

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

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

Plaintiffs,

Case No. 1:21-cv-01390-JPB

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE; et al.,

Intervenor-Defendants.

**PLAINTIFFS' RESPONSE TO STATE DEFENDANTS' CONSOLIDATED
STATEMENT ON CONSOLIDATION OF SB 202 CASES**

Defendants' statement on consolidation highlights why this case should not be consolidated with the other SB 202 cases. *See* State Def's Consolidated Statement ["Def. Br."] (ECF No. 58). Notwithstanding its inaccuracies and oversimplification of the issues, Defendants' own chart demonstrates that the issues presented in this case are much narrower than those in the other SB 202 cases. This case has just two issues that potentially overlap in part with the other cases—a challenge to the restriction on mailing absentee ballot applications to

voters who have already requested absentee ballots and a challenge to the misleading disclaimer that organizations are now required to include on the absentee ballot applications they mail out. (*See* Def. Br. at 2–3.) And even those issues are framed differently: Plaintiffs in this case challenge both the mailing restriction and disclaimer provision on First Amendment grounds, whereas the plaintiffs in other cases (with one exception¹) solely challenge the mailing restriction and do so on other grounds, such as Section 2 of the Voting Rights Act. Plaintiffs are the only parties in the SB 202 cases pursuing First Amendment claims against the statute’s ban on personalizing distributed absentee ballot applications with the voter’s information.

In sum, unlike many of the other SB 202 cases—which make claims of discrimination challenging a wide spectrum of SB 202’s provisions—this case is narrowly focused on First Amendment challenges to three provisions governing absentee ballot applications. As a result, discovery in this case will be much less extensive and can likely be completed within the default four-month period (or

¹ As acknowledged in Plaintiff’s Statement Regarding Case Consolidation, *Georgia State Conference of the NAACP v. Raffensperger*, No. 1:21-cv-01259-JPB also raises First Amendment issues and challenges both the mailing and disclaimer absentee ballot restrictions. (ECF No. 59 at 3.)

sooner).² Plaintiffs therefore respectfully request that this case not be consolidated with the other cases challenging SB 202.

To the extent the Court is inclined to consolidate this case with the other SB 202 cases, Plaintiffs agree with the consolidated response filed by several of the plaintiffs in other cases that it is premature for the Court to consider specific limitations on discovery or whether these cases should be consolidated for the purpose of trial. Plaintiffs request an opportunity to be heard on these issues at a later time should this case be consolidated.

Respectfully submitted this 17th day of December 2021.

/s/ Robert B. Remar

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² For example, Defendants contrast *Rose v. Raffensperger* (1:20-cv-02921-SDG), a single-issue case that challenged the method of election for Public Service Commissioners and called for “targeted” discovery that was completed in four months, with *Fair Fight Action v. Raffensperger* (1:18-cv-05391-SCJ), a “wide-ranging challenge to Georgia election practices.” Def. Br. at 7–8. Given its narrow focus on absentee ballot applications, this case is much closer to *Rose* than to *Fair Fight*.

/s/ Danielle Lang

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CERTIFICATE OF SERVICE
AND COMPLIANCE WITH LOCAL RULE 5.1

I hereby certify that I have this date electronically filed the within and foregoing, 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.

Dated: December 17, 2021.

/s/ Robert B. Remar _____

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