee ballot applications. *See Lee*, 2022 WL 969538, at *102 (holding that an injunction shall issue when it "requires no one to do anything differently from what they did before [the provision] was enacted"). And any minor administrative convenience that may result from enforcing the Restrictions is far outweighed by the infringement of Plaintiffs' fundamental rights. *KH Outdoor, LLC*, 458 F.3d at 1272. The balance of the equities and the public interest favor Plaintiffs.

Conclusion

Plaintiffs are preparing their 2022 election cycle communications now. Absent court action, those communications will be fewer, less effective, and stamped with misleading compelled speech. Plaintiffs respectfully request that this Court grant their Motion and preliminarily enjoin Defendants from enforcing the Ballot Application Restrictions.

This 26th day of April, 2022.

Respectfully submitted,

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**CERTIFICATE OF SERVICE AND
COMPLIANCE WITH LOCAL RULE 5.1**

I hereby certify that on April 26, 2022, I electronically filed the foregoing Plaintiffs' Motion for Preliminary Injunction, which has been prepared using 14-point Times New Roman Font, with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

This 26th day of April, 2022.

/s/ Danielle Lang
Danielle Lang
Admitted pro hac vice

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

VOTEAMERICA; VOTER
PARTICIPATION CENTER; and
CENTER FOR VOTER
INFORMATION,

Plaintiffs,

v.

Case No. 1:21-cv-01390-JPB
Judge J.P. Boulee

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia; SARA
GHAZAL, JANICE JOHNSTON,
EDWARD LINDSEY, and
MATTHEW MASHBURN, in their
official capacities as members of the
STATE ELECTION BOARD,
Defendants,

and

REPUBLICAN NATIONAL
COMMITTEE; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE; and GEORGIA
REPUBLICAN PARTY, INC.,
Intervenor-Defendants.

**INDEX OF EXHIBITS IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

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REPUBLICAN NATIONAL
COMMITTEE; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE; and GEORGIA
REPUBLICAN PARTY, INC.,
Intervenor-Defendants.

**DECLARATION OF VALENCIA RICHARDSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, VALENCIA RICHARDSON, declare as follows:

1. I am one of the attorneys representing Plaintiffs VoteAmerica, Center for Voter Information, and Voter Participation Center. I have been employed by the Campaign Legal Center since August 2020. I am over the age of 18 and competent to testify as to the matters set forth in this affidavit based upon my own personal knowledge. This declaration is submitted in support of Plaintiffs' Motion for a Preliminary Injunction.
2. On April 25, 2022, I retrieved the Georgia Absentee Ballot Application for third-party use, on the website of the Office of Georgia Secretary of State Brad Raffensperger at https://sos.ga.gov/sites/default/files/2022-03/CCD-Georgia-Application-for-Absentee-Ballot-int-APP-21_V2.pdf, of which a true and correct copy is attached as Exhibit A to this declaration.
3. On April 25, 2022, I retrieved a copy of Ga Comp. R. & Regs 183-1-14-.12 on Westlaw, of which a true and correct copy is attached as Exhibit B to this declaration.
4. On April 18, 2022, I was served Defendants' Responses and Objections to Plaintiffs' First Request for Admissions by counsel for Defendants, of which a true and correct copy is attached as Exhibit C to this declaration.

5. On April 25, 2022, I retrieved a copy of an article in the Augusta Chronicle titled *Augusta Commission Election Mailer Flagged for Georgia Secretary of State Review* at <https://www.augustachronicle.com/story/news/2022/03/30/augusta-commission-campaign-mailer-under-review-state-elections/7199180001/>, of which a true and correct copy is attached as Exhibit D to this declaration.
6. On April 18, 2022, I was served Defendants' Responses and Objections to Plaintiffs' First Interrogatories by counsel for Defendants, of which a true and correct copy is attached as Exhibit E to this declaration.
7. On April 25, 2022, I retrieved a press statement from the Office of Georgia Secretary of State Brad Raffensperger titled *3rd Strike Against Voter Fraud Claims Means They're Out After Signature Audit Finds No Fraud* at <https://sos.ga.gov/news/3rd-strike-against-voter-fraud-claims-means-theyre-out-after-signature-audit-finds-no-fraud>, of which a true and correct copy is attached as Exhibit F to this declaration.
8. On April 25, 2022, I retrieved an article quoting Defendant Raffensperger titled *Georgia Secretary of State Withholds Support for 'reactionary' GOP Voting Bills* from The Hill at <https://thehill.com/homenews/state-watch/540412-georgia-secretary-of-state-withholds-support-of-reactionary->

[gop-bills/?rl=1](#), of which a true and correct copy is attached as Exhibit G to this declaration.

9. On April 26, 2022, I retrieved a copy of an article titled *Gwinnett elections board's new chairwoman wants limits on no-excuse absentee voting, voter roll review* from the Gwinnett Daily Post at

https://www.gwinnettdailypost.com/local/gwinnett-elections-boards-new-chairwoman-wants-limits-on-no-excuse-absentee-voting-voter-roll-review/article_7df1c274-5715-11eb-a31d-dfa23b30ec62.html, of which a

true and correct copy is attached as Exhibit H to this declaration.

10. On April 26, 2022, I retrieved a copy of an article titled *Georgia's GOP House Speaker says vote-by-mail system would be 'devastating to Republicans,'* from The Hill at <https://thehill.com/homenews/state-watch/490879-georgias-gop-house-speaker-says-vote-by-mail-system-would-be-devastating/> a true and correct copy of which is attached as Exhibit I to this declaration.

11. On April 26, 2022, I retrieved a copy of an article authored by Representative Barry Fleming, Chair of the House Special Committee on Election Integrity, titled *Guest Column: Republican Party wins on Election Day, and future is bright* from The Augusta Chronicle at

<https://www.augustachronicle.com/story/opinion/columns/guest/2020/11/15/guest-column-republican-party-wins-on-election-day-and-future-is-bright/43155971/>, of which a true and correct copy is attached as Exhibit J to this declaration.

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 26th day of April, 2022 in Washington, D.C.

s/ Valencia Richardson
Valencia Richardson

RETRIEVED FROM DEMOCRACYDOCKET.COM

EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

The information provided in this document is made under oath and penalty of law and will be used for official government purposes. **When you sign this application, you affirm that you are a citizen of the U.S., currently reside in Georgia and are eligible to vote in Georgia.** Giving false information on this application violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Please print clearly. Be sure to complete all **required** sections.

Date of Election

Required

1

Date of Primary, Election, or Runoff (mm/dd/yyyy) _____

The application must be **received** by your election office* 11 days before the election.

Print voter name

Required

2

Your name as it appears on your voter registration.

First _____ Middle _____ Last _____ Suffix _____

Type of ballot

Required in primary

3

☐ Democratic ☐ Republican ☐ Non Partisan (will not have ANY party candidates listed)

Residential address

Required Your ballot will be sent here unless you provide a temporary mailing address.

4

The residential or mailing address on your voter registration. If you no longer reside at the address where you are registered to vote, contact your county election office prior to submitting this application.

Address _____

City _____ County _____ GA Zip _____

Temporary ballot mailing address

Only if you are **temporarily living** outside the county** and want your ballot sent to this address.

5

This address must be in a different county** than the one where you are registered unless you are physically disabled or detained in jail or other detention facility.

Address _____

City _____ State _____ Zip _____

Contact information

Recommended

6

Phone number _____ Email address _____

Voter identification

Required

Print carefully. This information will be used to verify your identity.

Failure to provide accurate information may delay processing your application.

You must provide your date of birth AND

- a Georgia Driver's License or Identification Card number

OR

- a copy of an acceptable identification from the list in the instructions.

Date of birth (mm/dd/yyyy) _____

AND

Georgia Driver's License Number or State Identification Card Number

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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OR

- ☐ I do not have a Georgia Driver's License or Identification Card and I am providing a copy of acceptable identification below.

Instructions:

- Make sure your identification on your ID card or document is visible.
- Take a photo of your full completed application and submit it electronically to your elections office* (addresses are online: elections.sos.ga.gov/Elections/countyregistrars.do). You may also submit a hard copy of your application via U.S. mail or in person to your elections office*.
- If your acceptable form of identification does not fit in this box, please attach a copy and submit it with your application.

Place identification here
if you did not provide a Georgia driver's license or ID number

Voter oath and signature

Required

Use a pen. No electronic signatures allowed.

8

I, the undersigned, do swear and affirm that I am eligible to vote in Georgia, am a citizen of the U.S. and the facts presented in this application are true. By signing this oath, you are swearing that you are the voter requesting an absentee ballot.

Signing this oath on behalf of another voter violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Voter, sign and date here (Required)

X

Date (mm/dd/yyyy) _____

If you received this application with your information pre-filled, received multiple or duplicate copies in the mail, or if an unauthorized person offers to return your absentee ballot application, please report this to reportfraud@sos.ga.gov.

Form continues ►

APP-21_V2

This is NOT an official government publication and was NOT provided to you by any governmental entity and this is NOT a ballot.

It is being distributed by: _____

Name and address of person, organization, or other entity distributing this document.



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

Print voter name

Required

9

Your name as it appears on your voter registration.

First _____ Middle _____ Last _____ Suffix _____

Assisting a voter?

If yes, the assistant must complete this section. **Voter assistance is only allowed if the voter is illiterate or physically disabled.**

10

By signing as assisting the voter, you are swearing under oath that the voter is entitled to assistance. Assisting a voter who is not eligible for assistance in completing this application violates Georgia law and is punishable by a fine up to \$100,000 or imprisonment for up to 10 years, or both.

Assistant's name _____

Assistant's signature

X

Date (mm/dd/yyyy) _____

Requesting a ballot on behalf of a voter?

If yes, complete this section. The voter must be physically disabled or temporarily residing out of the county** and must still be eligible to vote in the county** where he or she is registered.

11

I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and **acknowledge that making a false statement on this application regarding my relationship to the voter violates Georgia law and is punishable by a fine up to \$1,000, 12 months in jail, or both.**

I swear (or affirm) that the above-named voter is: (check one)

☐ physically disabled

☐ temporarily residing out of the county**

Signature of authorized and eligible requestor

X

Relationship to voter _____

Ballot request opt-in

Optional

If you meet the eligibility criteria, you may opt-in to receive an absentee ballot for the rest of the elections cycle without making another application.

12

☐ I opt-in to receive an absentee ballot for the rest of the election cycle.

I am eligible for the reason selected below:

☐ D- Disabled. I am physically disabled

☐ E- Elderly. I am 65 years of age or older

☐ U- UOCAVA. I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. (Complete the information to the right)

UOCAVA Voters only

My current status is (check one)

☐ MOS - Military Overseas

☐ MST - Military Stateside

☐ OST - Overseas Temporary Resident

☐ OSP - Overseas Permanent Resident (may vote for federal offices only)

(Optional) By entering my email, I request that my absentee ballot be transmitted to me electronically.

Email _____

Acceptable forms of identification if you do not have a Georgia Driver's License or State Identification Card Number

Identification with your photograph:

- United States Passport
- Georgia voter identification card
- Other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification
- United States military identification card
- Employee identification card issued by any branch, department, agency, or entity of the United States government, Georgia state government, or Georgia county, municipality, board, authority, or any other entity of the state of Georgia
- Tribal identification card

Documents that show your name and address:

- Current utility bill
- Bank statement
- Paycheck
- Government check
- Other government document

How to return your absentee ballot application

Absentee ballot applications must be received 11 days before the date of the election. You can return the form by:

- mail
- email (as an attachment)
- fax
- in-person at your elections or registrar's office

Your County Board of Registrar's Office information can be found online: <https://elections.sos.ga.gov/Elections/countyregistrars.do>

*In state, county, and federal elections, your elections office is your county elections office. In municipal elections, your elections office is your municipal elections office.

**Or, in municipal elections, municipality.

No person or entity other than the elector, a relative authorized to request an absentee ballot for such elector, a person signing as assisting an illiterate or physically disabled elector with his or her application, a common carrier charged with returning the ballot application, an absentee ballot clerk, a registrar, or a law enforcement officer in the course of an investigation shall handle or return an elector's completed absentee ballot application. **Handling a completed absentee ballot application by any person or entity other than as allowed in this paragraph is a misdemeanor.**

Ballot	Dates	ID Shown	For office use only
Dist. Combo _____	Received _____	GA DL _____	I certify that the above named voter <input type="checkbox"/> is eligible <input type="checkbox"/> is not eligible Registrar signature _____
Precinct _____	ISS _____	Other _____	
Ballot # _____	Certified _____	Voter Reg # _____	
	Rejected _____		
Ballot to be: <input type="checkbox"/> Mailed electronically <input type="checkbox"/> Delivered to voter in hospital by Registrars or Deputy <input type="checkbox"/> Voted in office (municipal only)			

This is NOT an official government publication and was NOT provided to you by any governmental entity and this is NOT a ballot. It is being distributed by: _____

Name and address of person, organization, or other entity distributing this document.

EXHIBIT B

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West's Georgia Administrative Code
Title 183. State Election Board
Subtitle 183-1. Georgia Election Code
Chapter 183-1-14. Absentee Voting

Ga Comp. R. & Regs. 183-1-14-.12

183-1-14-.12. Eligibility of Application for Absentee Ballot.

Currentness

(1) The application for an absentee ballot shall be in writing on the form made available by the Secretary of State and shall contain sufficient information for proper identification of the elector. To be deemed sufficient, an application for an absentee ballot must contain the elector's name, date of birth, address as registered, address where elector wishes the ballot to be mailed, the number of his or her driver's license or identification card issued pursuant to Article 5 of chapter 5 of Title 40 or other allowable identification, and the signature of the applicant.

(a) In the case of the elector making such application for an absentee ballot, the application shall contain the signature of such elector.

(b) In the case of a relative making an application on behalf of an elector pursuant to [O.C.G.A. § 21-2-381\(a\)\(1\)\(B\)](#), the application shall contain the signature of the elector's relative as well as the relationship of the relative to the elector.

(2) Web-based tools or applications that allow people who are otherwise eligible to request absentee ballots in Georgia (i.e., voters or eligible family members) by entering personal information into the web-based tool or application by the voter or eligible family member to partially complete the absentee ballot application described in section (1) of this rule are permitted. However, confidential voter information entered into these web-based tools or applications shall not be stored, sold, distributed by any entity or person, nor used for any commercial purposes. If a person gives express written consent, non-confidential voter information may be securely stored by the entity or person but shall not be sold or used by any entity or person for any commercial purposes.

(a) For the purposes of this rule, "confidential voter information" means any field contained in the absentee ballot application that is not made available for public inspection pursuant to applicable law, including but not limited to [O.C.G.A. § 21-2-225](#), including, but not limited to, (1) the driver's license or state identification card number and (2) the voter's month and day of birth.

(3) Any application for an absentee ballot sent to any voter by any person or entity (except applications sent by the election superintendent or registrar at the request of the elector) shall display the following disclaimer on the space provided on the application for such disclaimer:

"This is NOT an official government publication and was NOT provided to you by any government entity and this is NOT a ballot. It is being distributed by [insert name and address of person, organization, or other entity distributing such document or material]."

(a) The disclaimer required in section (a) of this rule shall be:

i. Sufficient font size to be clearly readable by the recipient of the communications.

1. A disclaimer in twelve (12)-point type satisfies the size requirement.

ii. Be contained in a printed box set apart from the other contents of the communications.

iii. Be printed with a reasonable degree of color contrast between the background and printed disclaimer.

1. A disclaimer satisfies the color contrast requirement if it is printed in white text on a black background or if the degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication.

Credits

Adopted Jan. 17, 2016. Amended Feb. 12, 2020; Oct. 12, 2021; Nov. 21, 2021.

Authority: [O.C.G.A. §§ 21-2-31, 21-2-381](#).

Current with amendments available through March 25, 2022. Some sections may be more current; see credits for details.

Ga Comp. R. & Regs. 183-1-14-.12, GA ADC 183-1-14-.12

End of Document

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EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

**DEFENDANTS' RESPONSES AND OBJECTIONS
TO PLAINTIFFS' FIRST REQUESTS FOR ADMISSIONS**

Pursuant to Federal Rule of Civil Procedure 36, Defendants Brad Raffensperger, Sara Ghazal, Matthew Mashburn, Edward Lindsey, and Janice Johnston hereby respond to Plaintiffs' First Requests for Admissions.

PRELIMINARY STATEMENTS

1. Defendants have responded to the Requests as they interpret and understand them. If Plaintiffs subsequently assert an interpretation of any Request that differs from Defendants' understanding, Defendants reserve the right to supplement or amend their objections and/or responses.

2. These Responses are based upon information currently known to Defendants and are provided without prejudice to Defendants' right to produce or rely on any subsequently discovered facts, contentions, or documents that Defendants may later learn of, recall, or discover. The Responses are based upon Defendants': (i) reasonable search of facilities and files that could reasonably be expected to contain responsive information; and (ii) inquiries of staff and/or representatives who could reasonably be expected to possess responsive information.

3. Defendants reserve the right to revise, amend, correct, supplement, modify or clarify their objections and responses in accordance with the Federal Rules of Civil Procedure.

4. Defendants' responses to these Requests are not an admission by Defendants either that any Request or any response thereto is relevant to, or admissible as evidence in, any trial or other proceeding. All objections as to privilege, immunity, relevance, authenticity or admissibility of any information or documents referred to in this document or produced in response to any Interrogatory are expressly reserved.

OBJECTIONS TO DEFINITIONS

1. Defendants object to Definition 1 because it includes attorneys for Defendants. Plaintiffs cannot, through that definition, impose an obligation

on Defendants to disclose information protected by the attorney-client privilege and/or the attorney work product doctrine.

RESPONSES TO REQUESTS FOR ADMISSIONS

1. Under Ga. Comp. R. & Regs. 183-1-14-.12(2), the Prefilling Prohibition does not apply to online absentee ballot application tools which allow a voter or eligible family member to prefill the Absentee Ballot Application, including but not limited to the model used by Plaintiff VoteAmerica as described in 19 of Plaintiffs' Complaint.

RESPONSE: Defendants object to this Request as it fails to define its key terms sufficiently, including “absentee ballot application tools” and “the model used.” Defendants further object to this Request because it seeks a pure legal conclusion, which is improper for a request for admission. *See Perez v. Aircom Mgmt. Corp.*, 2013 WL 45895, at *2 (S.D. Fla. 2013) (finding request for admission that required a defendant to admit that a particular labor law applied to its business “improperly seeks admissions of pure legal conclusions”); *Disability Rts. Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) (finding that a request for admission that stated: “[a]dmit that in Maryland, D.C. and Virginia, any otherwise qualified voter who is a qualified person with a disability is entitled to vote by absentee ballot” required a pure legal conclusion and did not require any application of law to facts.”).

2. The Mailing List Restriction only applies to physical mailings by the United States Postal Service or other postal carrier and does not apply to electronic mail.

RESPONSE: Defendants object to this Request because it seeks a pure legal conclusion, which is improper for a request for admission. *See Perez v. Aircom Mgmt. Corp.*, 2013 WL 45895, at *2 (S.D. Fla. 2013) (finding request for admission that required a defendant to admit that a particular labor law applied to its business “improperly seeks admissions of pure legal conclusions”); *Disability Rts. Council v. Wash. Metro. Area*, 234 F.R.D. 1, 3 (D.D.C. 2006) (finding that a request for admission that stated: “[a]dmit that in Maryland, D.C. and Virginia, any otherwise qualified voter who is a qualified person with a disability is entitled to vote by absentee ballot” required a pure legal conclusion and did not require any application of law to facts.”).

April 18, 2022

Respectfully submitted,

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene McGowan
Assistant Attorney General
Georgia Bar No. 697316
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Gene C. Schaerr

Gene C. Schaerr*

Special Assistant Attorney General

Erik Jaffe*

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Taylor English Duma LLP

1600 Parkwood Circle

Suite 200

Atlanta, Georgia 30339

(678) 336-7249

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2022, the foregoing were served by electronic mail on all counsel of record.

/s/ Gene C. Schaerr
Gene C. Schaerr
Counsel for Defendants

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EXHIBIT D

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The Augusta Chronicle

NEWS

Augusta Commission election mailer flagged for Georgia Secretary of State review

Susan McCord Augusta Chronicle

Published 5:00 a.m. ET March 30, 2022 | Updated 6:13 a.m. ET March 30, 2022

An Augusta Commission election is testing the boundaries of new state laws about absentee ballots.

In the District 4 commission contest between Betty Reece and interim Commissioner Alvin Mason, Reece's campaign recently mailed absentee ballot applications to nearly all District 4 voters. In an effort to comply with new state laws, the applications – not ballots – were mailed in envelopes marked on the front as containing the application and, on both sides, urging voters to elect Betty Reece.

One of the parties behind the mailer was former Augusta commissioner Moses Todd, who managed Reece's District 4 campaign in 2018. Reece lost by 43 votes to Sammie Sias, who is now under federal indictment.

"It was a brilliant campaign strategy. We looked at the law, we looked at the application, and we did it by the spirit of the law," Todd said.

Todd said the mailer adheres to the new requirements of Senate Bill 202, known as the "Election Integrity Act of 2021" as best the campaign could ascertain. Among the bill's sweeping changes is a requirement that ballot applications sent by a third party be clearly marked with the sender's name and a message saying the application is not a ballot or an official government publication.

More: 'Elected officials want to choose the voters': Augusta-area pastors condemn election bill

More: 15 seeking five open Augusta Commission seats

Missing from new state ballot applications, which now require a driver's license or state ID number, is space for information about the sender and that it was not a ballot, Todd said.

"There's nowhere on the application to put the disclaimer, so we put the disclaimer on the envelope," Todd said.

Reached for comment, Mason said he had "no knowledge" of anyone raising concerns about the Reece mailer, but declined to say more, citing the lack of information.

Someone informally complained about the mailer, however, and a copy has been sent to the Georgia Secretary of State's Office for review, said Travis Doss, executive director for Richmond County Board of Elections.

A spokesman for the state office said late Tuesday it is "in the preliminary stages of initiating an investigation" into the matter.

Doss said the issue of third-party applications is probably coming up statewide because the Office of the Georgia Secretary of State recently issued guidance about how to handle them.

"It stated that if we receive any applications, we are to process them as normal, but to notify the Secretary of State," he said. "We will continue to process them, so as to not disenfranchise the voter in any way."

Doss said the law was clear on the disclaimer requirement but on Reece's adaptation, not so much.

"If someone other than the elections office or the Secretary of State mails out absentee ballot applications, there is supposed to be a disclaimer on the absentee ballot application," he said.

More: Protest calls for corporations to end Masters ties in stand against change to Georgia voting rights

More: "This is a moment of patriotism": Georgia electoral college meets, seals Biden, Harris win in state

Senate Bill 202 imposed widespread changes to numerous aspects of voting. The GOP-driven changes followed Georgia's turn to blue in 2020, when the use of absentee ballots was widely viewed as a safer alternative to voting in person during the COVID-19 pandemic.

Georgia offers voting by mail for any reason to registered voters who submit an application. Applicants must reapply for an absentee ballot each election cycle unless they are over 65,

disabled or in the military.

The deadline to apply for an absentee ballot to vote in May 24 elections is May 13. The deadline to register to vote is April 25.

Online: Download a Georgia absentee ballot application

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EXHIBIT E

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

**DEFENDANTS' RESPONSES AND OBJECTIONS
TO PLAINTIFFS' FIRST INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33, Defendants Brad Raffensperger, Sara Ghazal, Matthew Mashburn, Edward Lindsey, and Janice Johnston hereby respond to Plaintiffs' First Interrogatories.

PRELIMINARY STATEMENTS

1. Defendants have responded to the Interrogatories as they interpret and understand them. If Plaintiffs subsequently assert an interpretation of any Interrogatory that differs from Defendants'

understanding, Defendants reserve the right to supplement or amend their objections and/or responses.

2. The Responses are based upon information currently known to Defendants and are provided without prejudice to Defendants' right to produce or rely on any subsequently discovered facts, contentions, or documents that Defendants may later learn of, recall, or discover. The Responses are based upon Defendants': (i) reasonable search of facilities and files that could reasonably be expected to contain responsive information; and (ii) inquiries of staff and/or representatives who could reasonably be expected to possess responsive information.

3. Defendants reserve the right to continue and complete their investigation and discovery of the facts, and to rely at trial or in other proceedings on documents and information in addition to the information provided herein, regardless of whether such information is newly discovered or newly in existence. Defendants are not withholding any information except as discussed below.

4. Defendants reserve the right to revise, amend, correct, supplement, modify or clarify their objections and responses in accordance with the Federal Rules of Civil Procedure.

5. Defendants' responses to these Interrogatories are not an admission by Defendants either that any Interrogatory or any response thereto

is relevant to, or admissible as evidence in, any trial or other proceeding. All objections as to privilege, immunity, relevance, authenticity or admissibility of any information or documents referred to in this document or produced in response to any Interrogatory are expressly reserved.

OBJECTIONS TO DEFINITIONS

1. Defendants object to Definition 1 because it includes attorneys for Defendants. Plaintiffs cannot, through that definition, impose an obligation on Defendants to disclose information protected by the attorney-client privilege and/or the attorney work product doctrine.

2. Defendants object to Definition 13 as overbroad, unduly burdensome, and vague as it purports to include any entity that “ha[s] or had an interest in the passage of SB 202.” Defendants are unable to identify every such entity that may have had an interest in SB 202.

RESPONSES TO INTERROGATORIES

1. Identify each person who has knowledge, or claims to have knowledge, of the facts supporting your defenses, or that support or contradict the claims of the Plaintiffs. For each person identified, please state the subject matter of their knowledge.

RESPONSE: Defendants object to this Interrogatory as over broad and unduly burdensome, as it fails to include any reasonable limitations. Rather, it purports to seek the identity of *any* person who may have knowledge about the identified topics. Subject to and without waiving the foregoing objection,

Defendants respond that the following individuals have knowledge of the facts supporting Defendants' defenses:

- Matthew Mashburn, Member, Georgia State Election Board ("SEB"). Mr. Mashburn has knowledge about SEB's operations, activities, and responsibilities. As a member of the SEB in 2020, Mr. Mashburn was involved in the response to the COVID-19 pandemic, and has knowledge about how elections were conducted during the pandemic.
- Chris Harvey, former Elections Director, Office of the Secretary of State. Mr. Harvey has knowledge about the administration of the 2020 election, election officials' response to the COVID-19 pandemic and the difficulties administering an election in the pandemic, and complaints received by the Georgia Office of the Secretary of State.
- Gabriel Sterling, Chief Operating Officer, Office of the Secretary of State. Mr. Sterling has knowledge about voter complaints received during the 2020 election, administration of the 2020 election, election officials' response to the COVID-19 pandemic, implementation of SB 202, and general implementation of election systems.

- Frances Watson, former Chief of the Investigations Division of the Georgia Secretary of State. Ms. Watson has knowledge of elections-related complaints received by the Secretary of State's office on various issues involving unsolicited absentee ballot applications, absentee ballot fraud, and other complaints.
- James Callaway, Chief of the Investigations Division of the Georgia Secretary of State. Mr. Callaway has knowledge of elections-related complaints received by the Secretary of State's office on various issues involving unsolicited absentee ballot applications, absentee ballot fraud, and other complaints.
- Ryan Germany, General Counsel, Office of the Secretary of State. Mr. Germany has knowledge of the Secretary of State's implementation of the new provisions of SB 202 and complaints that the Secretary of State's office received from voters.
- Blake Evans, Elections Director for the Georgia Secretary of State. Mr. Evans has knowledge of the Secretary of State's implementation of the new provisions of SB 202; guidance and training provided by the Secretary of State's office to county elections officials; and absentee ballot files.

2. Identify each and every governmental interest that You contend is advanced by the Disclaimer Provision and each fact and each document supporting Your claim that the Disclaimer Provision advances that interest.

RESPONSE: Defendants object to this Interrogatory as its requests for information about “each and every governmental interest,” “each fact,” and “each document” are overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving those objections, Defendants respond that the Disclaimer Provision promotes the following interests: improving election procedures; addressing the state’s own management of voter rolls; safeguarding voter confidence; reducing voter confusion; and running an efficient and orderly election. *See Greater Birmingham Min. v. Sec’y of State for Ala.*, 992 F.3d 1299, 1319 (11th Cir. 2021) (*GBM*); *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020) (*NGP*); *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 191 (2008) (controlling opinion).

Those interests are evident from the preamble to SB 202. Additionally, those interests are evident from the complaints that the State frequently receives from voters confused by absentee ballot applications they have

received. In many such complaints, voters express confusion about absentee ballot applications received from third parties, as the voters state that they are unclear whether the applications are being sent from the State and whether the voters are obligated to do anything with the applications they receive.

3. Identify each and every governmental interest that You contend is advanced by the Prefilling Prohibition and each fact and each document supporting Your claim that the Prefilling Prohibition advances that interest.

RESPONSE: Defendants object to this Interrogatory as its requests for information about “each and every governmental interest,” “each fact,” and “each document” are overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving those objections, Defendants respond that the Prefilling Provision promotes the following interests: stopping fraud, abuse, manipulation, and exploitation of voters; protecting voters’ private information; improving election procedures; addressing the state’s own management of voter rolls; safeguarding voter confidence; reducing voter confusion; and running an efficient and orderly election. *See GBM*, 992 F.3d at 1319; *NGP*, 976 F.3d at 1282; *see also Crawford*, 553 U.S. at 191.

Those interests are evident from the preamble to SB 202. Additionally, those interests are evident from the complaints that the State received from voters who had received prefilled applications with incorrect information or with information for individuals who no longer reside at the address. These concerns led to voter confusions and increased concerns about voter fraud.

4. Identify each and every governmental interest that You contend is advanced by the Mailing List Restriction and each fact and each document supporting Your claim that the Mailing List Restriction advances that interest.

RESPONSE: Defendants object to this Interrogatory as its requests for information about “each and every governmental interest,” “each fact,” and “each document” are overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving those objections, Defendants respond that the Anti-Duplication Provision promotes the following interests: safeguarding election integrity; reducing voter confusion; increasing voter confidence; improving election procedures; addressing the state’s own management of voter rolls; and running an efficient and orderly election. *See*

GBM, 992 F.3d at 1319; *NGP*, 976 F.3d at 1282; *see also Crawford*, 553 U.S. at 191.

Those interests are evident from the preamble to SB 202. Additionally, those interests are evident from the many complaints that the State received from voters who had received multiple ballot applications, including applications received after voters returned their absentee ballots, which led many voters to be confused about whether their initial applications and/or ballots had been received.

5. Identify each person in Your office that was involved in any way in the development of SB 202 or any of its predecessor bills, including but not limited to drafting language, gathering data, providing input to any state official (including the Governor, members of the General Assembly or their staffs) or third parties (including the Defendant-Intervenors), and soliciting, receiving, and communicating the views of stakeholders. For each person identified, describe in detail the nature of work performed by each person.

RESPONSE: Defendants object to this Interrogatory as overbroad, vague, and confusing as it fails define its key terms, including “SB 202 or any of its predecessor bills,” “development,” “drafting language,” “gathering data,” “providing input,” and “soliciting ... the views of stakeholders.” Defendants further object to this Interrogatory because it is overbroad, unduly burdensome, and excessive in scope in that its request for information about “each person” who was “involved in any way” would require Defendants to conduct an investigation not proportional to the needs of this case. Defendants

also object to this Interrogatory as improperly compound because it includes multiple discrete subparts.

Subject to and without waiving these objections, Defendants respond that Ryan Germany drafted language and conferred with legislators about SB 202's provisions, and the Elections Division of the Secretary of State's office provided data regarding early and absentee voting.

6. Identify each state official or state employee (including the Governor, members of the General Assembly, and their staffs) that You communicated with regarding SB 202 or any of its predecessor bills, including but not limited to communications in support of or against the Ballot Application Restrictions, communications regarding the language and text of the Ballot Application Restrictions, or communications regarding the views of stakeholders. For each person identified, describe in detail the nature of work performed by each person.

RESPONSE: Defendants object to this Interrogatory as its requests for information about "each state official or state employee" with whom any Defendant or agent of Defendant communicated about the listed topics are overbroad, unduly burdensome, and vague. Defendants also object to this Interrogatory as improperly compound because it includes multiple discrete subparts. Defendants further object to this Interrogatory as "Ballot Application Restrictions" is not an accurate characterization of SB 202.

Subject to and without waiving these objections, Defendants respond that representative of the Secretary of State's office communicated with Barry Fleming, various members of the House Special Committee on Election

Integrity, Mike Dugan, Max Burns, and members of the Senate Ethics Committee. These individuals were involved in developing SB 202 and various legislative updates that were necessary to safeguard election integrity, reduce voter confusion, increase voter confidence, improve election procedures, address the state's own management of voter rolls, and run an efficient and orderly election.

7. For the 2021 election cycle, Identify and Describe each and every request by any member of the public or any organization to the Secretary of State for the list of voters who requested an absentee ballot for every election in the 2021 election cycle.

RESPONSE: Defendants object to this Interrogatory as its requests for information about “each and every request” submitted by “any member of the public” or by “any organization” about the identified topic are overbroad, unduly burdensome, and vague.

Subject to and without waiving these objections, Defendants respond that the State provides this information to the general public on the Internet, and thus has no way to know who accesses the data.

8. Since July 1, 2021, Identify and Describe each and every instance in which the Secretary of State “made available” information about “which electors have requested, been issued, or voted an absentee ballot” within the meaning of the Mailing List Restriction.

RESPONSE: Defendants object to this Interrogatory as its requests for information about “each and every instance” are overbroad, unduly burdensome, and vague.

Subject to and without waiving these objections, Defendants respond that the State posts an absentee voter file online each day during elections.

9. For the 2018 election cycle, 2019 election cycle, 2020 election cycle, and 2021 election cycle, Identify and Describe each and every complaint received by the Your office regarding a duplicate Absentee Ballot Application, including but not limited to communications between You and county election officials, communications between You and any voter, and communications between You and any member of the public.

RESPONSE: Defendants object to this Interrogatory as its request for “each and every complaint” received by any Defendant or agent of Defendant is overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory as its request for details on every communication between any Defendant or agent and *any* county official, voter, or member of the public is overbroad, unduly burdensome, and vague. Additionally, Defendants object to this Interrogatory as overbroad, vague, and confusing as it fails define its key term “complaints.” Defendants also object to this interrogatory on the basis it requests information that is protected by the active investigation privilege, requests legal conclusions, and/or seeks the mental impressions of counsel. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving the foregoing objections, Defendants refer the Plaintiffs to their document production, which will include copies of the complaints responsive to this Interrogatory that were received from voters about absentee ballot applications. Defendants further respond that, in addition to the complaints received by e-mail, the Secretary of State's Office received similar complaints by phone, where voters expressed confusion about why they received multiple absentee ballot applications, why they received absentee ballot applications prefilled with incorrect information, why they received absentee ballot applications prefilled with information for individuals who did not reside at the address, and, more generally, questions about whether the absentee ballot application was sent by the State and required any action on the voter's part.

10. For the 2018 election cycle, 2019 election cycle, 2020 election cycle, and 2021 election cycle, identify and describe each and every complaint received by the Your office regarding erroneous Absentee Ballot Applications, including but not limited to communications between You and county election officials, communications between You and any voter, and communications between You and any member of the public.

RESPONSE: Defendants object to this Interrogatory as its request for "each and every complaint" received by any Defendant or agent of Defendant is overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory as its request for details on every communication between any Defendant or agent and *any* county official, voter, or member of the public is

overbroad, unduly burdensome, and vague. Additionally, Defendants object to this Interrogatory as overbroad, vague, and confusing as it fails define its key terms “complaints” and “erroneous.” Defendants also object to this interrogatory on the basis it requests information that is protected by the active investigation privilege, requests legal conclusions, and/or seeks the mental impressions of counsel. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving the foregoing objections, Defendants refer the Plaintiffs to their document production, which will include copies of the complaints responsive to this Interrogatory that were received about absentee ballot applications. Defendants further respond that, in addition to the complaints received by e-mail, the Secretary of State’s Office received similar complaints by phone, where voters expressed confusion about why they received multiple absentee ballot applications, why they received absentee ballot applications prefilled with incorrect information, why they received absentee ballot applications prefilled with information for individuals who did not reside at the address, and, more generally, questions about whether the

absentee ballot application was sent by the State and required any action on the voter's part.

11. For the 2018 election cycle, 2019 election cycle, 2020 election cycle, and 2021 election cycle, Identify and Describe each and every complaint received by Your office regarding prefilled Absentee Ballot Applications, including but not limited to communications between You and county election officials, communications between You and any voter, and communications between You and any member of the public.

RESPONSE: Defendants object to this Interrogatory as its request for “each and every complaint” received by any Defendant or agent of Defendant is overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory as its request for details on every communication between any Defendant or agent and *any* county official, voter, or member of the public is overbroad, unduly burdensome, and vague. Additionally, Defendants object to this Interrogatory as overbroad, vague, and confusing as it fails define its key term “complaints.” Defendants also object to this interrogatory on the basis it requests information that is protected by the active investigation privilege, requests legal conclusions, and/or seeks the mental impressions of counsel. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving the foregoing objections, Defendants refer the Plaintiffs to their document production, which will include copies of the complaints responsive to this Interrogatory that were received about absentee ballot applications. Defendants further respond that, in addition to the complaints received by e-mail, the Secretary of State's Office received similar complaints by phone, where voters expressed confusion about why they received multiple absentee ballot applications, why they received absentee ballot applications prefilled with incorrect information, why they received absentee ballot applications prefilled with information for individuals who did not reside at the address, and, more generally, questions about whether the absentee ballot application was sent by the State and required any action on the voter's part.

12. For the 2018 election cycle, 2019 election cycle, 2020 election cycle, and 2021 election cycle, identify and describe each and every complaint received by Your office regarding Absentee Ballot Applications sent by third parties, including but not limited to communications between You and county election officials, communications between You and any voter, and communications between You and any member of the public.

RESPONSE: Defendants object to this Interrogatory as its request for "each and every complaint" received by any Defendant or agent of Defendant is overbroad, unduly burdensome, and vague. Defendants further object to this Interrogatory as its request for details on every communication between any Defendant or agent and *any* county official, voter, or member of the public is

overbroad, unduly burdensome, and vague. Additionally, Defendants object to this Interrogatory as overbroad, vague, and confusing as it fails define its key term “complaints.” Defendants also object to this interrogatory on the basis it requests information that is protected by the active investigation privilege, requests legal conclusions, and/or seeks the mental impressions of counsel. Defendants further object to this Interrogatory on the basis that it is overbroad, unduly burdensome, and excessive in scope in that it would require Defendants to conduct an investigation not proportional to the needs of this case insofar as it requests Defendants summarize Electronically Stored Information that will be produced in response to Plaintiffs’ document requests.

Subject to and without waiving the foregoing objections, Defendants refer the Plaintiffs to their document production, which will include copies of the complaints responsive to this Interrogatory that were received about absentee ballot applications. Defendants further respond that, in addition to the complaints received by e-mail, the Secretary of State’s Office received similar complaints by phone, where voters expressed confusion about why they received multiple absentee ballot applications, why they received absentee ballot applications prefilled with incorrect information, why they received absentee ballot applications prefilled with information for individuals who did not reside at the address, and, more generally, questions about whether the

absentee ballot application was sent by the State and required any action on the voter's part.

April 18, 2022

As to objections,

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

Civil Action No.:
1:21-CV-01390-JPB

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


Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

VERIFICATION FOR INTERROGATORY RESPONSES

Pursuant to 28 U.S.C. § 1746, the below signatory declares under penalty of perjury that the statements contained within **DEFENDANTS' RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST INTERROGATORIES** dated April 18, 2022, were prepared with the assistance and advice of counsel and the assistance of employees of the Secretary of State's office, upon which he has relied; and are true and correct to the best of his knowledge, information, and belief.


C. Ryan Germany
Office of the Georgia Secretary of State

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2022, the foregoing were served by electronic mail on all counsel of record.

/s/ Gene C. Schaerr
Gene C. Schaerr
Counsel for Defendants

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Georgia
Secretary of State
Brad Raffensperger



[Home](#) > [News & Announcements](#) > 3rd Strike Against Voter Fraud Claims Means They're Out After Signature Audit Finds No Fraud

December 29th, 2020

(Atlanta) -- After a hand recount and a subsequent machine recount requested by the Trump campaign, a signature audit has again affirmed the original outcome of the November 2020 presidential race in Georgia. A signature match audit in Cobb County found “no fraudulent absentee ballots” and found that the Cobb County Elections Department had “a 99.99% accuracy rate in performing correct signature verification procedures.”

“The Secretary of State’s office has always been focused on calling balls and strikes in elections and, in this case, three strikes against the voter fraud claims and they’re out,” said Secretary of State Brad Raffensperger. “We conducted a statewide hand recount that reaffirmed the initial tally, and a machine recount at the request of the Trump campaign that also reaffirmed the original tally. This audit disproves the only credible allegations the Trump campaign had against the strength of Georgia’s signature match processes.”

On December 14, 2020, Secretary Raffensperger announced a signature match audit in Cobb County following credible allegations that the process was not followed in the June primaries. The Secretary of State’s Office partnered with the Georgia Bureau of Investigation (GBI) to conduct the audit. Of the 150,431 absentee ballots received by Cobb County elections officials during the November elections, the audit “reviewed 15,118 ABM ballot oath envelopes from randomly selected boxes,” or around 10% of the total. The sample size was originally chosen to meet the 99% confidence threshold.

The audit found “no fraudulent absentee ballots” with a 99% confidence threshold. The audit found that only two ballots should have been identified by Cobb County Elections Officials for cure notification that weren’t. In one case, the ballot was “mistakenly signed by the elector’s spouse,” and in the other, the voter “reported signing the front of the envelope only.” In both cases, the identified voters filled out the ballots themselves.

The absentee ballot envelopes for the audit were “pulled from 30 randomly selected boxes of the accepted ABM ballots and one box identified as accepted Electronic Ballot Delivery ABM ballots.” Each of the boxes that held the ballots were previously “secured in boxes by the Cobb County Elections Department” and were selected by a random number generator.

To conduct the audit, Law Enforcement Officers (LEOs), from GBI and SOS were instructed to “analyze and compare the known signatures, markings, and identifying information of the elector as stored in databases with the signature, and identifying information on the elector’s ABM ballot oath envelope.” They looked for “five characteristics and unique qualities ... individual attributes of the signature, mark, or identifying information” to “make a judgment of the validity of the signature on each envelope based on the totality of the documents.”

TOP



Georgia
Secretary of State
Brad Raffensperger



In cases where additional review was necessary, if no signature was on the ballot, or if additional identification documents were not available, the absentee ballots were given to the investigation teams to track down more information.

The inspection teams submitted 396 envelopes to the investigation teams for comparison with additional documents or follow-up with the elector." 386 of those were accepted as valid. The remaining ten were referred for additional investigation. "All ten electors were located, positively identified, and interviewed."

The LEOs used the Cobb County Elections Database which included signature information from voter registration forms, absentee ballot applications, voter certificates, passports, certificates of naturalization, in addition to other documents.

The full report is available
[here](#)

:

<https://sos.ga.gov/admin/uploads/Cobb%20County%20ABM%20Audit%20Report%2020201229.pdf>

Georgia is recognized as a national leader in elections. It was the first state in the country to implement the trifecta of automatic voter registration, at least 16 days of early voting (which has been called the "gold standard"), and no-excuse absentee voting. Georgia continues to set records for voter turnout and election participation, seeing the largest increase in average turnout of any other state in the 2018 midterm election and record turnout in 2020, with over 1.3 million absentee by mail voters and over 3.6 million in-person voters utilizing Georgia's new, secure, paper ballot voting system.

###

More News & Announcements

[Secretary Raffensperger Refers 1,600 Noncitizen Registrants to Local DAs, GBI, State Election Board](#)

[Citizenship Audit Finds 1,634 Non-citizens Attempted to Register to Vote](#)

[Secretary Raffensperger States Georgia's State Redistricting Victory](#)

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Georgia
Secretary of State
Brad Raffensperger



Secretary Raffensperger Calls on J. Alex Halderman to Agree to Release "Secret Report" and Pre-Election Testimony

[View All](#)

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Georgia
Secretary of State
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Op-Ed: Regulation Of Title Fee R Rigorous

Did you know that title insurance is a highly regulated product? Learn how its regulatory structure protects consumers.

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STATE WATCH

Georgia secretary of state withholds support for 'reactionary' GOP voting bills

BY ARIS FOLLEY - 02/24/21 6:53 PM ET

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Georgia Secretary of State Brad Raffensperger (R) is withholding support for numerous voting measures filed by Republican state lawmakers in recent weeks as his office reviews the legislation.

“Once we see something that prioritizes the security and accessibility of elections, we’ll throw in support,” Raffensperger tweeted on Wednesday. He added that many of the bills, which would directly impact state elections, are “reactionary to a three month disinformation campaign” that he said could have been prevented.

We are reviewing bills. Once we see something that prioritizes the security and accessibility of elections, we’ll throw in support. At the end of the day, many of these bills are reactionary to a three month disinformation campaign that could have been prevented. pic.twitter.com/Hcill3AsKP

— GA Secretary of State Brad Raffensperger (@GaSecofState) February 24, 2021

Over the past month, Republicans in the state legislature have filed, and advanced in some cases, election-related bills that critics say will make it tougher to vote in the Peach State.

Republicans in Georgia have said the voting measures are designed to boost confidence in election security, though Democrats and voting rights advocates have said they’re more in response to GOP losses both in the presidential election and the Senate runoffs in January.

A number of the Republican measures would place restrictions on absentee voting after the state saw record high numbers of absentee ballots in the November general election.

One bill, passed earlier this week by the GOP-controlled state Senate, would require voters to submit a driver’s license number, state identification card

A measure advanced last week by a state Senate subcommittee in a party-line vote would require voters to provide a reason for voting absentee. Georgians have previously been able to vote absentee without needing to provide a reason since the practice was approved nearly two decades ago by a GOP-led legislature, according to The Associated Press.

While Raffensperger hasn't voiced support for the new absentee measure, in December he pushed for the end of no-excuse absentee voting, saying it opens "the door to potential illegal voting," the AP reported. His office also said in a press release then that the practice overwhelmed county elections officials who run absentee ballot voting.

Shortly after President Biden won the traditionally red state in November, Raffensperger came under criticism from then-President Trump, who repeatedly made unsubstantiated claims of a stolen election in multiple states.

Trump later pressured Raffensperger on a call to "find" the "11,780 votes" needed to reverse his defeat in the state.

Other proposals that have been introduced by Georgia Republicans in the past few weeks include measures that would place limitations on early voting, seek to do away with automatic voter registration and eliminate the use of drop boxes for returning absentee ballots.

—Updated Thursday at 3:02 p.m.

TAGS ABSENTEE BALLOTS ABSENTEE VOTING BRAD RAFFENSPERGER DONALD TRUMP ELECTION SECURITY ELECTIONS GEORGIA JOE BIDEN VOTING VOTING RIGHTS

The Hill has removed its comment section, as there are many other forums for readers to participate in the conversation. We invite you to join the discussion on Facebook and Twitter.

EXHIBIT H

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https://www.gwinnettdaily.com/local/gwinnett-elections-boards-new-chairwoman-wants-limits-on-no-excuse-absentee-voting-voter-roll-review/article_7df1c274-5715-11eb-a31d-dfa23b30ec62.html

FEATURED POPULAR URGENT

Gwinnett elections board's new chairwoman wants limits on no-excuse absentee voting, voter roll review

By Curt Yeomans curt.yeomans@gwinnettdaily.com
Jan 16, 2021



Alice O'Lenick
Photo: Jonathan Richards

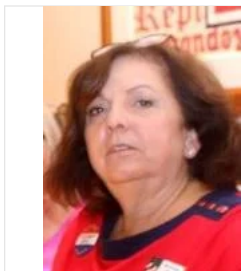
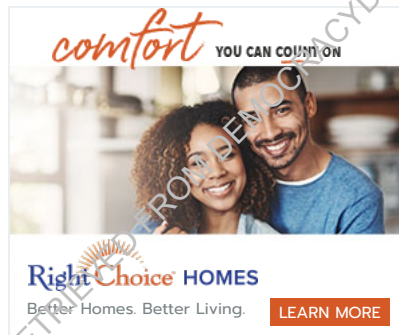
One of the Gwinnett County Republican Party's two representatives on the bipartisan county elections board told fellow members of the GOP that she favors major elections changes at the local and state levels, including a move away from no excuse absentee voting for many Georgians.

Alice O'Lenick, who is the Gwinnett Board of Registrations and Elections chairwoman for 2021 and 2022, encouraged members of her party to write letters and make phone calls to state legislators to encourage them to make changes to state elections laws.

Republicans in Georgia, including members of the state legislature, have been calling for changes after experiencing losses in the 2020 election cycle. In that cycle, the Democratic Party had big wins in the state in the presidential, 7th Congressional District and both U.S. Senate races.



IN CASE YOU MISSED IT:
Top Gwinnett County stories
from Jan. 11-17



Gwinnett Elections
Chairwoman Alice O'Lenick
faces backlash over
elections comments, resists
calls to resign

"I was on a Zoom call the other day and I said, 'I'm like a dog with a bone. I will not let them end this session without changing some of these laws,' " O'Lenick said. "They don't have to change all of them, but they've got to change the major parts of them so that we at least have a shot at winning."

O'Lenick — who referred to 2020 as a "terrible elections cycle" during the GOP meeting — outlined several changes pertaining to elections that she would like to see made in Georgia. Several of them pertain to how Georgians can cast ballots ahead of election day.

One of them is having the state require up to 21 days of early voting — officially called advance-in-person voting — with one mandatory Saturday voting day and one mandatory Sunday voting day. County elections officials should be free to set their own hours on the Sunday voting, she said.

Two even bigger changes would center around absentee voting in Georgia, however.



Gwinnett Elections Board Chairwoman Alice O'Lenick under fire again for Facebook comment on early voting

One would be a partial rollback of no excuse absentee-by-mail voting. Georgia has had no excuse absentee voting for more than a decade and its popularity exploded in 2020 as officials at the Georgia Secretary of State's office pushed it as a safe alternative for voters who were concerned about waiting in line to vote amid the COVID-19 pandemic.

O'Lenick suggested only certain population groups should be allowed to ask for an absentee ballot without giving a reason for the request.

"The absentee-by-mail, you exclude the elderly and infirm (from needing an excuse), and everyone else would have to have an excuse," she said. "We took out a few years ago absentee-by-mail for cause, so you don't have to say a cause. You just say, 'It's not convenient. I'm just not going to go (on election day).'"

The other change related to absentee ballots that O'Lenick is advocating would entail banning absentee ballot drop boxes, which was a new option introduced in 2020 in response to the COVID-19 pandemic.

"The ballot drop boxes have to go," she said. "I've had an attorney on Jan. 5 that was sent by the (Republican National Committee), two of them, that stood outside Gwinnett (election) headquarters and all they did was photograph people dropping absentee ballots in that box that's right, as you're looking at the office, to the left of the front door.

"They did not see one person that was dropping in one ballot at a time, and they came to me and said, 'Alice, why in the world do you have this here?' And, I said, 'Well, A, I didn't put it there (and), B, I complained about it.'"

At the local level, where her role as elections board chairwoman gives her greater influence, O'Lenick said she wants to take a look at Gwinnett County's voter registration rolls.

"As chairman, I am going to push that Gwinnett County update the voter registration rolls to make sure that people who live out of the state are no longer on the Gwinnett County rolls," O'Lenick said. "We don't seem to have a lot of dead people on our rolls, but we're going to check that out too.

"We're also going to check out whether people are legal or not. We did have in our provisional ballots — normally we have anywhere from two to five people who are non-citizens that think because they have a driver's license then they

can come and vote. This time around, for the senatorial races, we had much more than that.”

O’Lenick also wants the legislature to address voter rolls as well.

“We need to make sure that we put pressure on our elected officials, both in the state House and the state Senate, that election laws will be changed,” she said.

“I have offered my opinions. My No. 1 is the rolls. We have to make sure only people who live in Gwinnett County or live in Georgia are on the voter registration rolls.”

The county’s elections board is made up of two representatives of the Gwinnett county Republican Party and two representatives of the Gwinnett County Democratic Party as well as a fifth member who is chosen by the rest of the board. It is set to hold its next meeting at 6 p.m. on Tuesday at gwinnettgov.webex.com/gwinnettgov/onstage/g.php?MTID=ed57454b04ae94345c65d29ef42571087.

Curt Yeomans

I'm a Crawford Long baby who grew up in Marietta and eventually wandered to the University of Southern Mississippi for college. Earned a BA in journalism (double minor in political science and history). Previously worked in Florida and Clayton County.

EXHIBIT I

RETRIEVED FROM DEMOCRACYDOCKET.COM

Georgia's GOP House Speaker says vote-by-mail system would be 'devastating to Republicans'

Georgia state House Speaker David Ralston (R) is coming out against a recent effort taken by Georgia Secretary of State Brad Raffensperger (R) to mail absentee ballot request forms to all voters in the state amid the coronavirus pandemic, saying the move could be "devastating" for Republican candidates.

Last week, Raffensperger [announced the state](#) would be mailing absentee ballot request forms to its nearly 7 million voters "in an effort to allow as many Georgia voters as possible to exercise their right to vote without leaving their homes."

The move came a week after the state postponed its presidential primary from March 24 until May 19, as officials nationwide have urged the public to stay indoors as much as possible and to avoid large gatherings in a bid to mitigate the spread of COVID-19.

During [an interview](#) released on Wednesday, Ralston was asked about concerns he had regarding Raffensperger's move.

"Could it jeopardize Republican control the House and Senate in the state? Could it jeopardize, you know, other races up and down the ballot in 2020?" FetchYourNews host BKP asked the state leader.

Ralston said one of his main problems with the mass-scale voting effort was the possibility of fraud. He also pointed to concerns he thinks voters may have about "breaches of security systems and data systems."

"And then another concern," Ralston said, "and this comes under the category of you can't ever do too much, because now I read that, you know, members of these groups are not just [concerned] with voting by mail but they want the state to give them a stamp."

According to [The Atlanta Journal Constitution](#), local Democrats have called on the government to cover the cost for postage to help some of those voting by mail.

"So, here, you know, the process keeps going up and up and up and so a multitude of reasons why vote by mail in my view is not acceptable," Ralston went on, before adding "the president said it best, this will be extremely devastating to Republicans and conservatives in Georgia."

Ralston was referring to comments Trump made [earlier this week](#) about the vote-by-mail proposal that was included in the original House version of the coronavirus relief legislation that was backed by Democrats.

"The things they had in there were crazy. They had things, levels of voting that if you ever agreed to, you would never have a Republican elected in this country again," Trump said in an interview on "Fox & Friends" on Monday. "They had things in there about election days and what you do and all sorts of drawbacks. They had things that were just totally crazy."

When discussing the vote-by-mail effort in Georgia, Ralston said, "This will be the first time we have had this and it's going to be every registered voter in Georgia."

"Let me emphasize," he continued. "Let me say that again, every registered voter is going to get one of these. Now, I ask you, because I know you keep up with this, what was the turnout in the primary back in to 2018 or 2016?"

"Was it 100 percent?" Ralston asked. "No. It's way, way, way lower and so, you know, this is going to, this will certainly drive up turnout."

"Yeah, we'll be trying to explain why turnout was so high," BKP responded, laughing. "I got it. I think I picked that one up."

At an earlier point in the interview, when discussing the vote-by-mail effort in Georgia, Ralston said he thinks that it should instead be in the "purview of the legislative branch where members of the state House and state Senate" to "consider and debate and discuss and vet these things and then decide if that's going to be the policy of this state."

"But to simply have this become an administrative decision made apparently on the fly during this crisis, to me, is just a — is very, very unwise and it's poor policy," he added.

RETRIEVED FROM DEMOCRACYDOCKET.COM



EXHIBIT J

RETRIEVED FROM DEMOCRACYDOCKET.COM

Guest Column: Republican Party wins on Election Day, and future is bright



It was the fall of 2016 and Hillary Clinton was clearly going to win the presidency and the Democrats were going to take over the U.S. Senate and House. The polls said Hillary was even or ahead in very red South Carolina. The blue wave was huge!

We all know the end of that story. Clinton lost and Republicans won the House and Senate.

Fast forward to 2020.

Trump is losing Wisconsin by a 17-point spread in polls according to MSNBC, Lindsey Graham is behind in his Senate race and the debate is about how big the Democrat takeover will be in the Senate and how much will they increase their control in the House. The blue wave was huge!

Not only did the blue wave fizzle in 2016, but it pretty much did not show up at all in 2020 either.

Instead of a blue wave, we saw Republicans not only make gains in the House, but they will likely hold the Senate. Nationally, Republicans also increased or maintained control in state houses and governorships across the nation. This is particularly important for the vital redistricting battles to occur after next year's census. Republicans also garnered record amounts of Hispanic and African American votes.

Why did all this happen?

Likely because the Democratic Party sounded in part much like the snake oil salesman of old on so many levels: socialism is good; Joe Biden's son knows tons about energy production in the Ukraine; and if we could only defund the police we would finally have peace.

After weeks of the Democrats who run Pennsylvania ignoring state requirements on balloting, President Trump is having to go to court to ask them to follow their own law. Any president whose tenure was struck by the greatest pandemic in over 100 years should have lost this election in a landslide.

Instead, Democrats are relying on the always-suspect absentee balloting process to inch ahead in Georgia and other close states. If elections were like coastal cities, absentee balloting would be the shady part of town down near the docks you do not want to wander into because the chance of being shanghaied is significant. Expect the Georgia Legislature to address that in our next session in January.

Like a sports team that is solid in the fundamentals, the Republican Party is on the right side of issues about which our nation cares.

We believe there is a God whom you have the right to worship without the government telling you when and how you can do so; Republicans believe the Second Amendment right is vital to protection of our citizens; and we believe that if government stays out of the way, small businesses can flourish and jobs for our citizens will be plentiful. These are basic tenets of the Republican Party that distinguish them from the ever-left-leaning portions of the Democrat party who espouse socialism, defunding the police and a soft-on-crime approach to the huge and growing problem with gangs.

As the nation starts to see the far left aspire to have Bernie Sanders serve as a Cabinet member and Alexandria Ocasio-Cortez be the speaker of the House, Georgia has an opportunity to make sure one party has no chance at the national level to control the presidency, the House and the Senate. We can elect Sens. Kelly Loeffler and David Perdue in the Jan. 5 runoff. They represent Georgia, unlike their opponents who call our police "thugs" and promote taxes and regulations that will cause thousands of Georgians to lose their jobs.

The future is bright for the Republican Party. Vote Loeffler and Perdue on Jan. 5 to keep America from the Socialist/Marxist philosophy of their opponents.

The writer represents District 121, Columbia and McDuffie counties, in the Georgia House of Representatives, where he is chairman of *the Judiciary Committee*.

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

VOTEAMERICA; VOTER
PARTICIPATION CENTER; and
CENTER FOR VOTER
INFORMATION,

Plaintiffs,

v.

Case No. 1:21-cv-01390-JPB
Judge J.P. Boulee

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia; SARA
GHAZAL, JANICE JOHNSTON,
EDWARD LINDSEY, and
MATTHEW MASHBURN, in their
official capacities as members of the
STATE ELECTION BOARD,

Defendants,

and

REPUBLICAN NATIONAL
COMMITTEE; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE; and GEORGIA
REPUBLICAN PARTY, INC.,

Intervenor-Defendants.

DECLARATION OF TOM LOPACH

Pursuant to 28 U.S.C. § 1746, I, Tom Lopach, declare as follows:

1. I am President and CEO of Voter Participation Center (“VPC”) and the Center for Voter Information (“CVI”). I have served in these roles since March 2020.

2. VPC is a nonpartisan, 501(c)(3) nonprofit organization founded in 2003 and based in Washington, D.C.

3. CVI is a nonpartisan, 501(c)(4) nonprofit organization that is a sister organization to VPC and is also based in Washington, D.C.

4. VPC and CVI have in the past worked together, including in Georgia in recent years, to facilitate the organizations’ voter outreach and communications efforts.

5. In 2022 and in the future, VPC and CVI will conduct separate communications and voter outreach programs in Georgia.

6. VPC and CVI engage in aligned work to spread the organizations’ pro-voter messages and to advocate for more people to participate in the political process. SB 202 also adversely affects both VPC and CVI in similar ways. Accordingly, I often refer to the two separate organizations together throughout my Declaration.

VPC and CVI's Overarching Missions and Viewpoints

7. VPC/CVI's missions are to help eligible voters who are members of historically underrepresented groups—such as young people, people of color, and unmarried women—to register and vote by providing them with voter registration, early voting, vote by mail, and get-out-the-vote resources and information. One of VPC/CVI's primary goals is to communicate with these potential voters to encourage and assist them to increase their engagement in the political process through absentee voting.

8. VPC/CVI believe that our country's democracy is better off when more eligible voters can participate and vote for the candidates of their choice. One of VPC/CVI's strongest held principles is that encouraging and assisting voters to participate in our elections through early voting, mail voting, or other types of absentee voting is one of the best ways to ensure a robust democracy.

9. In the current debate in our country about the merits of absentee voting, VPC/CVI are firm advocates for our core message that absentee voting is safe, secure, accessible, and beneficial. When politicians have challenged or questioned the legitimacy of absentee voting, we are obligated to speak up for our pro-voter positions and reassure our audience of eligible Georgia voters that absentee voting is accessible and trustworthy. We know one of the most effective ways to

communicate our message supporting absentee voting is to provide resources and assistance to voters to request an absentee voting ballot so they know firsthand that absentee voting is safe and convenient.

10. VPC/CVI believe and support that absentee voting also expands participation opportunities to VPC/CVI's target voters who cannot access the polls on Election Day because of work or school obligations, lack of transportation, illness, disability, or other barriers. VPC/CVI feel strongly that representative democracy depends on an electoral process that is open and accessible to all eligible voters, including young people, unmarried women, and people of color.

VPC and CVI's Mailer Communications

11. Mailing absentee voting application communications to registered voters is the primary way VPC/CVI express our message by communicating with and assisting Georgia voters to request absentee ballots.

12. VPC/CVI have designed and implemented direct mail programs to share our pro-voter messaging and resources with the recipients of VPC/CVI's communications. VPC/CVI's absentee ballot mail campaigns in Georgia are designed to encourage all Georgians—and particularly traditionally underrepresented Georgians, including young voters, voters of color, and unmarried women—to participate in elections through absentee voting.

13. Significant social science research and VPC/CVI's extensive experience supports that direct mailers remain the most effective means of reaching eligible Georgia voters and communicating our message supporting absentee voting.

14. VPC/CVI mailer communications contain multiple components. Each component of the mailing is carefully planned and represents a key part of VPC/CVI's advocacy for absentee voting. As a whole, the pieces of the mailer function together to form one cohesive communication that will ensure voters hear our message, can utilize our assistance, and will act on our encouragement to seek an absentee ballot and participate in democracy. Attached as Exhibit A and Exhibit B are sample variations of the absentee ballot application mailers that VPC/CVI sent to Georgia voters before the 2020 election.

15. The VPC/CVI mailers sent to Georgia voters during recent election cycles in 2018, 2020, and the 2021 runoff included a printed copy of the official absentee voting application obtained directly from the Georgia Secretary of State's website. As part of our communications and to make them effective, VPC/CVI also used a program to personalize mailed absentee voting applications by prefilling them with some of the voters' basic information drawn from the Georgia voter registration file. Personalizing the applications with prefilled information best ensures that VPC/CVI's message and assistance is both effective and accurate.

16. VPC/CVI's mailer communications also contain a postage-paid envelope addressed to the voter's county election office to facilitate the voter acting on our advocacy by returning the completed absentee voting application to the appropriate office.

17. VPC/CVI's mailer to Georgia voters encloses a cover letter explaining to our target voter population how to request and cast an absentee ballot. The cover letter contained additional messaging that expressed VPC/CVI's advocacy for absentee voting and encouraged voters to apply to vote absentee. For instance, the VPC/CVI cover letter stated, "Voting by mail is EASY;" "Voting by mail keeps you healthy and safe;" "county election officials encourage voters to use mail ballots in the upcoming elections;" "the enclosed absentee ballot application [is] to make requesting a ballot easy;" "your privacy is protected;" and "[t]he best way to protect yourself, your family, and your whole community during this time is to vote by mail." *See* Exs. A, B.

18. A crucial part of VPC/CVI expressing our support of absentee voting and assisting our audience of eligible voters to vote absentee is for our organizations to include in our mailers an actual absentee voting application, and to then personalize the application with the voter's information so the voter is persuaded and able to simply apply.

19. Additionally, the cover letter instructed recipients that “[i]f you’ve already submitted a request for a ballot by mail for the 2020 General Election, there is no need to submit another request.” It also provided phone and website contact information for VPC/CVI.

20. VPC/CVI include a unique scannable barcode tracker on the return envelope for each mailed communication to each individual voter. Using this barcode tracker, VPC/CVI can ensure that our messages are effectively connecting with our audience and that recipients are acting on our encouragement to apply for an absentee ballot. VPC/CVI can also use the tracker to monitor various messages so that we know which communications best advocate for our pro-absentee voting viewpoints. VPC/CVI will often also use the tracker and the data we obtain to appropriately target subsequent communications to eligible Georgia voters and continue our associations with voters.

21. VPC/CVI’s mailers also provide instructions to recipients about how to unsubscribe from further communications from VPC/CVI. VPC/CVI processed numerous unsubscribe requests in 2018 and 2020 in Georgia, ensuring that our messaging would be sent to the correct recipients and that we could continue our associations with those voters.

22. By providing pre-printed absentee voting applications with pre-addressed, postage-paid envelopes and messaging encouraging the voter to submit the application and vote, VPC/CVI makes it easy for our recipients to request and cast an absentee ballot—especially for those voters who lack access to the internet, printing services, or envelopes and postage. In VPC/CVI’s experience, including personalized absentee voting ballot applications with the voters’ information prefilled from the voter file is one of the best ways to ensure that voters have everything they need to request an absentee ballot and to vote early in the election cycle, which makes it more likely that voters will actually participate. Having personalized applications with prefilled information also reduces the risks of rejection. By inputting the voter’s information on the application that is neatly typed and drawn from the voter file, VPC/CVI can minimize the likelihood that the voter will input mismatching information—such as a missing or added hyphenated name—or write illegible information. In doing so, VPC/CVI can also help reduce rejections of otherwise valid absentee voting applications based on data entry errors by election officials because the voter’s information is easily readable or based on a perceived mismatch with the voter file.

VPC and CVI's Mailing Process

23. In the 2018 election, VPC/CVI sent more than 12.8 million absentee ballot application communications across the country, including at least 650,000 mailed to Georgia voters. In the 2020 election, VPC/CVI sent more than 83 million absentee ballot applications across the country, including over 9.6 million to Georgia voters. In the 2021 Georgia runoff election, VPC/CVI sent over 1.8 million absentee ballot application communications to eligible voters in Georgia.

24. VPC/CVI's direct mail program in Georgia is highly effective at spreading VPC/CVI's pro-absentee voting message and turning out the underrepresented voters who are the focus of VPC/CVI's communications.

25. Based on the barcode tracking system VPC/CVI includes on the mailer communications, we know that our message was highly effective in Georgia in recent years. In total during the 2020 election, over 575,000 Georgia voters submitted an absentee ballot application that VPC/CVI provided as part of our mailer communications. Another approximately 88,500 Georgia voters applied for an absentee ballot because of the VPC/CVI mailers during 2021 Georgia runoff. And over 30,000 Georgia voters submitted a VPC/CVI absentee ballot application during the 2018 election.

26. To produce the list of recipients for VPC/CVI's communications, VPC/CVI use statewide voter registration files to identify target voters who are registered to vote but have not yet applied to vote by an absentee ballot.

27. VPC/CVI and their vendor also make periodic requests for updated voter records from Georgia state election officials and checks against publicly available databases before we initiate a mailer program. With these periodic requests, VPC/CVI can make sure we are proactively removing voters from our mailing list who have already requested or submitted an absentee voting application in a timeline that works with our processes and the needs of our third-party vendors.

28. Because VPC/CVI's operations are multi-state, the organizations use numerous national vendors. To run VPC/CVI's national direct mail programs, including VPC/CVI's absentee voting mailers in Georgia, VPC/CVI purchases various goods and services from vendors across the country, including data consulting services to identify VPC/CVI's target demographics; direct mail consulting services; professional printing services; mailbox rental; paper, outer envelopes, and postage-paid return envelopes for the mailers themselves; and legal services to ensure mailings are in full compliance with Georgia laws.

29. VPC/CVI's absentee voting mailer communications—including the cover letter, pre-stamped and pre-addressed envelope, instruction sheet, and the absentee ballot application—costs about 39 cents per mailer to produce.

30. VPC/CVI make the costs of communicating our message possible by completing our mailer programs in bulk. VPC/CVI submit millions of printing requests at a time to professional, high-volume, in-line printers. VPC/CVI must place this volume of orders simultaneously for different states, taking care to tailor the specifics of the communication for each individual state. VPC/CVI may, for example, submit orders to the printers for our Georgia mailers, Kansas mailers, and Arizona mailers in one submission. This arrangement is necessary to make our communications cost-effective so we can continue to spread our message.

31. When VPC/CVI are limited in our ability to communicate our message through mass direct mailers, as we are under the restrictions created in SB 202, our financial and logistical costs of sharing our message significantly increase and our ability to express our viewpoints significantly decreases. Submitting orders to our vendors state-by-state would require VPC/CVI to completely rework its model and incur substantial additional costs. These highly increased costs would make it financially unsustainable to continue our programs in Georgia.

32. VPC/CVI's mailing program for a specific wave of communications, from start to finish, frequently takes six weeks or more. For every wave of communications VPC/CVI conducts, this timeline includes the time it takes to process and prepare data, taking numerous steps to verify its accuracy and narrow the scope of appropriate recipients; to design our mailers and have them printed in large bulk; and finally, to mail the communications to the homes of VPC/CVI's audience. It takes about 20 days between when our mailer communications order reaches our printer vendor and when the communications are then put in the mail to our recipients.

33. VPC/CVI cannot simply change vendors or make other changes to speed up our timeline. For example, none of the professional, in-line capable, union printers VPC/CVI currently use are located in Georgia. VPC/CVI are likewise unaware of any Georgia-based union printers that have in-line variable capability and volume capacity necessary to serve VPC/CVI's printing needs and increase the pace of getting our message out. There is a limited set of printers and distributors that can accommodate VPC/CVI's communications in an effective and accurate manner. And any steps VPC/CVI is forced to take to speed up the timeline would mean significant added costs and sacrificing our accuracy and our rigorous compliance checks.

34. VPC/CVI's absentee voting communications are also generally sent in multiple waves during an election cycle. This was our practice in Georgia during the 2018 and 2020 elections. In our experience, voters oftentimes need additional encouragement and resources before they submit an absentee voting application. Sharing our pro-absentee voting message in numerous waves ensures that we reach eligible Georgia voters and effectively advocate our message in favor of participating in the electoral process, particularly by absentee voting.

35. Moreover, VPC/CVI leverage the organizations' absentee voting mailers to build a broad associational base with both potential voters in Georgia and other civic organizations to promote absentee voting and democratic participation.

36. For example, VPC/CVI use our absentee voting mailers—and specifically voter engagement with the applications in those mailers—to tailor VPC/CVI's further interactions with prospective eligible voters. To the extent possible, and using the mailer barcode trackers, VPC/CVI determine whether a voter has completed the absentee voting application included in VPC/CVI's mailer communications so that VPC/CVI can devise the most effective follow up communication to continue associating with a given voter and making sure they vote.

37. VPC/CVI also use our absentee voting operations to build associations with other civic organizations, such as by sharing information gathered from voter engagement with VPC/CVI's absentee voting application mailers with other organizations that share VPC/CVI's pro-voter viewpoints and seek to encourage and assist prospective voters. VPC/CVI overall use our effective absentee voting communications and assistance to build a relationship with voters and other civic organizations for future collective action.

38. VPC/CVI have a desire to continue communicating with and assisting Georgia voters in future elections, including the 2022 general and runoff election cycle, by mailing personalized absentee voting applications to eligible Georgia voters.

39. VPC/CVI have plans and a desire to continue communicating and associating with other civic organizations to promote absentee voting and participation in the democratic process in future elections, including the 2022 election cycle, by leveraging VPC/CVI's absentee voting mailers and voter engagement with the absentee voting applications that are a vital part of our communications.

VPC and CVI's Correspondences with Georgia Election Officials

40. Before distributing our pro-absentee voting mailer communications, VPC/CVI, through our compliance counsel, frequently coordinated with Georgia election officials and sought their feedback to review the official application form, instructions, and other information in VPC/CVI's communications. VPC/CVI engages with Georgia election officials and shares a sample of our communications before sending them out to voters. VPC/CVI prioritizes coordinating with election officials to ensure our communicated materials are accurate and current, and to maximize the notice we give to election officials and provide additional opportunities to collaborate with them.

41. In late July and early August 2018, VPC/CVI corresponded with Georgia's Elections Director at the time, Chris Harvey, and attached our drafted mailer communication for the 2018 general election. VPC/CVI's email provided the expected timeline that the communications would be mailed to voters and requested any "suggested revisions or questions" from Director Harvey on the mailer communication VPC/CVI attached. Director Harvey wrote back that he reviewed and there were no "obvious issues with your form." The July and August 2018 email correspondence is attached as Exhibit C.

42. In November 2018, VPC/CVI again emailed with Director Harvey to ensure that VPC/CVI were providing voters with accurate information on ways to vote during the 2018 runoff election. To VPC/CVI's knowledge, Director Harvey did not respond. Attached as Exhibit D is the November 2018 email.

43. VPC/CVI continued our attempts to coordinate with Georgia election officials and receive their review and approval of our mailer communications during the 2020 election cycle. In April 2020, VPC/CVI's compliance counsel again emailed with the Secretary of State's office to provide a sample of our mailer and request the Secretary of State's review ahead of the 2020 primary election. For this email, Kevin Rayburn, the Deputy Elections Director and Deputy General Counsel at the time, responded that our mailer communication "looks accurate." Notably, Deputy Director Rayburn also requested that VPC/CVI prefill our absentee voting application with information, asking: "Since this mailing by you is for the June 9, 2020 General Primary, can you go ahead and pre-populate 06/09/2020 in the 'Date of primary, election of runoff' spot at the top of the form?" Based on this suggestion, VPC/CVI made the update to prefill more information on the application communication. The April 2020 email correspondence is attached as Exhibit E.

44. VPC/CVI sent another email in May 2020 for the 2020 primary, this time to election officials in Georgia's four most populous counties—Fulton, Cobb,

Dekalb, and Gwinnett—in addition to Director Harvey and Deputy Director Rayburn. The May 2020 email included sample copies of VPC/CVI’s personalized absentee ballot application and the other materials that would be mailed in our communication, and informed the Georgia election officials that the communications were being sent to 63,000 Georgia registered voters. The May 2020 email is attached as Exhibit F.

45. In June 2020, VPC/CVI emailed to obtain feedback ahead of sending our communications to voters for the 2020 general election. VPC/CVI’s June 2020 email informed the Secretary of State’s office of our plans to send mailer communications that included “1) pre-filled name and address; 2) pre-filled the election date is 11/3/20; and 3) highlighted important fields.” The email also provided VPC/CVI’s timeline for mailing our communications. And, similar to VPC/CVI’s prior and future collaborative emails, VPC/CVI’s correspondence said that “VPC and CVI would be pleased to work with you to provide advance information to potential voters, as well as local elections officials and their staffs” and “Please don’t hesitate to contact me with any questions or concerns.” Director Harvey responded alerting VPC/CVI that the State had slightly modified its absentee ballot application form, to which VPC/CVI requested a copy of the updated form because the Secretary of State’s website had not been updated to include it online.

The June 2020 email correspondence is attached as Exhibit G. Director Harvey later responded in a separate email chain to inform VPC/CVI that the Secretary of State's website was then updated with the slightly revised absentee voting application form, and VPC/CVI ensured its communications to Georgia voters for that election cycle included the updated and correct absentee voting application form. That follow up June 2020 email from Director Harvey and VPC/CVI's response is attached as Exhibit H.

46. On August 6, 2020, before VPC/CVI mailed its first wave of communications for the 2020 general election, VPC/CVI provided a detailed email on its planned mailings to Director Harvey, Deputy Director Rayburn, and the county election offices in Georgia's four most populous counties. In VPC/CVI's detailed August 6, 2020 email, attached as Exhibit I, VPC/CVI explained our pro-voter mission and our target audience, shared the number of 2020 primary voters VPC/CVI had tracked using VPC/CVI mailers at that point, informed the election officials of our mailing wave plans, included a county-by-county total number breakdown of our anticipated recipient list. The email provided VPC/CVI's unsubscribe process and our contact information. VPC/CVI likewise conveyed that we would appreciate if the election officials "pass this information along to all of the counties" and requested that they let us "know if [they] have any questions or

encounter any issues” with our communications. VPC/CVI also attached to the August 2020 email the samples of mailer communications we planned to send in waves during the 2020 general election application period.

47. Also on August 6, 2020, VPC/CVI emailed Director Harvey as part of our due diligence to proactively minimize sending our communications to voters who have already applied for an absentee ballot. VPC/CVI sought an updated list of voters who were “already on file” as having submitted an absentee voting application so that VPC/CVI “can [re]move them from our mailing” list. Director Harvey responded that he did not understand VPC/CVI’s request for the updated list. VPC/CVI responded that because we “typically obtain[] from our vendor, Catalist, a data file from the state listing the individuals who have requested a mail ballot” but “Catalist does not have up to date data for the General [election] in Georgia,” VPC/CVI emailed to see “if we could receive the file directly.” Director Harvey did not respond to this request to provide the update absentee voter list. The August 6, 2020 email exchange concerning the updated list of absentee voting applications is attached as Exhibit J.

48. Ahead of the 2021 runoff election in Georgia, VPC/CVI emailed Director Harvey on November 16, 2020, to provide advance sample copies of the communications VPC/CVI planned to send to Georgia voters to obtain an absentee

ballot. In this email message, VPC/CVI also informed Director Harvey that the mailed applications would be prefilling certain information, such as “the date of the runoff election.” VPC/CVI also invited Director Harvey to “Please let [VPC/CVI] know if you have any questions or concerns.” The November 2020 email ahead of the 2021 runoff election is attached as Exhibit K.

49. VPC/CVI also frequently corresponded with Georgia election officials about our voter registration work, often providing extensive disclosure of our planned work and seeking meaningful coordination with election officials in this area that promotes our message in addition to our absentee voting advocacy.

50. In these emails and others, VPC/CVI’s compliance counsel sought to coordinate with Georgia election officials to ensure collaboration, provide notice, and check that our communications were in full compliance. VPC/CVI’s emails shared a sample of VPC/CVI’s absentee voting mailer communication on numerous occasions. And in response, Georgia election officials frequently confirmed in writing that the absentee voting application form and instructions that VPC/CVI was planning to distribute in Georgia were consistent with Georgia law and the Secretary of State’s practices, and in some instances even made suggestions for VPC/CVI that we implemented. Additionally, at no time in VPC/CVI’s email correspondences with

Georgia election officials did they suggest there were any concerns from election officials, voters, or anyone else regarding VPC/CVI's mailer communications.

SB 202 Severely Curtails VPC's and CVI's Communications

51. If SB 202 is allowed to remain in effect, VPC/CVI will have to either completely stop our absentee voting application direct mail program in Georgia or sharply cut back the number of our communications. We will also have to limit and distort the substance of our communications. VPC/CVI would have to make these significant and negative changes if SB 202 remains in effect to try to minimize the substantial risk of incurring steep civil and/or criminal penalties. The SB 202 provisions VPC/CVI challenge in this lawsuit, both individually and combined, impede the organizations' mission and message encouraging and assisting voters to vote absentee through our mailer communications. The SB 202 provisions force VPC/CVI to divert our resources to try to counteract the negative effects of the new law. They make VPC/CVI reluctant, and potentially unable, to speak our message advocating for voters to vote absentee because we are worried about being subjected to steep civil penalties for even inadvertent violations of the new provisions, or facing criminal prosecution under Georgia's broadly applied criminal statutes for not strictly following the election laws. VPC/CVI's fear of prosecution or penalties

force VPC/CVI to limit and alter our communications in a manner that is misleading and far less effective.

52. First, the SB 202 restriction on the list of voters to whom VPC/CVI can mail our communications has significantly disrupted our programs and gives us doubt that we can effectively communicate our message in Georgia. SB 202 prohibits and penalizes VPC/CVI from sending our communications to voters that are on a constantly evolving list of voters who have already requested, received, or cast an absentee ballot. In VPC/CVI's attempts to find some way to continue being able to mail our pro-absentee voting communications in Georgia at even an extremely scaled down capacity, VPC/CVI are developing and seeking to implement a costly mechanism to ensure we comply with the SB 202 mailing list restriction.

53. To comply with the SB 202 voting list restriction, VPC/CVI have to divert significant programmatic and financial resources to retool VPC/CVI's mailer program in Georgia. Because of the steep \$100 civil penalties—and potential criminal exposure—associated with each individual violation of the SB 202 mailing list restriction, VPC/CVI fears enforcement proceedings against our organizations if we were to continue running our mailer programs. At this point, VPC/CVI believe that we can only avoid the anticipated, high-risk, and devastating consequences of even inadvertent noncompliance by almost entirely stopping our communications.

We anticipate that if VPC/CVI can still send our communications in Georgia with the SB 202 restrictions in effect, it would have to be in only one wave of mailers that would occur only at the opening of Georgia's application window for the 2022 general election. We have committing staffing and research resources to come up with this plan, and we are reworking our program to account for SB 202's restriction on the lawful recipients of our message and to make certain we have new, adequate compliance measures in place.

54. The result is that VPC/CVI will be sending far fewer communications to Georgia voters throughout the election cycle than we otherwise would if SB 202 were not restricting our programs, which means VPC/CVI will be reaching and engaging fewer voters overall. And sending our communications only at the beginning of the application window, which is nearly 80 days before the actual election date, will make VPC/CVI's communications less effective at conveying our pro-absentee voting message. From our experience, voters are far less likely to engage with our communications and be persuaded to act on our urgency during the beginning of the application window when it is so far away from the election date. VPC/CVI is much more effective at expressing our message when we can distribute it in multiple waves.

55. For this reason and others, VPC/CVI would like to find ways to continue mailing our communications throughout the absentee ballot application window. But VPC/CVI have serious concerns about our ability to send any additional mailers past the first five days of the application window due to the high risks of penalties associated with the SB 202 restrictions on to whom we can send our messaging based on the State's absentee voter list, which is a constantly moving target.

56. The five-day grace period in SB 202 that allows mailing our communications to someone who has already signed up for an absentee ballot is wholly inadequate because that timeline provides an impossible window for VPC/CVI's processes that, as described above, take at least six weeks from the data collection to the mail being received at the recipients' home, and about 20 days just from the time we submit our order to the printer to when the communications are actually put in the mail. We cannot speed up our timeline without significantly compromising our messaging and the size, efficiency, and accuracy of our programs.

57. Combining this short grace period with the \$100 fine per instance of mailing a communication to the wrong person severely restricts our ability to communicate our message. Again, to the extent VPC/CVI can continue our absentee voting communication in Georgia at all, we at least will likely have to cutback

VPC/CVI's window for communicating our message through our mailers to only during the first five days of Georgia's absentee application timeline.

58. Ensuring complete compliance with the mailing list restriction in VPC/CVI's mailer communications sent later in Georgia's absentee ballot application windows would be cost-prohibitive and likely impossible. Because VPC/CVI cannot change the timeline that takes several weeks between collecting data and our communications being mailed, and several days from printer order to actually mailing, we would have to put in place new and costly systems to check the recipients list with the five-day grace period voter list on the back end. This unrealistic and cost-prohibitive process would require VPC/CVI to place a hold on the already printed and finalized communications from our printers just for those going to our Georgia audience. Then VPC/CVI would have to divert resources and commit our staffing to manually search for and pull all the recipients who would be on the SB 202 prohibited mailing list, and to complete all of these Georgia-specific processes within fewer than five days. And even if VPC/CVI could somehow pull off this costly additional manual process, our organizations (and potential vendors) could not fully guarantee that a forthcoming recipient did not fall through the cracks, which risks exposing VPC/CVI to significant civil penalties and the risk of criminal prosecution for violating Georgia election law.

59. Under these conditions, VPC/CVI has spent significant staff time and resources to plan for and carefully develop a dramatically scaled back program for delivering our message to voters in Georgia, and incurred costs with VPC/CVI's vendors to make particular arrangements to facilitate our communications under Georgia's new specific and restrictive rules. Expending these added costs has taken away from VPC/CVI's ability to focus our resources and efforts on our messaging and usual programming that we use to increase voters' engagement in the political process.

60. Second, the SB 202 prohibition on VPC/CVI personalizing our communications with applications that are prefilled with the voters' information from the voter file also significantly inhibits our messaging. The prefiling prohibition requires us to pull resources away from our programs to reconfigure our specific work in Georgia and limit our communications with voters in Georgia to ensure full compliance.

61. Having run direct mail campaigns for several years, VPC/CVI's experience is that mailing applications that are personalized by prefiling some of the voters' information drawn from the voter file is the most effective way to advocate VPC/CVI's message. VPC/CVI adds its own speech when it personalizes the absentee ballot application communication. Personalized applications with the

voters' prefilled details from the voter file allows the voter to simply confirm the information is correct when they are receiving VPC/CVI's communications. Prefilling with information from the voter file reduces the risks that the voters themselves could introduce errors on the application form by writing incorrect information. This includes the voter writing on the application a maiden last name that is supposed to be a married name or vice versa, hyphenating or not hyphenating a name, including or excluding name suffixes, or any other potential typos that could result in the absentee voting application being rejected for a mismatch with the voter file. And the ease with which eligible voters can fill and finalize VPC/CVI's personalized applications means they have a higher rate of return by the recipient compared to blank applications. Overall, VPC/CVI adding to and amplifying our communications by personalizing the absentee ballot applications with prefilled information increases VPC/CVI's ability to encourage and assist voters to act on our message.

62. Likewise, on the receiving end in the county election office, having prefilled applications that contain legible, typed out voter information taken from the voter file makes it easier for election officials to process the application, verify its accuracy by reference to the voter file, and accept the application. Indeed, election officials have notified VPC/CVI of the benefits of prefilling. For example, when

reviewing VPC/CVI's 2020 primary mailing in Georgia, the Deputy Elections Director, Deputy Director Rayburn, approved VPC/CVI's prefilled application and suggested that VP/CVI add additional "pre-populated" information of the date of the election. *See Exhibit E at 2.* Georgia election officials reviewed VPC/CVI's communications that contained prefilled applications on numerous other occasions, and they did not alert VPC/CVI of any concerns.

63. Because VPC/CVI's message is that more voters should participate in our elections, and should do so through safe, accurate, and convenient absentee voting, prefiling applications is a key component of VPC/CVI communicating our message and the effectiveness of persuading our audience to vote absentee.

64. By prohibiting VPC/CVI from personalizing applications with prefilled information from the voter file, SB 202 limits VPC/CVI's ability to use what is the most effective means of spreading our message. Being forced to send blank applications in our communications drastically reduces the efficacy and reach of our pro-voting engagement message. Prohibiting personalizing the absentee ballot applications mutes VPC/CVI's ability to get our message across and to encourage voters to engage with our message by submitting their application.

65. To comply with the SB 202 prefiling prohibition, VPC/CVI is required to take resources away from our projects supporting our goals. Given the

SB 202 prefilling prohibition and its reduction in the efficacy of our mailer communications, VPC/CVI would have to spend more resources to try to spread our message and yield the same number of engagements. But, of course, the mailing list prohibition makes that nearly impossible for us to send more mailers to voters as well. Without the ability to communicate through personalized applications, VPC/CVI have to try to find other avenues for encouraging and assisting Georgia voters to submit an absentee ballot application, and to make sure the recipients do so with accurate information when VPC/CVI cannot simply add it from the state's voter file. VPC/CVI will likely have to, for example, conduct research and testing to determine whether VPC/CVI needs to include on its cover letter more detailed instruction on the voter checking the voter file, ensuring that misspellings or hyphenated named does not lead to an erroneous rejection, and have precision with legibility. These additional efforts require additional costs that VPC/CVI would not have to expend if it were not for the SB 202 ban on personalizing our communications.

66. The prefilling prohibition also requires VPC/CVI to expend additional resources to put in place specific compliance and verification processes with our vendors for our Georgia communications. Revising VPC/CVI's standard designs and printing protocols to ensure that no prefilled absentee ballot applications are sent

to Georgia voters will require additional costs. Again, for this provision, if VPC/CVI or its vendors happen to send a communication with prefilled information, our organizations risk being penalized by civil sanctions and potentially face the risk of criminal prosecutions for not abiding Georgia election law. Because of this threat of enforcement proceedings against us, VPC/CVI are planning to limit our communications. Given the reduced efficacy of VPC/CVI's message when we are not able to personalize applications, and the harsh potential penalties associated with a violation, VPC/CVI are hesitant to send our communications in Georgia and are considering directing our resources to other states to share our message there instead.

67. Third, SB 202 requires that VPC/CVI use an approved government document that says at the top "Application for Official Absentee Ballot" but then our organizations have to "prominently" stamp the same document with a misleading disclaimer that boldly says, **"NOT an official government publication."** This, and the rest of the disclaimer requirement, is nonsensical and undermines VPC/CVI's message by confusing the recipients of our communications and making them unwarrantedly question our message. By requiring us to input this false and misinforming label on an official government document, Georgia is essentially dictating that VPC/CVI speak the government's message that we do not

approve. It compels our organizations to give voters wrong and confusing information, which causes them to unwarrantedly doubt our message.

68. The incorrect and misleading disclaimer label required under SB 202 will dramatically reduce the effectiveness of VPC/CVI's communication and our credibility with our recipients. It will dilute VPC/CVI's message that voting absentee is safe, secure, accessible, and beneficial, and harm our advocacy that voters should use our organizations' communications to apply for an absentee ballot. The disclaimer requirement dilutes and renders less effective VPC/CVI's message when our organizations are forced to say contradictory and incorrect statements. The confusion that is certain to result from VPC/CVI having our communications coopted by the government to include SB 202's misinforming disclaimer label will reduce voter response rates to VPC/CVI's mailers and impede our right to select the most effective means of expressing our message.

69. VPC/CVI fear being the target of civil and potentially criminal penalties because of SB 202's restrictions and have to significantly limit our communications to avoid these threats. After seeing a candidate in Augusta, Georgia, be subjected to state investigation for allegedly not strictly following SB 202's

disclaimer requirement,¹ we worry that even an inadvertent violation would lead to disastrous results for our organizations in the form of steep civil penalties and/or the risk of criminal prosecution.

70. The passage of SB 202 has already limited VPC/CVI's ability to promote and encourage absentee voting in Georgia in the 2022 election. VPC/CVI has plans to send absentee voting applications to Georgia voters in the 2022 general election, and would send mailers to Georgia voters at the beginning of the absentee ballot application window. This necessitates several months of strategic planning and preparation that are well underway, such as determining the full list of states in which VPC/CVI will work in 2022 in addition to Georgia; budgeting VPC/CVI's limited funds and resources to each state; drawing voter data from Georgia and other states in which VPC/CVI intends to work; identifying the recipient list of eligible voters in Georgia and other states; developing alternative mailer designs (i.e. creatives) to test which one is most effective with potential Georgia voters and to comply with the new SB 202 restrictions; and running legal compliance checks to

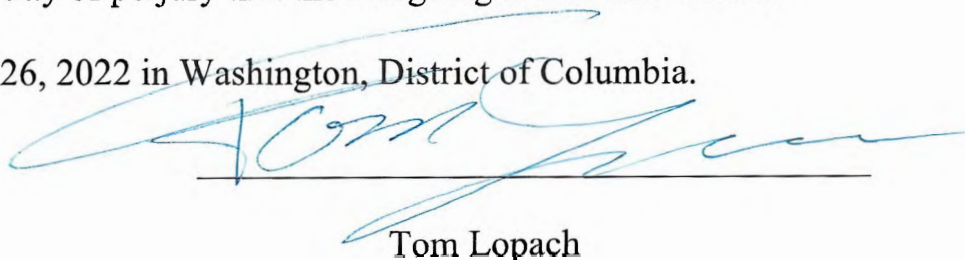
¹ VPC/CVI are monitoring the situation unfolding in Augusta, Georgia, where the Secretary of State has revealed an investigation into a county commission candidate sending absentee voting mailers that included a disclaimer on the communication but may not have strictly followed SB 202. See Susan McCord, *Augusta Commission election mailer flagged for Georgia Secretary of State review*, *Augusta Chronicle* (Mar. 30, 2022), <https://www.augustachronicle.com/story/news/2022/03/30/augusta-commission-campaign-mailer-under-review-state-elections/7199180001/>.

ensure VPC/CVI's campaigns follow state laws. This planning and preparation is currently occurring, and VPC/CVI have had to divert programmatic and financial resources to determine how, if possible, VPC/CVI can communicate with Georgia voters this cycle.

71. In sum, VPC/CVI believe that multiple waves of mailing personalized absentee voting applications—with clear instructions and encouragement to vote absentee and without a misleading disclaimer—is the most effective means to communicate VPC/CVI's message that Georgia voters should participate in the democratic process, in particular, through absentee voting. SB202's provisions, and the high risks of civil and criminal penalties for noncompliance with the new laws, makes it so that VPC/CVI cannot employ these most effective means of communicating our pro-absentee voting message. Our efforts to comply could be so cost-prohibitive as to shut down VPC/CVI's Georgia communications altogether in the long run. Enjoining the SB 202 restrictions will enable VPC/CVI to continue our communications and be able to effectively express our views and persuade eligible, registered Georgia voters to participate and vote absentee.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26, 2022 in Washington, District of Columbia.



Tom Lopach

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EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

The Center for Voter Information

925B Peachtree St NE #615
Atlanta, GA 30309

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VOTE AT HOME BALLOT REQUEST FORM
DO NOT DISCARD

ELECTRONIC SERVICE REQUESTED

NONPROFIT
ORG.
U.S. POSTAGE
PAID
TMPD



1 T1 P1*****ECRWSH**C001 C001 0001
Jane A Smith III
123 Anywhere St
Anytown, GA 12345-6789



Center For Voter Information

If you've already submitted a request for a ballot by mail for the 2020 General Election, there is no need to submit another request.

Dear Jane,

The Georgia Secretary of State and county election officials encourage voters to use mail ballots in the upcoming elections. I have sent you the enclosed absentee ballot application to make requesting a ballot easy.

Voting by mail is EASY. Just sign, date, and complete the application. Drop it in the mail and you will receive a ballot from your County Board of Registrar's Office which you can complete and return without ever leaving your home. No waiting in line.

Voting by mail keeps you healthy and safe. The best way to protect yourself, your family, and your whole community during this time is to vote by mail.

You can even research the candidates as you vote.

Your privacy is protected. If you use the enclosed envelope with **pre-paid postage**, your application will be delivered directly to your County Board of Registrar's Office.

By voting by mail from your home, and not waiting until Election Day, you've already done your part. You simply get to look forward to Election Day and hearing about the results.

You can check your ballot status at: **mvp.sos.ga.gov**

Sincerely,

Lionel Dripps
Center for Voter Information

HOW DO YOU COMPARE WITH OTHERS?*

Your Participation Average of All Voters

Your voting score is:
Below Average

P.S. Please take a minute to complete the form, sign and date it, and place the form in the pre-addressed, postage-paid envelope. Thank you.

*Your participation score was calculated by The Center for Voter Information using data from publicly available state voter files.

If you wish to be removed from our mailing list, email this code: GAAU0591397 to unsubscribe@centerforvoterinformation.org

This mailing has been paid for by the Center for Voter Information (CVI). CVI is a non-government, nonprofit, 501(c)(4) organization.
(866)-377-7396 www.centerforvoterinformation.org. CVI is not affiliated with state or local election officials.
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Brad Raffensperger
SECRETARY OF STATE

APPLICATION FOR OFFICIAL ABSENTEE BALLOT

PLEASE PRINT (Failure to fill out the form completely could delay your application)

Date of Primary, Election, or Runoff: (MM/DD/YYYY) 11/3/2020

Voter name	1	First: Jane Last: Smith Middle: A Suffix: III
Permanent address on file with county election office <small>This is the address at which you are registered OR the mailing address you have given your county elections office. Your ballot will be sent here unless you provide a valid address in Section 3.</small>	2	Street: 123 Anywhere St City: Anytown County: MUSCOGEE Zip: 12345
Temporary address where you want ballot sent <small>If you wish to receive your absentee ballot at an address other than the one in Section 2, fill it in here. This address must be in a different county than the county listed in Section 2 unless you are physically disabled or detained in jail or other detention facility.</small>	3	Street: _____ City: _____ State: _____ Zip: _____ County: _____
Date of birth	4	Date of birth: (MM/DD/YYYY) _____
Type of ballot Required in a primary or primary runoff.	5	<input type="checkbox"/> Democratic <input type="checkbox"/> Republican <input type="checkbox"/> Non Partisan (will not have ANY party candidates listed)
Contact information	6	To assist your county elections officials in contacting you in a timely manner if your application is incomplete, please provide the following information. Phone number: _____ Email: _____
Signature or mark of voter Required if voter fills out this application.	7	Signature or mark of voter: _____ Today's date: (MM/DD/YYYY) _____
Signature of person providing assistance Required if the voter receives assistance filling out this form. Assistance is only allowed if the voter is illiterate or physically disabled.	8	Name of assistant: _____ Signature of assistant: _____ Today's date: (MM/DD/YYYY) _____
Signature of person requesting ballot if not voter Required only if an eligible relative is making an application on behalf of the voter who is physically disabled or temporarily residing out of the county.	9	Signature of requestor: _____ Relationship to voter: _____ I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and swear (or affirm) that the above-named voter is (check one) <input type="checkbox"/> physically disabled or <input type="checkbox"/> temporarily residing out of the county
If you meet one of the described conditions in this section and would like to receive a mail ballot for the rest of the elections cycle without another application, indicate by checking the applicable eligibility requirement.	10	<input type="checkbox"/> E - Elderly - I am 65 years of age or older <input type="checkbox"/> D - Disabled - I have a physical disability <input type="checkbox"/> U - UOCAVA Voter - I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. My current status is (please mark one): <input type="checkbox"/> MOS - Military Overseas <input type="checkbox"/> OST - Overseas Temporary Resident <input type="checkbox"/> MST - Military Stateside <input type="checkbox"/> OSP - Overseas Permanent Resident (federal offices only) Email: (required for UOCAVA voters requesting electronic transmission) _____

FOR OFFICE USE ONLY

Dist. Combo: _____ Precinct: _____ Ballot #: _____
Received Date: _____ ISS Date: _____ Certified Date: _____ Rejection Date: _____
ID SHOWN: GADL _____ Other: _____
I certify that the above named voter ☐ is eligible ☐ is not eligible to receive a vote by mail ballot
Reason for Rejection: _____ Registrar Signature: _____
Ballot to be: ☐ Mailed Electronically ☐ Transmitted/delivered to voter in hospital by Registrars/Deputy ☐ Voted in office (municipal only)

FORM #ABS-APP-18

IT'S AS EASY AS 1-2-3

You're a voter, and for you, voting absentee by mail is simple. Here's how it works:

STEP 1: You complete, sign, and mail the form on the reverse of this sheet.

STEP 2: Your county board of registrars mails you an absentee ballot.

STEP 3: You fill out the ballot and return it to your county board of registrars—by mail.

SEE REVERSE FOR YOUR APPLICATION TO VOTE-BY-MAIL

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For questions, please call your county board of registrars office. You can find their phone number at
<https://elections.sos.ga.gov/Elections/countyregistrars.do>

Jane Smith III
123 Anywhere St
Anytown, GA 12345-6789

**NO POSTAGE NECESSARY.
POSTAGE HAS BEEN PAID.**

FIRST-CLASSMAIL
U.S. POSTAGE
PAID
VPC
IMB-POSTAGE



1



MUSCOGEE COUNTY BOARD OF REGISTRARS OFFICES
PO BOX 1340
COLUMBUS, GA 31902-1340

EXHIBIT B

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V2002 GAC GAAS2261876

The Center for Voter Information

925B Peachtree St NE #615
Atlanta GA, 30309

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**VOTE AT HOME BALLOT REQUEST FORM
DO NOT DISCARD**

ELECTRONIC SERVICE REQUESTED

NONPROFIT
U.S. POSTAGE
PAID
PERMIT #2227
LANSDALE, PA

31970000142

Jane A. Smith
123 Main Street
Anytown, GA 12345-6789

RETRIEVED FROM DEMOCRACYDOCKET.COM

Center For Voter Information

If you've already submitted a request for a ballot by mail for the 2020 General Election, there is no need to submit another request.

Dear Jane,

The Center for Disease Control recommends lower risk voting options like mail ballots to minimize potential exposure to COVID19. The Georgia Secretary of State and county election officials encourage voters to use mail ballots in the upcoming elections. I have sent you the enclosed absentee ballot application for Georgia already filled out with your name and address.

Voting by mail is EASY. Just sign, date, and complete the application. Drop it in the mail and you will receive a ballot from your County Board of Registrar's Office which you can complete and return without ever leaving your home. No waiting in line.

Voting by mail keeps you healthy and safe. The best way to protect yourself, your family, and your whole community during this time is to vote by mail.

You can even research the candidates as you vote.

Your privacy is protected. If you use the enclosed envelope with **pre-paid postage**, your application will be delivered directly to your County Board of Registrar's Office.

You can check your ballot status at: **mvp.sos.ga.gov**.

Sincerely,



Lionel Dripps
Center for Voter Information

HOW DO YOU COMPARE WITH OTHERS?*

NA

Your Participation

Average of All Voters

Your voting score is:
no record

P.S. We have already filled in your name and address on the enclosed form. **Please take a minute to complete the form, sign and date it, and place the form in the pre-addressed, postage-paid envelope.** Thank you.

*Data obtained from publicly available state voter files.

If you wish to be removed from our mailing list, email this code: GAAS2261876 to unsubscribe@centerforvoterinformation.org

This mailing has been paid for by the Center for Voter Information (CVI). CVI is a non-government, nonprofit, 501(c)(4) organization. (866)-377-7396 www.centerforvoterinformation.org. CVI is not affiliated with state or local election officials.

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Brad Raffensperger
SECRETARY OF STATEAPPLICATION FOR
OFFICIAL ABSENTEE BALLOT

PLEASE PRINT (Failure to fill out the form completely could delay your application)

Date of Primary, Election, or Runoff: (MM/DD/YYYY) 11/3/2020

Voter name	1	First: JANE Last: SMITH	Middle: A Suffix:
Permanent address on file with county election office <small>This is the address at which you are registered OR the mailing address you have given your county elections office. Your ballot will be sent here unless you provide a valid address in Section 3.</small>	2	Street: 123 MAIN STREET City: ANYTOWN County: LIBERTY	Zip: 12345
Temporary address where you want ballot sent <small>If you wish to receive your absentee ballot at an address other than the one in Section 2, fill it in here. This address must be in a different county that the county listed in Section 2 unless you are physically disabled or detained in jail or other detention facility.</small>	3	Street: _____ City: _____ State: _____ Zip: _____ County: _____	
Date of birth	4	Date of birth: (MM/DD/YYYY) _____	
Type of ballot Required in a primary or primary runoff.	5	<input type="checkbox"/> Democratic <input type="checkbox"/> Republican <input type="checkbox"/> Non Partisan (will not have ANY party candidates listed)	
Contact information	6	To assist your county elections officials in contacting you in a timely manner if your application is incomplete, please provide the following information. Phone number: _____ Email: _____	
Signature or mark of voter Required if voter fills out this application.	7	Signature or mark of voter: _____ Today's date: (MM/DD/YYYY) _____	
Signature of person providing assistance Required if the voter receives assistance filling out this form. Assistance is only allowed if the voter is illiterate or physically disabled.	8	Name of assistant: _____ Signature of assistant: _____ Today's date: (MM/DD/YYYY) _____	
Signature of person requesting ballot if not voter Required only if an eligible relative is making an application on behalf of the voter who is physically disabled or temporarily residing out of the county.	9	Signature of requestor: _____ Relationship to voter: _____ I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and swear (or affirm) that the above-named voter is (check one) <input type="checkbox"/> physically disabled or <input type="checkbox"/> temporarily residing out of the county	
If you meet one of the described conditions in this section and would like to receive a mail ballot for the rest of the elections cycle without another application, indicate by checking the applicable eligibility requirement.	10	<input type="checkbox"/> E - Elderly - I am 65 years of age or older <input type="checkbox"/> D - Disabled - I have a physical disability <input type="checkbox"/> U - UOCAVA Voter - I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. My current status is (please mark one): <input type="checkbox"/> MOS - Military Overseas <input type="checkbox"/> OST - Overseas Temporary Resident <input type="checkbox"/> MST - Military Stateside <input type="checkbox"/> OSP - Overseas Permanent Resident (federal offices only) Email: (required for UOCAVA voters requesting electronic transmission) _____	

FOR OFFICE USE ONLY

Dist. Combo: _____ Precinct: _____ Ballot #: _____
Received Date: _____ ISS Date: _____ Certified Date: _____ Rejection Date: _____
ID SHOWN: GADL _____ Other: _____
I certify that the above named voter ☐ is eligible ☐ is not eligible to receive a vote by mail ballot
Reason for Rejection: _____ Registrar Signature: _____
Ballot to be: ☐ Mailed Electronically ☐ Transmitted/delivered to voter in hospital by Registrars/Deputy ☐ Voted in office (municipal only)

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STEP 3: You fill out the ballot and return it to your county board of registrars—by mail.

SEE REVERSE FOR YOUR APPLICATION TO VOTE-BY-MAIL

For questions, please call your county board of registrars office. You can find their phone number at
<https://elections.sos.ga.gov/Elections/countyregistrars.do>

Jane A. Smith
123 Main Street
Anytown, GA 12345-6789



**NO POSTAGE NECESSARY.
POSTAGE HAS BEEN PAID.**

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
VPC
IMB-POSTAGE



LIBERTY COUNTY BOARD OF REGISTRARS OFFICES
100 S Main St Ste 1600
Hinesville, GA 31313-3225

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EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: VPC -- Absentee Ballot Application Mailing (Georgia, September 2018)
Date: Thursday, August 2, 2018 at 10:42:17 AM Mountain Daylight Time
From: Carrier, Jennifer
To: 'Harvey, Chris'

Chris –

Thanks so much! I've been finding that some states actually prohibit groups from sending out absentee ballot applications. So I'm extra paranoid about ensuring feedback from the states.

Jen

Jennifer L. Carrier |BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris [<mailto:wharvey@sos.ga.gov>]
Sent: Thursday, August 2, 2018 11:56 AM
To: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: RE: VPC -- Absentee Ballot Application Mailing (Georgia, September 2018)

Jen,

I don't see any obvious issues with your form.

As you may know, there is no specific form required to request an absentee ballot in Georgia.

Chris Harvey

Elections Director, Georgia Secretary of State

404-657-5380 DIRECT

404-985-6351 MOBILE

From: Carrier, Jennifer <JCarrier@blankrome.com>
Sent: Thursday, August 2, 2018 11:02 AM
To: Harvey, Chris <wharvey@sos.ga.gov>
Subject: RE: VPC -- Absentee Ballot Application Mailing (Georgia, September 2018)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Mr. Harvey –

Checking in on this draft absentee ballot application. I want to make sure we aren't making any mis-steps in this arena!

Many thanks!

Jen

Jennifer L. Carrier |BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Carrier, Jennifer
Sent: Monday, July 30, 2018 12:03 PM
To: Harvey, Chris (wharvey@sos.ga.gov) <wharvey@sos.ga.gov>
Cc: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: VPC -- Absentee Ballot Application Mailing (Georgia, September 2018)

Mr. Harvey --

The Voter Participation Center (VPC) is planning on sending the **attached** absentee ballot application mailing in Georgia the **last week of September**.

Please let me know by **Friday, August 3** if you have any suggested revisions or questions.

Many thanks!

Jen Carrier

Jennifer L. Carrier |BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT D

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: Super Quick Question re: Logistics

Date: Tuesday, November 13, 2018 at 11:44:10 AM Mountain Standard Time

From: Carrier, Jennifer

To: 'Harvey, Chris'

Perfect. Thank you so much! I'll refrain from taking up any more of your time 😊

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris [<mailto:wharvey@sos.ga.gov>]

Sent: Tuesday, November 13, 2018 1:40 PM

To: Carrier, Jennifer <JCarrier@blankrome.com>

Subject: RE: Super Quick Question re: Logistics

On Election Day the hours are the same, and MVP will be up.

Chris Harvey

Elections Director, Georgia Secretary of State

404-657-5380 DIRECT

404-985-6351 MOBILE

From: Carrier, Jennifer <JCarrier@blankrome.com>

Sent: Tuesday, November 13, 2018 1:37 PM

To: Harvey, Chris <wharvey@sos.ga.gov>

Subject: RE: Super Quick Question re: Logistics

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Chris—

Great! And polling hours the same too, right? We'd like to still direct people to mvp.sos.ga.gov – it will be up to date, right?

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris [<mailto:wharvey@sos.ga.gov>]

Sent: Tuesday, November 13, 2018 12:42 PM

To: Carrier, Jennifer <JCarrier@blankrome.com>

Subject: RE: Super Quick Question re: Logistics

Election Day polling places should generally be the same.

Advance voting is truncated, and I don't know about those locations.

Chris Harvey

Elections Director, Georgia Secretary of State

404-657-5380 DIRECT

404-985-6351 MOBILE

From: Carrier, Jennifer <JCarrier@blankrome.com>

Sent: Tuesday, November 13, 2018 12:33 PM

To: Harvey, Chris <wharvey@sos.ga.gov>

Cc: Carrier, Jennifer <JCarrier@blankrome.com>

Subject: Super Quick Question re: Logistics

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Chris—

I hope you are doing well and aren't too overwhelmed with work!

Quick question (and apologies in advance because I know you are too busy for these questions right now).

For the GA runoff (I know that there may not be a runoff related to the Governor's race), will the polling places and polling hours be the same as the general?

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT E

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: Upcoming Absentee Ballot Application Mailings -- VPC and CVI **Please Review**
Date: Thursday, April 23, 2020 at 1:51:17 PM Mountain Daylight Time
From: Carrier, Jennifer
To: Rayburn, Kevin, Harvey, Chris
Attachments: image001.jpg

Thanks so much!! We will make that update.
Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006
Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Rayburn, Kevin <krayburn@sos.ga.gov>
Sent: Thursday, April 23, 2020 3:38 PM
To: Carrier, Jennifer <JCarrier@blankrome.com>; Harvey, Chris <wharvey@sos.ga.gov>
Subject: RE: Upcoming Absentee Ballot Application Mailings -- VPC and CVI **Please Review**

Good Afternoon,

The form looks accurate when compared to our state request form. Since this mailing by you is for the June 9, 2020 General Primary, can you go ahead and pre-populate 06/09/2020 in the "Date of primary, election of runoff" spot at the top of the form?

Sincerely,

Kevin Rayburn

Deputy Elections Director and Deputy General Counsel
Georgia Secretary of State
Main: 404-656-2871
Direct: 470-312-2752



From: Carrier, Jennifer [<mailto:JCarrier@blankrome.com>]
Sent: Thursday, April 23, 2020 3:30 PM
To: Harvey, Chris <wharvey@sos.ga.gov>
Cc: Rayburn, Kevin <krayburn@sos.ga.gov>
Subject: RE: Upcoming Absentee Ballot Application Mailings -- VPC and CVI **Please Review**

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Mr. Harvey –

I wanted to make sure are fine with this mailing. We are finalizing the mailing now and it will be landing in

homes mid-May.
Thanks!
Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006
Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Carrier, Jennifer
Sent: Monday, April 20, 2020 3:35 PM
To: Harvey, Chris <wharvey@sos.ga.gov>
Cc: 'Rayburn, Kevin' <krayburn@sos.ga.gov>; Carrier, Jennifer <JCarrier@blankrome.com>
Subject: Upcoming Absentee Ballot Application Mailings -- VPC and CVI **Please Review**

Mr. Harvey --

The Voter Participation Center (VPC) and the Center for Voter Information (CVI) are planning an **upcoming mailing in Georgia** which will include sending the attached absentee ballot application for the upcoming **primary election**

The mailing will also include the following **reminder** that I wanted to run by you: ***Your election office must receive this request in time to send you an absentee ballot for the Primary Election on June 9.***

Please let me know by **Wednesday, April 22** if you have any suggested revisions or questions.

Many thanks!

Jen Carrier

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006
Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT F

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: CVI -- Absentee Ballot Mailing to Land this Week in Georgia
Date: Tuesday, May 12, 2020 at 9:54:13 AM Mountain Daylight Time
From: Carrier, Jennifer
To: Harvey, Chris, Rayburn, Kevin
CC: Elections.VoterRegistration@FultonCountyGA.Gov, VoterRegistration@gwinnettcountry.com, voterreg@dekalbcountyga.gov, Beth.Kish@cobbcounty.org, Carrier, Jennifer
Attachments: GA VBM Form MC20.pdf, CVI - VBM Letter Report Card GA MC20.pdf

Director Harvey and All --

The Center for Voter Information (CVI) is sending the attached absentee ballot application and letter to 63,000 Georgia registered voters. The mail is expected to land later this week.

Let me know if you have any questions or encounter any issues!

Jen

Jennifer L. Carrier | BLANKROME

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Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT G

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: VPC/CVI Voter Registration and Absentee Ballot Mailings -- August 2020 *Please Review*
Date: Monday, June 29, 2020 at 1:26:05 PM Mountain Daylight Time
From: Carrier, Jennifer
To: Harvey, Chris
Attachments: image001.jpg

Hi!

I wanted to check back in on this. Thanks!

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris <wharvey@sos.ga.gov>
Sent: Tuesday, June 23, 2020 8:13 AM
To: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: RE: VPC/CVI Voter Registration and Absentee Ballot Mailings -- August 2020 *Please Review*

I thought it had been updated. I'll check on that.

Chris Harvey

Elections Director

Georgia Secretary of State

Main 470-312-2777

Cell 404-985-6351



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From: Carrier, Jennifer <JCarrier@blankrome.com>
Sent: Monday, June 22, 2020 6:01 PM
To: Harvey, Chris <wharvey@sos.ga.gov>
Subject: RE: VPC/CVI Voter Registration and Absentee Ballot Mailings -- August 2020 *Please Review*

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi again!

Is it possible to send me a copy of the updated form? The one on your website doesn't have the edit in #5 and we want to correspond with what you have.

Thanks!

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006
Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris <wharvey@sos.ga.gov>
Sent: Monday, June 22, 2020 3:35 PM
To: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: RE: VPC/CVI Voter Registration and Absentee Ballot Mailings -- August 2020 *Please Review*

Jen,

We modified our absentee ballot application in #5 to indicate that a party ballot request only is required in a primary or primary runoff. I would do the same or consider eliminating it altogether if this is a one-time printing.

Chris Harvey
Elections Director
Georgia Secretary of State

Main 470-312-2777
Cell 404-985-6351



From: Carrier, Jennifer <JCarrier@blankrome.com>
Sent: Monday, June 22, 2020 1:45 PM
To: Harvey, Chris <wharvey@sos.ga.gov>; Rayburn, Kevin <krayburn@sos.ga.gov>
Subject: VPC/CVI Voter Registration and Absentee Ballot Mailings -- August 2020 *Please Review*

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Director Harvey --

I write on behalf of my clients the Voter Participation Center (VPC) and Center for Voter Information (CVI) to update you regarding their mailings into **Georgia** in **August/September 2020**.

Absentee Ballot

Attached is the draft absentee ballot request form and instructions. I'll note that we: 1) pre-filled name and address; 2) pre-filled the election date is 11/3/20; and 3) highlighted important fields.

Voter Registration

Attached is the draft voter registration form and instructions that will be incorporated by VPC and CVI. We are pre-filling the name/address.

Can your office please review the forms for accuracy and also let me know if any updates to the form are expected in 2020? The deadline for VPC/CVI to make modifications to the materials for the August/September mailing is early July so I'd appreciate feedback by **Thursday, June 25**.

I'll also be reaching back out to you a few weeks prior to the mailings to provide you with final proofs, and additional details regarding the mailing such as counts-by-jurisdiction. VPC and CVI would be pleased to work with you to provide advance information to potential voters, as well as local elections officials and their staffs.

Please don't hesitate to contact me with any questions or concerns.

Sincerely,

Jen Carrier

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT H

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: Absentee request
Date: Tuesday, June 30, 2020 at 3:05:06 PM Mountain Daylight Time
From: Carrier, Jennifer
To: Harvey, Chris
Attachments: image001.jpg

Thanks so much!

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris <wharvey@sos.ga.gov>
Sent: Tuesday, June 30, 2020 5:03 PM
To: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: Absentee request

The corrected absentee ballot application is live on our web page now.

Chris Harvey
Elections Director
Georgia Secretary of State

Main 470-312-2777
Cell 404-985-6351



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EXHIBIT I

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: CVI -- Georgia Absentee Ballot Application Mailings **In Homes Soon**
Date: Thursday, August 6, 2020 at 6:44:47 AM Mountain Daylight Time
From: Carrier, Jennifer
To: Harvey, Chris (wharvey@sos.ga.gov), 'Rayburn, Kevin'
CC: 'Elections.VoterRegistration@FultonCountyGA.Gov', 'VoterRegistration@gwinnettcountry.com', 'voterreg@dekalbcountyga.gov', 'Beth.Kish@cobbcounty.org'
Attachments: CVI -- VBM GA 1.pdf, CVI -- VBM GA 2.pdf, CVI -- VBM GA 3.pdf

Director Harvey --

I am writing to share information about the success of the recent Center for Voter Information (CVI) absentee ballot application mailing in Georgia, and to provide details regarding future 2020 absentee ballot application mailings.

CVI had a successful absentee ballot application mailing in May – they have been able to track **3,191 registered Georgia voters that used CVI's reply envelope.**

Attached is a sample of the absentee ballot application mailing CVI will be sending to Georgia registered voters in upcoming mailings -- you'll see that we have pre-filled the name/address and have highlighted the essential information including the signature line. **These mailings will be in "waves" with the first wave landing around August 18 and the last wave in mid September.** Below is a count-by-county breakdown.

Mission: Expand Access to Democracy by Underrepresented Populations

CVI's goal is to bring more people into our democracy. CVI successfully utilizes direct mail and online formats to foster registration and voting by under-represented populations in the American electorate. A special focus is on the Rising American Electorate (RAE), consisting of young people, communities of color, and unmarried women. For more information on the mission and the RAE, please see centerforvoterinformation.org.

* * * * *

If you talk to anyone that wants to be removed from the CVI mailing list, their letter has a code near the bottom that they can email to CVI to be automatically removed (unsubscribe@centerforvoterinformation.org). Or you can take down the codes or names/addresses and send them to me (or call me) for removal. Additionally, you can direct anyone to **CVI's toll-free number: 866-377-7396.**

I hope you can pass this information along to all of the counties. Let me know if you have any questions or encounter any issues!

Jen

County	Voters Mailed
APPLING	2,114
ATKINSON	770
BACON	931

BAKER	911
BALDWIN	9,757
BANKS	847
BARROW	10,984
BARTOW	10,714
BEN HILL	3,321
BERRIEN	1,182
BIBB	53,061
BLECKLEY	1,370
BRANTLEY	569
BROOKS	3,189
BRYAN	5,206
BULLOCH	11,390
BURKE	6,445
BUTTS	3,367
CALHOUN	993
CAMDEN	7,205
CANDLER	1,428
CARROLL	16,010
CATOOSA	3,265
CHARLTON	1,237
CHATHAM	82,924
CHATTAHOOCHEE	948
CHATTOOGA	1,598
CHEROKEE	27,676
CLARKE	31,062
CLAY	701
CLAYTON	131,363
CLINCH	919
COBB	201,552
COFFEE	6,496
COLQUITT	5,990
COLUMBIA	24,727

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COOK	2,416
COWETA	20,645
CRAWFORD	1,548
CRISP	4,544
DADE	582
DAWSON	1,030
DECATUR	6,006
DEKALB	311,258
DODGE	2,402
DOOLY	1,920
DOUGHERTY	35,700
DOUGLAS	46,829
EARLY	2,828
ECHOLS	289
EFFINGHAM	6,735
ELBERT	3,174
EMANUEL	3,475
EVANS	1,467
FANNIN	1,007
FAYETTE	26,285
FLOYD	10,081
FORSYTH	31,147
FRANKLIN	1,408
FULTON	369,135
GILMER	1,249
GLASCOCK	137
GLYNN	14,938
GORDON	4,177
GRADY	3,922
GREENE	3,564
GWINNETT	267,510
HABERSHAM	2,690
HALL	26,087

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HANCOCK	3,363
HARALSON	1,342
HARRIS	4,208
HART	2,721
HEARD	788
HENRY	77,526
HOUSTON	33,525
IRWIN	1,254
JACKSON	6,369
JASPER	1,725
JEFF DAVIS	1,524
JEFFERSON	4,395
JENKINS	1,792
JOHNSON	1,266
JONES	4,295
LAMAR	2,808
LANIER	1,187
LAURENS	9,761
LEE	4,478
LIBERTY	17,778
LINCOLN	1,326
LONG	2,454
LOWNDES	24,851
LUMPKIN	1,383
MACON	2,789
MADISON	2,619
MARION	1,236
MCDUFFIE	4,887
MCINTOSH	1,980
MERIWETHER	4,349
MILLER	1,018
MITCHELL	5,018
MONROE	3,927

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MONTGOMERY	961
MORGAN	2,736
MURRAY	1,973
MUSCOGEE	58,526
NEWTON	32,621
OCONEE	3,915
OGLETHORPE	1,768
PAULDING	27,249
PEACH	6,765
PICKENS	1,030
PIERCE	1,031
PIKE	1,068
POLK	3,359
PULASKI	1,373
PUTNAM	3,310
QUITMAN	547
RABUN	726
RANDOLPH	1,960
RICHMOND	72,065
ROCKDALE	34,365
SCHLEY	419
SCREVEN	3,349
SEMINOLE	1,431
SPALDING	13,758
STEPHENS	2,143
STEWART	944
SUMTER	7,469
TALBOT	1,756
TALIAFERRO	576
TATTNALL	2,256
TAYLOR	1,142
TELFAIR	1,640
TERRELL	3,073

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THOMAS	8,667
TIFT	7,122
TOOMBS	3,926
TOWNS	499
TREUTLEN	1,056
TROUP	13,360
TURNER	1,845
TWIGGS	2,245
UNION	1,139
UPSON	4,514
WALKER	3,294
WALTON	12,362
WARE	5,384
WARREN	1,719
WASHINGTON	6,025
WAYNE	2,901
WEBSTER	641
WHEELER	576
WHITE	979
WHITFIELD	11,692
WILCOX	687
WILKES	2,384
WILKINSON	1,750
WORTH	2,907
-----	-----
Total	2,523,327

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT J

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: RE: Data on VBM Requests (to remove from mailing list)
Date: Thursday, August 6, 2020 at 2:41:54 PM Mountain Daylight Time
From: Carrier, Jennifer
To: Harvey, Chris
Attachments: image001.jpg

Director Harvey –

Sorry for the confusion! CVI typically obtains from our vendor, Catalist, a data file from the state listing the individuals who have requested a mail ballot. Catalist does not have up to date data for the General in Georgia so I was wondering if we could receive the file directly.

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

From: Harvey, Chris <wharvey@sos.ga.gov>
Sent: Thursday, August 6, 2020 4:14 PM
To: Carrier, Jennifer <JCarrier@blankrome.com>
Subject: RE: Data on VBM Requests (to remove from mailing list)

Jennifer,

I don't understand what you are asking.

Chris Harvey

Elections Director

Georgia Secretary of State

Main 470-312-2777

Cell 404-985-6351



From: Carrier, Jennifer <JCarrier@blankrome.com>
Sent: Thursday, August 6, 2020 4:05 PM
To: Harvey, Chris <wharvey@sos.ga.gov>
Subject: Data on VBM Requests (to remove from mailing list)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Director Harvey –

CVI is getting ready to finalize data for its later waves of vbm application mailings and we were wondering if we could get data for those with a General request already on file so we can move them from our mailing?

Many thanks!
Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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EXHIBIT K

RETRIEVED FROM DEMOCRACYDOCKET.COM

Subject: VPC/CVI -- Sample VR and Absentee Ballot Application Mailings
Date: Monday, November 16, 2020 at 9:54:32 AM Mountain Standard Time
From: Carrier, Jennifer
To: Harvey, Chris
CC: Carrier, Jennifer
Attachments: GA VBM Form 123.pdf, CVI - GA Letter.pdf, VPC - GA Runoff MC20 NAACP.pdf, VPC - VR Letter Simple Wave GA RUNOFF MC20.pdf, Form GA MC20.pdf

Dear Director Harvey --

I write on behalf of my clients, the Voter Participation Center (VPC) and the Center for Voter Information (CVI), to provide advance copies of their next **voter registration** and **absentee ballot application** mailings that are **expected to land in Georgia soon**.

Attached are sample letters along with the relevant forms/instructions. Note that on the absentee ballot application we'll be pre-filling the date of the runoff election.

I'll follow up with the counts-by-county breakdown that may be helpful for local election officials.

Please let me know if you have any questions or concerns.

Jen

Jennifer L. Carrier | BLANKROME

1825 Eye Street NW | Washington, DC 20006

Phone: 202.420.3034 | Fax: 202.420.2201 | Email: JCarrier@blankrome.com

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

VOTEAMERICA; VOTER
PARTICIPATION CENTER; and
CENTER FOR VOTER
INFORMATION,

Plaintiffs,

v.

Case No. 1:21-cv-01390-JPB
Judge J.P. Boulee

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia; SARA
GHAZAL, JANICE JOHNSTON,
EDWARD LINDSEY, and
MATTHEW MASHBURN, in their
official capacities as members of the
STATE ELECTION BOARD,
Defendants,

and

REPUBLICAN NATIONAL
COMMITTEE; NATIONAL
REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL
COMMITTEE; and GEORGIA
REPUBLICAN PARTY, INC.,
Intervenor-Defendants.

**DECLARATION OF DANIEL MCCARTHY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Daniel McCarthy, declare as follows:

1. I am the Vice President of Finance and Operations at VoteAmerica, a national nonpartisan 501(c)(3) nonprofit organization based in California that leverages research-driven campaigns to register and turnout the 100+ million Americans who are traditionally excluded by partisan outreach efforts.

VoteAmerica's Mission and Objectives

2. VoteAmerica's mission is to educate and assist eligible American voters throughout the country to engage in the electoral process, with an emphasis on voting by mail, which VoteAmerica believes is the safest and most effective way to ensure the broadest participation in elections. VoteAmerica registers and turns out voters by providing access to trusted election information, open platform technology, and education programs to support and empower the most vulnerable voters to navigate the path to exercising their vote.

3. VoteAmerica's website provides extensive guides and tools for voter registration; absentee or mail voting; and voting in person in each state. VoteAmerica's resources for absentee voting in Georgia include a guide to absentee voting rules—listing deadlines, identification requirements, and other instructions—as well as links to relevant election offices and other election resources. *See* VoteAmerica, <https://www.voteamerica.com/> (last visited Apr. 26, 2022).

4. A key component of VoteAmerica's civic engagement communication strategy is providing voters with information and resources to facilitate their

completion of the registration and voting processes. This includes assisting in their application for mail and absentee ballots.

5. VoteAmerica encourages Georgians to use absentee ballots because having the option to vote by mail makes democracy more accessible for all voters. Absentee ballots expand voting opportunities to voters who cannot access the polls on Election Day because of work or school obligations, lack of transportation, illness, disability, or other barriers. Our representative democracy depends on an electoral process that is open and accessible to all voters, including the voters traditionally excluded by partisan outreach efforts who we seek to turn out.

VoteAmerica's Absentee and Mail Ballot Tool

6. VoteAmerica endeavors to direct each voter to the most effective means for that voter to exercise their right to vote. Some states allow voters to apply online for an absentee ballot application, in which case VoteAmerica helps voters to access their state's application portal. However, this option is not available or accessible for all voters in all states, and in Georgia the Secretary of State's online portal is no longer operational.

7. For voters who cannot apply via a state's application portal, VoteAmerica's primary resource for promoting absentee voting is its interactive web-based absentee and mail ballot tool ("Absentee Tool") that enables voters to provide their name, address, date of birth, email, and phone number and then receive

an official absentee ballot application form partially prefilled with the information they provided, which they can complete and send to their appropriate local election official.

8. To keep the information provided through the Absentee Tool current during the 2020 election, VoteAmerica staffed the tool with three full-time researchers. VoteAmerica anticipates also having at least two such researchers on staff through the 2022 election.

9. During the 2020 election cycle, more than one million registered voters nationwide requested a vote-by-mail ballot using VoteAmerica's online resources and over 62,000 Georgia voters made use of VoteAmerica's Absentee Tool.

10. The Absentee Tool is available to potential voters not only on VoteAmerica's website but also on the websites of partner organizations. Partner organizations embed VoteAmerica's tools on their websites and many have used the Absentee Tool to engage voters throughout the country.

11. VoteAmerica also shares graphics, messaging, and other communications products with partner organizations to amplify VoteAmerica's pro-voting message.

12. The Absentee Tool helps VoteAmerica communicate its civic engagement message to the largest possible number of potential voters. When a potential voter uses the tool, they are notified that they are simultaneously signing

up for VoteAmerica's follow-up communications to assist them in each step of the voting process in that election and future elections. Thereafter, voters receive follow-up engagement communications in the form of emails, text messages, and other electronic communications to encourage their future participation in elections. VoteAmerica also uses other forms of outreach and engagement—like peer-to-peer texting, campus engagement, billboards, and digital ad campaigns—to guide voters to use VoteAmerica's online tools and resources. More than 143,700 Georgia voters currently subscribe to VoteAmerica's educational emails and reminder text messages.

VoteAmerica's Print-and-Mail Feature

13. In the 2020 election, VoteAmerica tested a new feature of the Absentee Tool. VoteAmerica offered users in four states—Texas, Montana, Ohio, and Utah—the option to receive pre-printed personalized absentee voting applications via postal mail (“print-and-mail”) in addition to email. VoteAmerica mailed about 33,040 absentee ballot application forms to voters in these four states, ensuring these voters could submit a paper absentee ballot application even if they did not have access to a printer.

14. VoteAmerica plans to make this print-and-mail feature available to voters nationwide, including in Georgia, for the 2022 election cycle, and VoteAmerica's technology has been ready to deploy its print-and-mail feature since

November 2021. However, VoteAmerica has not yet gone live with this nationwide tool that runs afoul of certain SB 202 restrictions.

15. The print-and-mail feature would allow Georgia voters to choose whether to receive their personalized absentee ballot application by mail, email, or both. When a voter chooses to receive their application by mail, VoteAmerica's print-and-mail feature triggers the personalized application to be printed and mailed by first class mail to the voter, along with a cover letter providing instructions and a call to action to vote by mail, a blank absentee ballot application form, a pre-addressed, postage paid envelope for the voter to submit the application directly to their respective county election official, and a message encouraging the voter to vote, advising that, for example, "Your vote matters," and "You have the right to vote." Attached as Exhibit A is a sample of the cover letter and absentee ballot applications included in a mailer that would be sent to Georgia voters who opt for the print-and-mail feature of VoteAmerica's Absentee Tool.

16. VoteAmerica's mailer includes a blank form along with the personalized version of the form for two reasons. First, should a voter notice that they made an error inputting information into the Absentee Tool that is now reflected in the personalized application, the voter has the option of filling in the blank form to correct the error and submit that instead. Second, it empowers the voter to share

VoteAmerica's pro-voting message by encouraging a second voter to apply for an absentee ballot using the blank application included in VoteAmerica's mailer.

17. Running the print-and-mail feature of the Absentee Tool requires VoteAmerica to purchase various goods and services from vendors across the country to produce the absentee ballot application mailer—including the instruction sheet, the pre-stamped and pre-addressed envelope, the personalized absentee ballot application, and the extra copy of a blank absentee ballot application.

18. Expanding the print-and-mail feature is vital to VoteAmerica's mission to support and empower the most vulnerable voters to navigate the path to exercising their vote. It enables VoteAmerica to more effectively communicate a pro-voting message to a broader audience, including low-income and low-propensity voters who may have fewer resources for printing and postage and less access to those services. Giving voters using VoteAmerica's Absentee Tool the choice to receive a pre-printed, personalized absentee ballot application will also make it easier to turnout eligible Georgians by helping them complete the first several steps in the process of voting by mail.

19. For many voters, mailing personalized absentee ballot applications to voters who request them is the most effective way to communicate VoteAmerica's message that voting by mail is easy and that Georgia voters should vote by mail. For voters without access to a printer, for example, it is far more effective to mail a copy

of the personalized application than to send it via email or merely provide information to voters for how they can obtain an application on their own. Mailing the personalized application removes additional friction points to submitting a completed application and obtaining an absentee ballot.

20. VoteAmerica anticipates that the number of Georgians who use VoteAmerica's tools—including its print-and-mail feature—and who subscribe to VoteAmerica's communications will increase at a reduced rate because of SB 202, which prevents VoteAmerica's most effective assistance to voters: *mailing* personalized, pre-printed absentee ballot applications that are free of inaccurate and misleading state-mandated speech to voters who request them.

21. VoteAmerica plans to offer the print-and-mail feature to partner organizations utilizing VoteAmerica's tools and resources. VoteAmerica's Absentee Tool, with the print-and-mail feature, provides a valuable resource for state and national advocacy and political organizations that are interested in encouraging voters to vote by absentee ballot. VoteAmerica expects it will become an increasingly valuable service as the organizations' user bases grow, unless states like Georgia make it impossible to provide their voters with effective voter engagement services.

SB 202's Mailing List Restriction Severely Limits VoteAmerica's Planned Communications

22. For the 2022 election cycle, VoteAmerica plans to offer the print-and-mail feature as a part of its Absentee Tool to enhance access for potential voters nationwide, especially those who do not have easy access to a printer. This program would include VoteAmerica mailing copies of Georgia's absentee ballot application to Georgia voters who used the Absentee Tool to pre-populate their application with the required information.

23. SB 202's Mailing List Restriction prohibits VoteAmerica from offering the print-and-mail feature to voters who have already requested an absentee ballot. Any individual violation of this prohibition carries the risk of up to a \$100 fine and potential criminal penalties and SB 202's safe harbor provision only applies for entities that rely on information provided by the Secretary of State within five business days before the applications are mailed.

24. VoteAmerica is not currently offering the print-and-mail feature for any Georgia voters because it cannot currently do so without risking penalties under SB 202's Mailing List Restriction and any financial penalty would be a significant drain on VoteAmerica's limited resources that would otherwise be spent furthering VoteAmerica's mission.

25. Use of VoteAmerica's Absentee Tool is initiated by the voter who inputs their information and requests an absentee ballot. VoteAmerica does not

initiate the sending of absentee ballot applications to voters. With the print-and-mail feature the voter would also initiate whether VoteAmerica emails or mails their absentee ballot application to them.

26. Currently, a voter is able to initiate use of VoteAmerica's Absentee Tool regardless of whether the voter has previously used it. VoteAmerica is not currently able to determine whether a voter using its Absentee Tool has previously requested an absentee ballot. This is true whether or not the print-and-mail feature is offered along with VoteAmerica's Absentee Tool, but VoteAmerica understands the Mailing List Restriction to only apply to mailed applications, not its emailed applications.

27. To avoid incurring the Mailing List Restriction's unsustainable penalties, VoteAmerica is exploring whether it can develop a technology to check every Georgia voter using the print-and-mail feature of VoteAmerica's Absentee Tool against the state's most recently available list of voters who have already sought an absentee ballot. Such technology would require VoteAmerica to daily seek new information from the Secretary of State in order to update the list of voters against which to compare Georgia voters using the print-and-mail feature of VoteAmerica's Absentee Tool.

28. If VoteAmerica is able to use in-house staff, developing such technology would cost a minimum of \$52,500 in raw costs, exclusive of

administrative overhead and staff time related to the technology's development and assuming the list of voters is produced by the State in a machine-readable format. Should VoteAmerica need to externalize development of the technology, however, the cost would be exponentially higher, upwards of \$250,000.

29. Once developed, VoteAmerica would need to dedicate time and resources to daily seek new updated voter lists from the Secretary of State and input those lists into VoteAmerica's developed list-checking technology. VoteAmerica would need to do this daily to avoid violating the Mailing List Restriction's five-day safe-harbor provision.

30. VoteAmerica is a nonprofit nonpartisan organization working to provide voting information and resources at voters' behest and any time or resources dedicated to developing and running the technology necessitated by the Mailing List Restriction would come at the expense of other VoteAmerica activities undertaken to further the organization's mission. The development and implementation of this technology would necessarily result in fewer resources for VoteAmerica's legal researchers, programmatic staff, engineers working on other projects, and general voter outreach efforts. This project would also necessarily undercut VoteAmerica's efforts to serve voters in other states and require an allocation of time and resources that would otherwise be spent furthering VoteAmerica's mission to encourage and assist low-propensity voters.

31. Finally, even if VoteAmerica is able to incorporate such technology, the Mailing List Restriction is still not without risk. Matching voters with the voting lists is not an exact science. It would include false positives, resulting in VoteAmerica denying assistance to voters eligible for its services. In such instances, VoteAmerica would encourage the voter to contact their local election office, potentially increasing workload for local election officials. In a worst-case scenario, the additional roadblock could result in those wrongly matched Georgia voters being disenfranchised.

32. A matching process is also not foolproof, and VoteAmerica may still be at risk of sanction under SB 202's Mailing List Restriction if a voter on the State's list is missed. Any financial penalties issued against VoteAmerica pursuant to the Mailing List Restriction would further undercut, and potentially even cripple, VoteAmerica's limited funding for its other programming.

33. Consequently, VoteAmerica may not be able to provide the print-and-mail feature to Georgia voters using the Absentee and Mail Ballot Tool, even if VoteAmerica is successful in developing the necessitated technology. This would severely limit VoteAmerica's ability to effectively communicate with and assist Georgia voters with limited or no access to a printer.

34. Additionally, as the Absentee Tool and the print-and-mail feature are currently developed to operate nationally, if SB 202's Mailing List restriction

remains in effect, VoteAmerica will need to redesign its print-and-mail feature so that it can be offered to non-Georgia voters, while VoteAmerica instead informs Georgia voters that the feature is blocked by state law.

SB 202's Disclaimer Provision Compels VoteAmerica's False and Misleading Speech

35. In accordance with SB 202 requirements, VoteAmerica sends those who use the Absentee Tool an approved government document to assist Georgia voters to apply for an absentee ballot. The top of this form reads "Application for Georgia Official Absentee Ballot" under which SB 202 mandates that VoteAmerica stamp "NOT an official government publication." VoteAmerica strongly objects to this mandated language and to the rest of the disclosure requirement, nevertheless VoteAmerica has updated its absentee ballot application form for Georgia voters to include the SB 202-required disclaimer that is being challenged as a part of this litigation.

36. The disclaimer language is false, and by requiring its inclusion the State is compelling VoteAmerica to make an inaccurate and misleading representation to Georgia voters.

37. Making such a false statement is directly counter to VoteAmerica's core values as VoteAmerica is dedicated to providing voters with accurate information and resources to facilitate their completion of the registration and voting processes.

38. The State should not compel a private corporation to make false statements. By mandating inclusion of this misinformation, Georgia is dictating that VoteAmerica speak the government's inaccurate message. VoteAmerica vehemently opposes this message because it is not just false, but it also discourages participation, and its provision to voters is therefore antithetical to VoteAmerica's values and impedes VoteAmerica's pursuit of its mission.

39. VoteAmerica sends Georgia voters a copy of the state-approved absentee ballot application that is pre-populated with the information that the voter input to VoteAmerica's Absentee Tool. VoteAmerica assures its users that it will send them the proper and official government forms that are required by the State where they vote. It is confusing and misleading for VoteAmerica to then send those same voters an absentee ballot application with a stamp indicating that it is not an official government publication. Inclusion of the disclaimer label causes recipients to doubt VoteAmerica's message and reduces VoteAmerica's credibility with voters.

40. VoteAmerica's pro-voting message is made less effective when it must also include the false, misleading, and disenfranchising disclaimer label. Ultimately, its inclusion makes it harder for VoteAmerica to encourage and assist voters to successfully receive and vote via absentee ballot, making it harder for many Georgia voters to engage in the electoral process.

41. Despite VoteAmerica's fundamental opposition to it, VoteAmerica includes the disclaimer label currently so as not to be targeted with civil and/or criminal penalties. VoteAmerica is aware that a third-party group in Augusta, Georgia is under investigation by the State for allegedly making a slight deviation from SB 202's Disclaimer Provision requirements.¹ VoteAmerica is closely monitoring this situation as steep civil penalties or criminal prosecution would significantly impair VoteAmerica's ability to share its pro-voting message both in Georgia and nationwide.

SB 202's Prefilling Prohibition No Longer Applies to VoteAmerica

42. Mailing *personalized* absentee ballot applications to voters who request them is the most effective way to communicate VoteAmerica's message that Georgia voters should vote by mail and is far more effective than sending a blank application.

43. SB 202's Prefilling Prohibition originally penalized VoteAmerica for sending these personalized absentee ballot applications to the voters who used its Absentee Tool.

¹ To VoteAmerica's knowledge, the Secretary of State is investigating a county commission candidate for allegedly sending mailers that included absentee ballot applications as well as a disclaimer on the communication, but that may not have precisely met SB 202's requirements. See Susan McCord, *Augusta Commission election mailer flagged for Georgia Secretary of State review*, Augusta Chronicle (Mar. 30, 2022), <https://www.augustachronicle.com/story/news/2022/03/30/augusta-commission-campaign-mailer-under-review-state-elections/7199180001/>.

44. However, since the passage of SB 202, the Georgia state election board enacted a regulation permitting web-based tools that enable voters to partially complete their absentee ballot applications online. VoteAmerica interprets this regulation to exempt its Absentee Tool from the Prefilling Prohibition.

The Negative Effects of SB 202 on VoteAmerica's Mission

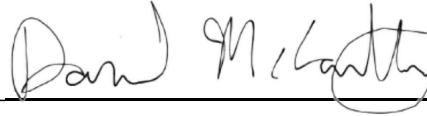
45. The passage of SB 202 has already limited VoteAmerica's ability to encourage and assist low-propensity voters in Georgia. VoteAmerica planned to offer the print-and-mail feature as a part of its Absentee Tool for voters across the country to use, including Georgia voters, throughout the 2022 election cycle. VoteAmerica's technology was ready as early as November 2021, but VoteAmerica has not gone live with this nationwide tool to avoid penalties under SB 202's Mailing List Restriction. Because of this, and because VoteAmerica is committed to encouraging and assisting voters nationwide as effectively as possible, VoteAmerica seeks the ability to offer Georgia voters the option of having their personalized absentee ballot applications for the 2022 election mailed to them. This would allow VoteAmerica to most effectively assist Georgia voters, especially those without access to a printer. If SB 202 remains in effect, however, VoteAmerica is considering how its technology might be re-developed to include the print-and-mail feature for most of its users while excluding Georgia voters from this resource.

46. To the extent that VoteAmerica can still communicate with Georgia voters via emailed communications, VoteAmerica is currently obligated to include false and misleading information. This has potential to further confuse voters and diminish VoteAmerica's credibility with both voters and partner organizations. These concerns, coupled with the threat of civil penalties and criminal prosecution require VoteAmerica to devote resources to ongoing considerations of how, if at all, to engage with Georgia voters without jeopardizing the organization's programming for voters nationwide.

47. VoteAmerica wants to communicate its pro-voting and pro-absentee voting message to Georgians as effectively as possible in the 2022 election cycle. VoteAmerica believes it best achieves this by enabling Georgia voters to not only populate their absentee applications using the Absentee Tool, but also to have their personalized applications mailed to them, free of any inaccurate government messaging, for the voters' signature and submission. VoteAmerica has developed the technology to empower Georgia voters in this way and will be able to offer this resource during the 2022 election cycle if SB 202's restrictions are enjoined.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 26 in Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read "Dan McCarthy", is written over a horizontal line.

Daniel McCarthy

RETRIEVED FROM DEMOCRACYDOCKET.COM

Absentee Ballot Form

Powered by VoteAmerica.com

INSTRUCTIONS

1. Fill out the form on the next page completely.
2. Sign and date the form. This is very important!
3. Mail or hand-deliver your completed form to your Local Election Official **as soon as possible**.
4. Your completed application must be received — not just postmarked — by the deadline.
5. If it's close to the deadline, call your Local Election Official and ask if you can fax or email your form. This is **much faster** than mailing the form.

IMPORTANT

Absentee ballots are always counted as long as they arrive by Election Day. Your vote matters: get this form in on time.

YOU HAVE THE RIGHT TO VOTE

If anyone is preventing you from voting, please call the Election Protection Hotline for free and nonpartisan advice:

1-866-OUR-VOTE

MAIL YOUR FORM TO

Board of Elections and Voter Registration
2030 KINGS CHAPEL RD
Perry, GA 31069

DEADLINE

Mail your form as soon as possible.

Your form should be mailed as soon as possible.

EARLIEST DATE TO APPLY

Your Local Election Official will accept this form starting:
78 days before Election Day

IF YOU NEED HELP

Call or email your Local Election Official:
Email: elections@houstoncountygga.org
Phone: (478) 987-1973

MILITARY AND OVERSEAS VOTERS

You can register to vote and get your absentee ballot at the same time using the Federal Post Card Application (FPCA). Our friends at the Overseas Vote Foundation will help you prepare this form. Please visit their site to get started:

<https://www.overseasvotefoundation.org>



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

The information provided in this document is made under oath and penalty of law and will be used for official government purposes. **When you sign this application, you affirm that you are a citizen of the U.S., currently reside in Georgia and are eligible to vote in Georgia.** Giving false information on this application violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Please print clearly. Be sure to complete all **required** sections.

Date of Election Required	1	Date of Primary, Election, or Runoff (mm/dd/yyyy) _____ The application must be received by your election office* 11 days before the election.										
Print voter name Required	2	Your name as it appears on your voter registration. First <u>Jane</u> Middle _____ Last <u>Doe</u> Suffix _____										
Type of ballot Required in primary	3	<input type="checkbox"/> Democratic <input type="checkbox"/> Republican <input type="checkbox"/> Non Partisan (will not have ANY party candidates listed)										
Residential address Required Your ballot will be sent here unless you provide a temporary mailing address.	4	The residential or mailing address on your voter registration. If you no longer reside at the address where you are registered to vote, contact your county election office prior to submitting this application. Address <u>220 Willis Creek Road</u> City <u>Warner Robins</u> County <u>Houston</u> <u>GA</u> Zip <u>31088</u>										
Temporary ballot mailing address Only if you are temporarily living outside the county** and want your ballot sent to this address.	5	This address must be in a different county** than the one where you are registered unless you are physically disabled or detained in jail or other detention facility. Address _____ City _____ State _____ Zip _____										
Contact information Recommended	6	Phone number <u>518-555-1212</u> Email address <u>jane@example.com</u>										
Voter identification Required Print carefully. This information will be used to verify your identity. Failure to provide accurate information may delay processing your application. You must provide your date of birth AND • a Georgia Driver's License or Identification Card number OR • a copy of an acceptable identification from the list in the instructions.	7	<p>Date of birth (mm/dd/yyyy) <u>05/20/1985</u></p> <p>Georgia Driver's License Number or State Identification Card Number</p> <p>AND <table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table></p> <p>OR <input type="checkbox"/> I do not have a Georgia Driver's License or Identification Card and I am providing a copy of acceptable identification below.</p> <div style="border: 1px dashed black; padding: 10px;"> <p>Instructions:</p> <ul style="list-style-type: none"> • Make sure your identification on your ID card or document is visible. • Take a photo of your full completed application and submit it electronically to your elections office* (addresses are online: elections.sos.ga.gov/Elections/countyregistrars.do). You may also submit a hard copy of your application via U.S. mail or in person to your elections office*. • If your acceptable form of identification does not fit in this box, please attach a copy and submit it with your application. </div> <p>Place identification here if you did not provide a Georgia driver's license or ID number</p>										
Voter oath and signature Required Use a pen. No electronic signatures allowed.	8	<p>I, the undersigned, do swear and affirm that I am eligible to vote in Georgia, am a citizen of the U.S. and the facts presented in this application are true. By signing this oath, you are swearing that you are the voter requesting an absentee ballot.</p> <p>Signing this oath on behalf of another voter violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.</p> <p>Voter, sign and date here (Required)</p> <table border="1"> <tr> <td style="width: 50%; text-align: center;">X</td> <td style="width: 50%;">Date (mm/dd/yyyy) 04/26/2022</td> </tr> </table>	X	Date (mm/dd/yyyy) 04/26/2022								
X	Date (mm/dd/yyyy) 04/26/2022											

If you received this application with your information pre-filled, received multiple or duplicate copies in the mail, or if an unauthorized person offers to return your absentee ballot application, please report this to reportfraud@sos.ga.gov.

Form continues ►

APP-21



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

Print voter name

Required

9

Your name as it appears on your voter registration.

First Jane Middle _____ Last Doe Suffix _____

Assisting a voter?

If yes, the assistant must complete this section. **Voter assistance is only allowed if the voter is illiterate or physically disabled.**

10

By signing as assisting the voter, you are swearing under oath that the voter is entitled to assistance. Assisting a voter who is not eligible for assistance in completing this application violates Georgia law and is punishable by a fine up to \$100,000 or imprisonment for up to 10 years, or both.

Assistant's name _____

Assistant's signature

X

Date (mm/dd/yyyy) _____

Requesting a ballot on behalf of a voter?

If yes, complete this section. The voter must be physically disabled or temporarily residing out of the county** and must still be eligible to vote in the county** where he or she is registered.

11

I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and **acknowledge that making a false statement on this application regarding my relationship to the voter violates Georgia law and is punishable by a fine up to \$1,000, 12 months in jail, or both.**

I swear (or affirm) that the above-named voter is: (check one)

- ☐ physically disabled
☐ temporarily residing out of the county**

Signature of authorized and eligible requestor

X

Relationship to voter _____

Ballot request opt-in

Optional

If you meet the eligibility criteria, you may opt-in to receive an absentee ballot for the rest of the elections cycle without making another application.

12

☐ I opt-in to receive an absentee ballot for the rest of the election cycle.

I am eligible for the reason selected below:

- ☐ D- Disabled. I am physically disabled
☐ E- Elderly. I am 65 years of age or older
☐ U- UOCAVA. I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. (Complete the information to the right)

UOCAVA voters only

My current status is (check one)

- ☐ MOS - Military Overseas
☐ MST - Military Stateside
☐ OST - Overseas Temporary Resident
☐ OSP - Overseas Permanent Resident (may vote for federal offices only)

(Optional) By entering my email, I request that my absentee ballot be transmitted to me electronically.

Email _____

Acceptable forms of identification if you do not have a Georgia Driver's License or State Identification Card Number

Identification with your photograph:

- United States Passport
- Georgia voter identification card
- Other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification
- United States military identification card
- Employee identification card issued by any branch, department, agency, or entity of the United States government, Georgia state government, or Georgia county, municipality, board, authority, or any other entity of the state of Georgia
- Tribal identification card

Documents that show your name and address:

- Current utility bill
- Bank statement
- Paycheck
- Government check
- Other government document

How to return your absentee ballot application

Absentee ballot applications must be received 11 days before the date of the election.

You can return the form by:

- mail
- email (as an attachment)
- fax
- in-person at your elections or registrar's office

Your County Board of Registrar's Office information can be found online:

<https://elections.sos.ga.gov/Elections/countyregistrars.do>

*In state, county, and federal elections, your elections office is your county elections office. In municipal elections, your elections office is your municipal elections office.

**Or, in municipal elections, municipality.

No person or entity other than the elector, a relative authorized to request an absentee ballot for such elector, a person signing as assisting an illiterate or physically disabled elector with his or her application, a common carrier charged with returning the ballot application, an absentee ballot clerk, a registrar, or a law enforcement officer in the course of an investigation shall handle or return an elector's completed absentee ballot application. **Handling a completed absentee ballot application by any person or entity other than as allowed in this paragraph is a misdemeanor.**

Ballot

Dates

ID Shown

For office use only

Dist. Combo _____	Received _____	GA DL _____	I certify that the above named voter <input type="checkbox"/> is eligible <input type="checkbox"/> is not eligible _____ Registrar signature _____
Precinct _____	ISS _____	Other _____	
Ballot # _____	Certified _____	Voter Reg # _____	
	Rejected _____		
Ballot to be: <input type="checkbox"/> Mailed electronically <input type="checkbox"/> Delivered to voter in hospital by Registrars or Deputy <input type="checkbox"/> Voted in office (municipal only)			



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

The information provided in this document is made under oath and penalty of law and will be used for official government purposes. **When you sign this application, you affirm that you are a citizen of the U.S., currently reside in Georgia and are eligible to vote in Georgia.** Giving false information on this application violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Please print clearly. Be sure to complete all **required** sections.

Date of Election

Required

1

Date of Primary, Election, or Runoff (mm/dd/yyyy) _____

The application must be **received** by your election office* 11 days before the election.

Print voter name

Required

2

Your name as it appears on your voter registration.

First _____ Middle _____ Last _____ Suffix _____

Type of ballot

Required in primary

3

☐ Democratic ☐ Republican ☐ Non Partisan (will not have ANY party candidates listed)

Residential address

Required Your ballot will be sent here unless you provide a temporary mailing address.

4

The residential or mailing address on your voter registration. If you no longer reside at the address where you are registered to vote, contact your county election office prior to submitting this application.

Address _____

City _____ County _____ GA Zip _____

Temporary ballot mailing address

Only if you are **temporarily living** outside the county** and want your ballot sent to this address.

5

This address must be in a different county** than the one where you are registered unless you are physically disabled or detained in jail or other detention facility.

Address _____

City _____ State _____ Zip _____

Contact information

Recommended

6

Phone number _____ Email address _____

Voter identification

Required

Print carefully. This information will be used to verify your identity.

Failure to provide accurate information may delay processing your application.

You must provide your date of birth AND

- a Georgia Driver's License or Identification Card number

OR

- a copy of an acceptable identification from the list in the instructions.

Date of birth (mm/dd/yyyy) _____

AND

Georgia Driver's License Number or State Identification Card Number

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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OR

- ☐ I do not have a Georgia Driver's License or Identification Card and I am providing a copy of acceptable identification below.

Instructions:

- Make sure your identification on your ID card or document is visible.
- Take a photo of your full completed application and submit it electronically to your elections office* (addresses are online: elections.sos.ga.gov/Elections/countyregistrars.do). You may also submit a hard copy of your application via U.S. mail or in person to your elections office*.
- If your acceptable form of identification does not fit in this box, please attach a copy and submit it with your application.

Place identification here
if you did not provide a Georgia driver's license or ID number

Voter oath and signature

Required

Use a pen. No electronic signatures allowed.

8

I, the undersigned, do swear and affirm that I am eligible to vote in Georgia, am a citizen of the U.S. and the facts presented in this application are true. By signing this oath, you are swearing that you are the voter requesting an absentee ballot.

Signing this oath on behalf of another voter violates Georgia law and is punishable by a fine up to \$100,000, imprisonment for up to 10 years, or both.

Voter, sign and date here (Required)

X

Date (mm/dd/yyyy) _____

If you received this application with your information pre-filled, received multiple or duplicate copies in the mail, or if an unauthorized person offers to return your absentee ballot application, please report this to reportfraud@sos.ga.gov.

Form continues ►

APP-21



Brad Raffensperger
SECRETARY OF STATE

Application for Georgia Official Absentee Ballot

Print voter name

Required

9

Your name as it appears on your voter registration.

First _____ Middle _____ Last _____ Suffix _____

Assisting a voter?

If yes, the assistant must complete this section. **Voter assistance is only allowed if the voter is illiterate or physically disabled.**

10

By signing as assisting the voter, you are swearing under oath that the voter is entitled to assistance. Assisting a voter who is not eligible for assistance in completing this application violates Georgia law and is punishable by a fine up to \$100,000 or imprisonment for up to 10 years, or both.

Assistant's name _____

Assistant's signature

X

Date (mm/dd/yyyy) _____

Requesting a ballot on behalf of a voter?

If yes, complete this section. The voter must be physically disabled or temporarily residing out of the county** and must still be eligible to vote in the county** where he or she is registered.

11

I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and **acknowledge that making a false statement on this application regarding my relationship to the voter violates Georgia law and is punishable by a fine up to \$1,000, 12 months in jail, or both.**

I swear (or affirm) that the above-named voter is: (check one)

- ☐ physically disabled
☐ temporarily residing out of the county**

Signature of authorized and eligible requestor

X

Relationship to voter _____

Ballot request opt-in

Optional

If you meet the eligibility criteria, you may opt-in to receive an absentee ballot for the rest of the elections cycle without making another application.

12

☐ I opt-in to receive an absentee ballot for the rest of the election cycle.

I am eligible for the reason selected below:

- ☐ D - Disabled. I am physically disabled
☐ E - Elderly. I am 65 years of age or older
☐ U - UOCAVA. I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. (Complete the information to the right)

UOCAVA voters only

My current status is (check one)

- ☐ MOS - Military Overseas
☐ MST - Military Stateside
☐ OST - Overseas Temporary Resident
☐ OSP - Overseas Permanent Resident (may vote for federal offices only)

(Optional) By entering my email, I request that my absentee ballot be transmitted to me electronically.

Email _____

Acceptable forms of identification if you do not have a Georgia Driver's License or State Identification Card Number

Identification with your photograph:

- United States Passport
- Georgia voter identification card
- Other valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification
- United States military identification card
- Employee identification card issued by any branch, department, agency, or entity of the United States government, Georgia state government, or Georgia county, municipality, board, authority, or any other entity of the state of Georgia
- Tribal identification card

Documents that show your name and address:

- Current utility bill
- Bank statement
- Paycheck
- Government check
- Other government document

How to return your absentee ballot application

Absentee ballot applications must be received 11 days before the date of the election. You can return the form by:

- mail
- email (as an attachment)
- fax
- in-person at your elections or registrar's office

Your County Board of Registrar's Office information can be found online: <https://elections.sos.ga.gov/Elections/countyregistrars.do>

*In state, county, and federal elections, your elections office is your county elections office. In municipal elections, your elections office is your municipal elections office.

**Or, in municipal elections, municipality.

No person or entity other than the elector, a relative authorized to request an absentee ballot for such elector, a person signing as assisting an illiterate or physically disabled elector with his or her application, a common carrier charged with returning the ballot application, an absentee ballot clerk, a registrar, or a law enforcement officer in the course of an investigation shall handle or return an elector's completed absentee ballot application. **Handling a completed absentee ballot application by any person or entity other than as allowed in this paragraph is a misdemeanor.**

Ballot

Dates

ID Shown

For office use only

Dist. Combo _____	Received _____	GA DL _____	I certify that the above named voter <input type="checkbox"/> is eligible <input type="checkbox"/> is not eligible _____ Registrar signature _____
Precinct _____	ISS _____	Other _____	
Ballot # _____	Certified _____	Voter Reg # _____	
	Rejected _____		

Ballot to be: ☐ Mailed electronically ☐ Delivered to voter in hospital by Registrars or Deputy ☐ Voted in office (municipal only)

EXPERT REPORT OF DONALD P. GREEN

I. Qualifications

My academic position is J.W. Burgess Professor of Political Science at Columbia University, where I have taught since 2011. I received my doctorate in political science from University of California, Berkeley in 1988. I taught political science at Yale University from 1989 to 2011, starting as an Assistant Professor and ending as A. Whitney Griswold Professor. In 1996, I was appointed Director of Yale's Institution for Social and Policy Studies, an interdisciplinary policy center, and served five three-year terms.

My expertise lies in the area of voting behavior, public opinion, elections, research design, and statistical analysis. I regularly teach courses to undergraduate and graduate students on those topics. I have published extensively on the topics of voting and elections in leading political science journals such as the *American Political Science Review*, *American Journal of Political Science*, and *Journal of Politics*. A complete list of my publications is included in my attached curriculum vitae. Many of my publications focus on the topic of voter turnout. I am the first author of the book *Get Out The Vote: How to Increase Voter Turnout* (Brookings Institution Press), which was first published in 2004; the fourth edition was published in 2019. The book reports the results of more than one hundred experimental studies of voter mobilization efforts. In the course of conducting studies of this kind, I have worked closely with a wide array of partisan and nonpartisan campaigns, evaluating their efforts statistically and observing first hand their day-to-day operations. I also have expertise in survey research and have served as a member of the Board of Overseers of the American National Election Survey. I have fielded many of my own surveys and have extensive experience developing both quantitative and qualitative measures. I have written extensively

on the design and analysis of surveys for journals such as *Public Opinion Quarterly*, *Journal of Survey Statistics and Methodology*, and *Journal of Personality and Social Psychology*.

During my professional career, I have participated actively in professional associations such as the American Political Science Association and Evidence in Governance and Politics, serving as an elected Council member in both groups. In 2003, I was elected Fellow of the American Academy of Arts and Sciences.

I am being paid \$150 per hour for my work on this case, plus expenses. In the past four years, I have served as an expert in one case: *EPCOR Water Arizona Inc. et al v. Brady et al*, No. 3:20-cv-08045 (D. Ariz.).

In preparation for this report, I read and considered the following, in addition to the relevant text of Senate Bill 202:

From the docket for this case, *VoteAmerica v. Raffensperger*, No. 1:21-cv-1390 (N.D. Ga.):

- Doc. 1, Complaint for Declaratory and Injunctive Relief
- Doc. 40-1, Brief in Support of Defendants' Motion to Dismiss
- Doc. 45, Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss
- Doc. 51, Reply Brief in Support of Defendants' Motion to Dismiss
- Doc. 57, Order on Motions to Dismiss

Other articles:

- Michael Barber & John B. Holbein, The participatory and partisan impacts of mandatory vote-by-mail, *Science Advances*, Vol. 7, Issue 35, Aug. 26, 2020.
- Hans J.G. Hassell, Teaching voters new tricks: The effect of partisan absentee vote-by-mail get-out-the-vote efforts, *Research and Politics*, Vol. 4, Issue 1, Jan. 1, 2017.

- Christopher B. Mann & Genevieve Mayhew, Voter Mobilization Meets eGovernment: Turnout and Voting by Mail from Online or Paper Ballot Request, 14 Journal of Political marketing 352 (2017).
- Sharif Amlani and Samuel Collitt, The Impact of Vote-By-Mail Policy on Turnout and Vote Share in the 2020 Election, Election Law Journal: Rules, Politics, and Policy, Feb. 16, 2022 (online ahead of print).

In addition, I reviewed five videos of interviews conducted by Alisa Hamilton of the research firm Harvest Insights, as described below. The videos and materials related to the interviews will be provided with this report.

Based on my extensive experience studying efforts to register and mobilize voters, I declare under penalty of perjury that the opinions in this document are true and correct.

II. Analysis of SB202's Provisions on Absentee Ballot Application Distribution

I have been invited by attorneys at the Campaign Legal Center and at Smith Gambrell & Russell LLP to give my assessment of provisions of Georgia's Senate Bill 202 (hereafter SB202). I shall comment on three of its provisions related to absentee ballot application distribution.

1. Why Organizations Distribute Absentee Ballot Applications

In order to increase voter turnout, many groups seek to reduce what economists call "transaction costs." In this context, transaction costs refer to the time and effort required to cast a ballot. For example, for many people, filling out a mail-in ballot is less time-consuming than casting a ballot at a polling station, and the fact that mail-in ballots may be submitted outside working hours over an extended period of time adds another layer of convenience. This observation about transaction costs is borne out by an extensive research literature that shows

how turnout increases when transaction costs decline. For example, the phase-in of vote-by-mail balloting in Utah and Washington led to increased turnout (Barber and Holbein 2020), as did the change between 2016 and 2020 among counties that automatically sent voters vote-by-mail applications or vote-by-mail ballots (Amlani and Collitt 2022).¹ A similar point may be made about voter registration and turnout. Any law or administrative rule that has the effect of increasing the transaction cost of registering to vote has the concomitant effect of diminishing voter turnout. Political scientists disagree about the precise strength of this causal relationship, but there is no disagreement about the validity of this general principle.

The role of transaction costs looms large whenever voters are encouraged to take some new action, such as requesting an absentee ballot. By way of example, consider the transaction costs of two alternative encouragements. One is a mailing that distributes a printed application and an envelope addressed to the appropriate election official. The alternative is a mailing that directs people to the official government website, where they can download, print, and submit the form on their own or fill it out and submit it online. Intuition suggests that the latter involves greater transaction costs for most recipients because it requires them to launch a browser, visit the official website, navigate their way to the appropriate form, complete the form, and submit it.

This intuition is confirmed by rigorous scientific research. Experiments that test the relative effectiveness of sending a physical vote-by-mail application versus attempts to encourage voters to use online systems show the former to be clearly superior in terms of the actual number of completed applications. Consider the randomized trial reported by Mann and

¹ Barber, M., & Holbein, J. B. (2020). "The participatory and partisan impacts of mandatory vote-by-mail." *Science advances*, 6(35), 1-7. Amlani, Sharif, and Samuel Collitt. "The Impact of Vote-By-Mail Policy on Turnout and Vote Share in the 2020 Election." *Election Law Journal: Rules, Politics, and Policy* (2022), in press.

Mayhew (2015).² Their experiment “compares two treatments sent to voters via postal mail prior to the 2010 general election in Maine: (1) recruitment to request a mail ballot via Maine’s new online system and (2) recruitment to request a mail ballot using Maine’s traditional paper application.” (p.352) The authors find that recruitment to vote by mail using a traditional paper ballot application significantly increased the number of successful applications over and above the mailer that encouraged voters to use Maine’s online ballot request. As the authors explain on p.359,

To request a mail ballot, people in the traditional vote-by-mail recruitment condition had to complete the enclosed application and mail it to the town clerk using an envelope pre-addressed to the appropriate town clerk. People in the online recruitment condition had to follow the link to the secretary of state’s website, where they completed and submitted an online request form.

The absentee ballot request rate among the 25,369 people who received paper forms was 15.1%, as compared to 11.2% among the 25,587 people who were encouraged to use the online system (Table 2, p. 362).³ Although it is sometimes argued that encouraging the use of online forms results in fewer rejected requests, the authors show that in both cases the rate of rejection was

² Mann, Christopher B., and Genevieve Mayhew. "Voter mobilization meets e-government: Turnout and voting by mail from online or paper ballot request." *Journal of Political Marketing* 14, no. 4 (2015): 352-380.

³ On page 359, Mann and Mayhew explain that the subjects in their experiment met the following three criteria: “(1) the address was considered deliverable by the US Postal Service and no change of address had been filed with the US Postal Service to avoid wasting mailings; (2) younger than 30 years old, unmarried women, non-white, or members of the organization and its allies to achieve their mission of increasing participation by groups under-represented in the electorate; and (3) had a predicted turnout probability between 30% and 70%, based on a predictive voter turnout model provided by Catalist, LLC, a firm specializing in providing voter data to civic and political organizations.”

less than one-tenth of one percent. Groups that encourage voting by mail, such as Voter Participation Center and Center for Voter Information, are justified in mailing application forms and pre-addressed envelopes; the tactic is demonstrably more effective than encouraging the use of government websites.

2. SB202's Disclaimer Requirement for the Distribution of Absentee Ballot Applications

Lines 981-994 of SB202 lay out the following disclaimer requirements for anyone distributing absentee ballot applications:

Any application for an absentee ballot sent to any elector by any person or entity shall utilize the form of the application made available by the Secretary of State and shall clearly and prominently disclose on the face of the form: 'This is NOT an official government publication and was NOT provided to you by any governmental entity and this is NOT a ballot. It is being distributed by [insert name and address of person, organization, or other entity distributing such document or material].'

These provisions, in my professional opinion, are likely to create confusion among voters who receive applications from an individual or group seeking to assist them in voting by mail. Few voters are knowledgeable about election law, and even fewer are familiar with something as specific as the laws governing the distribution of absentee ballot forms. Given their limited familiarity with these specific provisions and apprehensiveness about filling out official forms in general, the wording of the disclaimer is likely to make them reluctant to fill out an otherwise

innocuous form. To see why, let's take a close look at the required wording. Although this law requires that "any person or entity shall utilize the form of the application made available by the Secretary of State," the disclaimer first and foremost warns recipients that the form is "NOT an official government publication." The phrase "NOT an official government publication" suggests that something about the official form has been altered, rendering it questionable or invalid. Few voters will be aware that the form, by law, is *required* to be identical to the Secretary of State's form available online, yet those distributing the form are prevented from making this clear. They are both (a) prevented from stating on the form itself that the form is required to be identical to the Secretary of State's form (because the form cannot be altered) and (b) required to include language suggesting the form is *not* identical to the official government form. This component of the disclaimer is misleading in a way that, in my professional opinion, is likely to discourage voters from filling out the application. This feature of the disclaimer needlessly hobbles efforts by individuals or entities to assist people in voting by mail.

In order to get a clearer sense of how voters may react to a form with the required disclaimer, I instructed Alisa Hamilton of the research firm Harvest Insights to conduct some semi-structured interviews with ordinary voters (as distinct from activists, journalists, academics, students, or attorneys) about the absentee ballot request form. Her charge was to find people in the Atlanta area who would be willing to take a few minutes out of their daily activities to give their first impressions of a government form, in this case, the mandated absentee ballot request form with the disclosure. Respondents, after signing a consent form that allows their interview to be video recorded and shared as an exhibit to this report, were asked to look over the new form and share their thoughts and reactions. This qualitative style of social inquiry is widely

used in fields such as communication studies or marketing when the aim is to understand what communications mean from the vantage point of the receiver.

When asked what they took the disclaimer to mean, some respondents grew suspicious. One gentleman, who indicated that he ordinarily votes in person, offered comments that are especially memorable: “When I see this [disclaimer], I would just throw it in the trash.” When the interviewer asked, “How come?” he replied, “Because it is not an official government publication.” A few moments later, the interviewer handed the respondent the government-supplied form, which is otherwise identical but without the disclaimer, and asked, “Now what if you got this one in the mail that doesn’t have that box? What do you think about that one?” He replies, “It looks the same, but I probably would fill it out, just because it doesn’t have any caption up there.” A qualitative study of this kind cannot tell us what proportion of mailings would end up in the trash on account of the disclaimer, but it clearly indicates that disclaimer can cause hesitancy to complete an otherwise acceptable form.

3. SB202’s Prohibitions on Pre-filled Forms

Lines 970-974 of SB202 state that “No person or entity other than a relative authorized to request an absentee ballot for such elector or a person signing as assisting an illiterate or physically disabled elector shall send any elector an absentee ballot application that is prefilled with the elector's required information set forth in this subparagraph.”

The prohibition against prefilled forms reduces the efficiency with which mailings generate requests to vote by mail. Voters are more likely to sign and send in request forms that are pre-filled, due to their convenience. Indeed, that is why organizations expend additional resources to pre-populate the forms that they send rather than sending generic forms; they know

that by reducing transaction costs for voters, such forms are more likely to be mailed in. A peer-reviewed study that tested the effects of pre-filled versus generic absentee ballot requests found, conducted in collaboration with a Republican state party, confirmed that pre-filled forms are more successful than generic forms in generating vote-by-mail ballot requests. See table 1 in Hassell, Hans J.G. "Teaching voters new tricks: The effect of partisan absentee vote-by-mail get-out-the-vote efforts." *Research & Politics* 4, no. 1 (2017):1-6.

There are other advantages to pre-filled forms. The information used to populate these forms comes from the public voter file, using information that voters supplied when they registered to vote. This information has already been approved by election officials. A law that prohibits pre-filled forms in effect prevents voters from receiving a form with the very information that they themselves provided to the registrar of voters. Not only is a pre-filled form more convenient for voters, it is also more convenient for election officials to process pre-filled forms than forms completed by hand. Election officials are spared the task of deciphering handwriting or adjudicating minor mismatches between handwritten information and information that the voter previously transmitted.

The net effect of this prohibition is that groups such as the Plaintiffs must waste money sending *more* unfilled forms in an attempt to generate the same number of vote-by-mail requests. In other words, prohibiting pre-filled forms might needlessly increase the volume of direct mail that is sent to voters. And if Plaintiffs do not send more forms, they will engage fewer voters to vote by mail.

4. SB202's Prohibition on Sending Forms to Certain Recipients

SB202 punishes those who send vote-by-mail forms to certain recipients. Specifically, senders are warned that they are permitted to "mail such applications only to individuals who

have not already requested, received, or voted an absentee ballot” (lines 1027-1029). Liability is excused “if such person or entity relied upon information made available by the Secretary of State within five business days prior to the date such applications are mailed.” (lines 1035-1036) However, the punishment per infraction is potentially catastrophic for any person or entity sending large volumes of mail, as lines 1039-1041 require a “person or entity to pay restitution to each affected county or municipality in an amount up to \$100.00 per duplicate absentee ballot application that is processed by the county or municipality due to such violation.” The risk of a punishment this large is sufficient to deter groups, such as the Plaintiffs in this lawsuit, from engaging in these mail campaigns. Even a research-inspired campaign on the scale of the Mann and Mayhew (2015) experiment could incur catastrophic fines if just a fraction of its mailings violated the five-day restriction.

Even more ominous are the prospects of criminal penalties (which would apply to all three provisions I have discussed here). The law states that “Except as otherwise provided by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor.” O.C.G.A. § 21-2-598. Under Georgia law, a person convicted of a misdemeanor is subject to “one or more of the following, in the discretion of the trial judge: (1) A fine of not less than \$100.00 nor more than \$1,000.00; (2) A sentence of confinement in the county jail or other place of imprisonment for a period not to exceed six months; or (3) A sentence of confinement in a county correctional institution or other appropriate institution under the jurisdiction of the Department of Corrections not to exceed 12 months.” O.C.G.A. § 21-2-599. The law’s draconian penalties seem to be designed to deter individuals and groups from sending any such mailings. These chilling effects are likely to be especially severe for small organizations, such as church groups, that lack the staffing or technical capacity to regularly download and inspect the

official database to ensure that those who “already requested, received, or voted an absentee ballot” do not inadvertently receive an outgoing mailing.

It should be stressed that groups that distribute absentee ballot forms already have strong incentives not to send mail to people who have “already requested, received, or voted an absentee ballot”; to do so is complete a waste of money. The senders of such mailings, in other words, already have their incentives aligned with the law’s stated aim of preventing duplication of effort and voter confusion. The punishments that could be meted out on those who inadvertently run afoul of the 5-day grace period go well beyond these financial disincentives and in my opinion are likely to severely attenuate or altogether eliminate this form of communication with voters.

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March 21, 2022

By: Donald P. Green

Donald P. Green

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