IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA STATE CONFERENCE OF THE NAACP, et. al.,

***Plaintiffs*,**

v. **Case No.: 4:21cv187-MW/MAF**

LAUREL M. LEE, in her official capacity as Florida Secretary of State, et al.,

Defendants,

and

NATIONAL REPUBLICAN SENATORIAL COMMITTEE and REPUBLICAN NATIONAL COMMITTEE,

Intervenor-Defendants.
_____/

ORDER GRANTING MOTION TO INTERVENE

Defendant Lee moves to intervene to defend the portions of SB 90 that this Court has found she lacks standing to defend. ECF No. 300. For the reasons provided below, the motion is **GRANTED**.

A court must allow a party to intervene when the proposed intervenor "claims an interest relating to the property or transaction that is the subject of the actions, and is so situated that disposing of the action may as a practical matter impair or

impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2).

But here, this Court need not determine whether Defendant Lee may intervene as of right because Defendant Lee also moves for permissive intervention. ECF No. 300-1 at 9. A district court "may permit anyone to intervene who has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). District courts have broad discretion to grant or deny permissive intervention. *Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989) (citing *Sellers v. United States*, 709 F.2d 1469, 1471 (11th Cir. 1983)). So much so that it "is wholly discretionary with the court whether to allow intervention under Rule 24(b)." *Worlds v. Dep't of Health & Rehab. Servs., State of Fla.*, 929 F.2d 591, 595 (11th Cir. 1991) (quoting 7C C. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1913, at 376–77 (2d ed. 1986)).

Here, while a close call, this Court finds permissive intervention appropriate. First, this Court finds Defendant Lee's motion timely. The doctrine of defendant standing is grossly underdeveloped. *See* Matthew I. Hall, *Standing of Intervenor-Defendants in Public Law Litigation*, 80 Fordham L. Rev. 1539, 1541–43 (2012). And thus this Court cannot say Defendant Lee should have known of the need to intervene long before filing her motion.

More importantly, as this Court has repeatedly noted, this case is time sensitive, and thus presents unique considerations related to potential interlocutory appeals that are not present in other cases. For example, Plaintiffs allege that SB 90 "was enacted, at least in part, with a racially discriminatory intent to discriminate against Black voters and other voters of color." ECF No. 45 ¶ 77. And, while this is not a finding that Plaintiffs' allegation is true, this Court cannot countenance the possibility that an intentionally discriminatory law will govern even one election because the parties delayed this case to fight over intervention.

Thus, recognizing Plaintiffs may suffer some prejudice, this Court **GRANTS** Defendant Lee's motion to intervene.

SO ORDERED on December 6, 2021.

s/ MARK E. WALKER
Chief United States District Judge