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

UNITED STATES OF AMERICA, Plaintiff, v. THE STATE OF GEORGIA, et al., Defendants, REPUBLICAN NATIONAL COMMITTEE, et al., Intervenors.	))))))))))))	Case No. 1:21-cv-2575-JPB

BRIEF OF THE DISTRICT OF COLUMBIA AND THE STATES OF NEW YORK, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, HAWAII, ILLINOIS, MAINE, MARYLAND, MASSACHUSETTS, MINNESOTA, NEVADA, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, OREGON, PENNSYLVANIA, RHODE ISLAND, VERMONT, VIRGINIA, AND WASHINGTON AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF'S OPPOSITION TO THE MOTIONS TO DISMISS

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INTRODUCTION AND INTEREST OF *AMICI* STATES

The District of Columbia and the State of New York, on behalf of themselves and the States of California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington (collectively, "*Amici* States"), file this brief as *amici curiae* in support of the United States' opposition to the motions to dismiss.

Like Ohio and its fellow *amici*, the *Amici* States have a profound interest in protecting the integrity of their elections and in properly balancing voter opportunity against the threat of mistake, maladministration, or fraud. That weighty role is reserved primarily to the States by the Constitution, which allows States to "structur[e] and monitor[] the election process" in different ways, consistent with core principles of federalism. *Cal. Democratic Party v. Jones*, 530 U.S. 567, 572 (2000). No one disputes that States have significant discretion to structure their election systems as they see fit, within reason and as permitted by law, to pursue the legitimate interests of ensuring voter confidence, preventing fraud, and increasing consistency in election administration.

But those interests must be real, not pretextual. Although States have leeway to pursue genuine, *bona fide* state interests, jurisdictions cannot invoke a legitimate interest as pretext to harm discrete blocs of unpopular voters. The history of

American democracy is replete with regrettable examples of States doing just that: even indisputably discriminatory disenfranchisement devices, like the poll tax, were once "justified as a means of preventing voter fraud." Orville Vernon Burton, *Tempering Society's Looking Glass: Correcting Misconceptions About the Voting Rights Act of 1965 and Securing American Democracy*, 76 La. L. Rev. 1, 14 (2015); *see generally* Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (2015).

The United States alleges that Georgia's SB 202 is one such discriminatory law. As the complaint describes, SB 202 constricts many of the voting methods favored by Black Georgians. It does so in the wake of a historic election that saw voters of color exert their electoral power in unprecedented ways. And it was enacted through an atypical legislative process, against the backdrop of substantial racial polarization, in a State with a history fraught with racial discrimination, including in the voting space.

These contextual facts, well-pleaded in the United States' complaint, support a plausible inference that Georgia's true motivation in enacting SB 202 was not a *bona fide* pursuit of election integrity, but instead an unlawful desire to impair the electoral opportunities of Black voters. As explained further below, and contrary to the arguments in Defendants' and Intervenors' motions to dismiss, the United States need not identify any facial or direct evidence of animus to properly plead its

purposeful discrimination claim. Decades of Supreme Court precedent—forged by states' continued intransigence to racial equality even after the formal dissolution of Jim Crow laws—make clear that plaintiffs can prove unconstitutional or unlawful purpose through circumstantial evidence alone. And far from irrelevant or inflammatory, the wider political, social, and historical context of SB 202 described in the complaint is precisely the sort of contextual evidence that courts routinely rely on—in discrimination cases generally, and in election law cases specifically.

The plausibility of pretext, moreover, is heightened by SB 202's specific characteristics. As the constitutional actors responsible for "the power to regulate elections," *Sugarman v. Dougall*, 413 U.S. 634, 647 (1973) (citation omitted), the *Amici* States have expertise administering elections and safeguarding the integrity of their democratic systems. Their experience demonstrates that States have myriad ways of genuinely pursuing free and fair elections—and expanding voter opportunity—without running the risk of malfeasance, maladministration, or fraud. It is therefore suspect when a state, like Georgia here, suddenly contracts the available opportunities for minority voters in the name of "fraud prevention," and yet cannot substantiate the risk of fraud or show that it has explored more common safeguards against that risk. SB 202's solution in search of a problem raises the question of whether its justifications are, in fact, the real ones—or if they are instead

pretext for an unlawful desire to diminish the voting opportunities for Georgians of color.

Georgia will have the full opportunity to demonstrate that its interest in election integrity is genuine, and that it passed SB 202 "in spite of," not "because of," its negative impact on Black Georgians' electoral opportunities. *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979). But given the facts alleged in the United States' complaint, that question must be decided on a full record. This Court should deny the motions to dismiss.

ARGUMENT

I. Contextual And Circumstantial Evidence Are Sufficient To Plead Covert Discriminatory Intent.

The central allegation in the United States' complaint is that Georgia enacted SB 202 with an impermissible discriminatory purpose. According to Defendants and Intervenors, that claim fails because the complaint identifies nothing "discriminatory" in either SB 202's text or stated justifications. They argue that absent smoking-gun evidence of pretext, facial legitimacy is enough to doom the United States' claim at the pleading stage.

Over a century of Supreme Court precedent rejects that position. It is well settled that a litigant pleading a covert discriminatory purpose claim need not identify direct evidence of discrimination at the pleading stage—in the text of the enactment or anywhere else. "The legislature's motivation is . . . a factual question,"

Hunt v. Cromartie, 526 U.S. 541, 549 (1999), and in resolving that question, "direct and circumstantial evidence are not distinguished; all relevant evidence is to be considered," *Wright v. Southland Corp*., 187 F.3d 1287, 1301 (11th Cir. 1999); *cf. Reeves v. Sanderson Plumbing Prod., Inc*., 530 U.S. 133, 148 (2000) ("[W]e have reiterated that trial courts should not 'treat discrimination differently from other ultimate questions of fact.'" (quoting *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 524 (1993)). Instead, plaintiffs can (and routinely *do*) plead discriminatory intent by pointing to *circumstantial* facts and context that suggest an impermissible motive—including the political incentives and wider racial dynamics underlying an enactment. Nowhere is this better established than in the context of voting rights and electoral challenges.

To challenge the United States' well-pleaded allegations, Defendants and Intervenors repeatedly point to SB 202's race-neutral text. *See* Georgia Br. 14 ("[T]he proper source for determining the purpose of the statute is the statute's text."); RNC Br. 7 ("The only reliable evidence of the legislature's purpose is the formal findings that the majority voted on and included in SB 202.") (emphasis omitted). But the facial neutrality of SB 202 does not undermine, let alone defeat, a discriminatory *purpose* claim. Bedrock antidiscrimination law makes clear that "acts generally lawful may become unlawful when done to accomplish an unlawful end." *City of Richmond v. United States*, 422 U.S. 358, 379 (1975) (citation and

alteration omitted). However permissible SB 202's text might be if passed in another context, it is invalid if unlawfully motivated by race. *Id.* at 378 (explaining that even otherwise-permissible government action "taken for the purpose of discriminating . . . has no legitimacy at all under our Constitution.").

That fundamental lesson of constitutional law runs as far back as 1886, when the Supreme Court held in *Yick Wo v. Hopkins*, 118 U.S. 356, that government action, even if "fair on its face, and impartial in appearance," is unlawful if motivated by invidious discriminatory intent. *Id.* at 373-74. But *Yick Wo* was an easy case. There, the discriminatory purpose was clear from the ordinance's enforcement, where over 200 Chinese-owned laundries were denied licenses while "all the petitions of those who were not Chinese, with one exception[,] . . . were granted." *Id.* at 359.

As the Supreme Court later explained, though, facially neutral government action so egregious that it is "unexplainable on grounds other than race" is "rare." *Shaw v. Reno*, 509 U.S. 630, 643 (1993) (citation omitted). Instead, discriminatory laws are often couched in race-neutral terms, meaning that judicial inquiry is necessary to explore "the motivation behind official action." *Hunter v. Underwood*, 471 U.S. 222, 228 (1985); *see Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457, 484–85 (1982) ("[W]hen facially neutral legislation" is allegedly motivated by impermissible purpose, "an inquiry into intent is necessary to determine whether the

legislation in some sense was designed to accord disparate treatment on the basis of racial considerations."). By looking to the larger context in which a facially neutral action was taken, "an invidious discriminatory purpose may often be inferred from the totality of the relevant facts." *Washington v. Davis*, 426 U.S. 229, 242 (1976).

The framework for evaluating these claims is well-developed. As the Supreme Court famously explained in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), courts must interrogate the broader context of government action, including circumstantial evidence and larger racial dynamics, when evaluating the possibility that "invidious discriminatory purpose was a motivating factor." *Id*. at 266. These context-specific factors include "[t]he historical background of the [challenged] decision"; "[t]he specific sequence of events leading up to the challenged decision"; "[d]epartures from the normal procedural sequence"; legislative history; and the disproportionate "impact of the official action" on any particular group. *Id*. at 266-67; *see Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 540 (1993) (extending these factors to Free Exercise Clause jurisprudence).

Nowhere is this framework more established than in voting rights and election cases. For example, *Arlington Heights*'s central insight—that courts can *infer* impermissible purpose or racial motivation from circumstantial evidence and the wider context of government action—undergirds the entire field of redistricting law.

In such cases, a plaintiff can show, "through circumstantial evidence of a district's shape and demographics *or* more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision." *Miller v. Johnson*, 515 U.S. 900, 916 (1995) (emphasis added). And, like *Arlington Heights* itself, redistricting cases routinely look to the wider political climate and electoral incentives for inferring whether race was the "predominant factor" in apportionment. *Id.* at 916-20. "[S]tatewide evidence," for example, "is perfectly relevant," *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 266 (2015), as is "the 'political, social, and economic legacy of past discrimination.'" *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006) (quoting *Thornburg v. Gingles*, 478 U.S. 30, 45 (1986)). Indeed, political, social, and historical context is the bread and butter of covert discriminatory purpose claims. *See, e.g.*, *White v. Regester*, 412 U.S. 755, 765-70 (1973) (looking to "a blend of history and an intensely local appraisal of the design and impact of [the challenged redistricting] in the light of past and present reality, political and otherwise"); *Rogers v. Lodge*, 458 U.S. 613, 624-28 (1982) (affirming "an inference of intentional discrimination" based on political responsiveness, socio-economic conditions, and "historical discrimination"); *Easley v. Cromartie*, 532 U.S. 234, 245-53 (2001) (ultimately rejecting claims of racial predominance, but not before analyzing a full record that included analyses of voting patterns and racial political dynamics). True, several of these cases originate from

an older period of American history, where state intransigence to racial equality was both overt and more pronounced. But as the Eleventh Circuit recently explained, "[t]he age of these decisions does not diminish their precedential effect." *Stout by Stout v. Jefferson Cnty. Bd. of Educ.*, 882 F.3d 988, 1014 (11th Cir. 2018). Indeed, the Supreme Court applied *Arlington Heights* just this past term in *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321, 2349 (2021).

In short, courts routinely evaluate claims of discriminatory purpose based on contextual or circumstantial evidence. Nothing requires a party to allege either facial discrimination or direct evidence of invidious purpose to survive a motion to dismiss. The key inquiry at this threshold stage is simply whether, "construing [the facts] in the light most favorable to the plaintiff," *Hunt v. Aimco Properties, L.P.*, 814 F.3d 1213, 1221 (11th Cir. 2016), the complainant "has alleged a plausible circumstantial case of racial discrimination," *Ziyadat v. Diamondrock Hosp. Co.*, 3 F.4th 1291, 1296 (11th Cir. 2021).

Applying the *Arlington Heights* evidentiary framework, the United States satisfies that test. In support of an inference of racial motive, the complaint lays out in detail Black Georgians' historic mobilization and use of absentee voting; the history of racial polarization and discrimination in Georgia, including the use of facially neutral suppression devices; the disproportionate impact of SB 202 on Black voters, in particular; and the procedural deviations that led to SB 202's enactment.

Far from "improp[er] and offensive[]," Georgia Br. 17; "irrelevant," RNC Br. 9; or in service of "strained, implausible, and downright offensive inferences," Ohio Br. 27, that wider political and racial context is precisely the sort of "circumstantial" evidence on which the Supreme Court has long relied. And that evidence may "support an inference that the State [acted] with an impermissible racial motive" even when there is "no direct evidence of intent." *Hunt*, 526 U.S. at 548-49. Nothing more is required at the pleading stage.

II. SB 202's Characteristics Heighten The Likelihood Of Pretext.

States generally have broad discretion to structure their electoral processes in response to local conditions. *See Jones*, 530 U.S. at 572. As Ohio and its fellow *amici* make clear, our constitutional structure provides discretion for States to play "an active role in structuring elections," and States can choose among various options to ensure that "some sort of order, rather than chaos, is to accompany the democratic processes." *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (citation omitted). That is why in, say, an *Anderson/Burdick* challenge, courts generally owe deference to a State's choices about the correct balance between legitimate state interests and burdens on the individual right to vote.

That deference, however, is reserved for legitimate state processes pursuing *bona fide* state interests. Where, as here, there are plausible allegations that facially neutral state choices—although couched in the respectable language of "election

integrity"—are really pretext for racial discrimination, courts are entitled to probe a State's choices to determine whether the asserted interest is *bona fide* or pretextual.

Georgia's actual motivations and particular policy choices matter for this inquiry. Although States have leeway to pursue genuine, *bona fide* state interests like election integrity and voter confidence, States cannot choose a particular course *because* it will harm discrete blocs of vulnerable voters. And the mechanisms a state chooses—the means by which they pursue their supposedly legitimate interest—can inform the inquiry into whether an asserted state interest is genuine. Where, as here, a reduction in voting opportunities—particularly for voters of color—is entirely unnecessary to achieve an act's stated goal, the likelihood of pretext is heightened.

Georgia justifies SB 202's retrogression, in part, on "concern[] about allegations of rampant voter fraud" in absentee ballots and drop boxes. Georgia Br. 14; *see* Ohio Br. 15 ("Failing to pass such laws invites election-corrupting fraud."). Ohio, too, asserts that there is an inherent "tension" between providing voters with access to the ballot box and protecting election integrity or voter confidence. Ohio Br. 1. But the *Amici* States' experience demonstrates otherwise. Contrary to Ohio's assertion, it is simply untrue that ensuring the integrity of elections *necessarily* requires imposing "burdens on those who wish to vote." Ohio Br. 1. Instead, as the *Amici* States' own experience has shown, voter confidence can be bolstered by actions that increase voter access and remove barriers that would otherwise

discourage voting and undermine trust in the electoral process. And the *Amici* States have also adopted meaningful security measures that do not make it harder to vote, but instead employ other methods to identify and redress errors in the voting process. Although each *Amici* State has approached these issues differently, the prevailing trajectory of the *Amici* States' recent election-procedure changes has been toward increased ballot access—without any impact on election security and integrity. SB 202, which decreases ballot access in numerous meaningful ways, stands in stark contrast to this trend.

For example, the *Amici* States have increasingly expanded methods for voters to cast their ballots, going beyond the traditional practice of visiting polling places on Election Day. Since 2001, California has offered all registered voters the option of voting by mail on a permanent basis. Cal. Elec. Code §§ 3001, 3003, 3007. During the pandemic, California also enacted legislation to mail absentee ballots to every registered voter; pending legislation would make this change permanent. Cal. Elec. Code §§ 1500, 3000.5; A.B. 37, 2021-2022 Reg. Sess. (Cal. 2020). Nevada has similarly enacted a law requiring that each active registered voter receive a mail ballot, A.B. 321, 81st Sess. (Nev. 2021), as has Vermont, S.15, Gen. Assemb. (Vt. 2021).

The above measures to increase access to the ballot box do not, as Ohio and Georgia assume, come at the cost of election security. To begin, there is simply no

evidence that voting by mail threatens the integrity of elections. Five states already conducted all-mail elections before the pandemic: Colorado, Hawaii, Oregon, Washington, and one of Georgia's *amici*, Utah. *See* Colo. Rev. Stat. § 1-5-401; Haw. Rev. Stat. § 11-101; Or. Rev. Stat. § 254.465(1); Wash. Rev. Code § 29A.40.010; Utah Code § 20A-3a-202(1). Each managed to do so without encountering widespread fraud. Wendy R. Weiser, *The False Narrative of Vote-by-Mail Fraud*, Brennan Ctr. for Just. (Apr. 10, 2020).[1] A Washington Post analysis of data collected by Colorado, Oregon, and Washington identified only 372 "possible cases of double voting or voting on behalf of deceased people out of about 14.6 million votes cast by mail in the 2016 and 2018 general elections." Elise Viebeck, *Minuscule Number of Potentially Fraudulent Ballots in States with Universal Mail Voting Undercuts Trump Claims About Election Risks*, Wash. Post (June 8, 2020).[2] That amounts to a rate of just 0.0025 percent. *Id.* Data collected by the Heritage Foundation from the five states with universal mail-in voting also found few cases of fraud: only 29 cases of fraudulent votes attempted by mail and 24 cases of duplicative voting or absentee ballot fraud out of nearly *50 million* general election votes cast. Elaine Kamarck & Christine Stenglein, *Low Rates of Fraud in Vote-by-Mail States Show the Benefits Outweigh the Risks*, Brookings (June 2, 2020)

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1 *Available at* https://bit.ly/3iUkbvz.

2 *Available at* https://wapo.st/2VRGVqc.

(reproducing data from the Heritage Foundation's database).[3] Moreover, a very sizable portion of those states' electorates have historically voted through drop boxes. *See, e.g.*, Edgardo Cortés et al., *Preparing for Election Day: Deadlines for Running a Safe Election*, Brennan Ctr. for Just. (May 11, 2020);[4] Wash. Sec'y of State, *Ballot Drop Box Usage by Year*.[5] Thus, although election integrity is a valid state interest, the risk that absentee-voter or drop-box fraud would actually affect the integrity of any election result is practically zero.

The 2020 Election reaffirmed this conclusion. The Cybersecurity and Infrastructure Security Agency, the expert government agency within the U.S. Department of Homeland Security responsible for evaluating cyber threats, declared that "[t]he November 3rd election was the most secure in American history." Press Release, *Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees*

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[3] *Available at* https://brook.gs/2F4NM7X. The Heritage Foundation caveats that its database is not "exhaustive or comprehensive," *A Sampling of Recent Election Fraud Cases from Across the United States*, Heritage Found., https://herit.ag/3m3hGZF. According to an investigation by USA Today and Frontline, "[f]ar from being proof of organized, large-scale vote-by-mail fraud, the Heritage database presents misleading and incomplete information that overstates the number of alleged fraud instances and includes cases where no crime was committed." Pat Beall et al., *Here's Why Concerns About Absentee Ballot Fraud Are Overhyped*, Frontline (Oct. 20, 2020), https://to.pbs.org/37P80gn.

[4] *Available at* https://bit.ly/2If5AOJ.

[5] *Available at* https://bit.ly/2FkYQxT.

(Nov. 12, 2020).[6] It explained that, while "there are many unfounded claims and opportunities for misinformation about the process of our elections," the agency has "the utmost confidence in the security and integrity of our elections." *Id.* Courts have also uniformly rejected claims of widespread fraud, *see* Colleen Long & Ed White, *Trump Thought Courts Were Key to Winning. Judges Disagreed.*, AP (Dec. 8, 2020) (collecting examples),[7] as has former Attorney General Bill Barr, *see* Associated Press, *AG William Barr: No Evidence of Fraud That'd Change Election Outcome*, Atlanta J.-Const. (Dec. 1, 2020).[8] And Georgia-specific claims of fraud have been repeatedly debunked, *see, e.g.*, Mark Niesse, *5 Georgia Election Fraud Claims Explained*, Atlanta J.-Const. (Dec. 14, 2020),[9] including by the Atlanta U.S. Attorney, *see* Amy Gardner & Matt Zapotosky, *U.S. Attorney in Georgia: 'There's Just Nothing to' Claims of Election Fraud*, Wash. Post (Jan. 12, 2021).[10]

Moreover, as the *Amici* States' experience shows, States can address concerns about election security, including from expanded opportunities to vote, without imposing burdens on voters in the first instance. For example, many States print unique bar codes on absentee and mail-in ballot envelopes to prevent the possibility

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6 *Available at* https://bit.ly/39VmfCL.

7 *Available at* https://bit.ly/3a1TvIC.

8 *Available at* https://bit.ly/2XbJGU3.

9 *Available at* https://bit.ly/2U9xi64.

10 *Available at* https://wapo.st/3lWAn4N.

of duplicate voting. *See* Cal. Elec. Code § 3017(c) (requiring the establishment of electronic and online tracking of mail ballots); Graham Moomaw, *Virginia Will Require Tracking Codes on All Absentee Ballot Envelopes*, Va. Mercury (Aug. 4, 2020).[11] And the *Amici* States have found that their existing civil and criminal penalties for voter fraud have effectively deterred such wrongdoing. *See, e.g.*, N.Y. Elec. Law § 17-132 (making it a felony to vote more than once or attempt to do so); D.C. Code § 1-1001.14(a) (same).

SB 202, by contrast, makes the deliberate choice to respond to concerns about election security and voter confidence by imposing additional barriers on voters' access to the polls. For example, SB 202 makes it much more difficult for Georgians to vote absentee or by drop box. It prohibits state and local governments from mailing absentee ballot applications to registered voters unless specifically requested for that election. SB 202 § 25. It dramatically shortens the window during which a voter may request an absentee ballot. *Id.* And it curtails the availability of ballot drop boxes, the use of which was particularly popular in counties that contain the State's urban population centers. SB 202 § 26. These choices particularly affect Georgians of color.

[11] *Available at* https://bit.ly/3CC7ssI.

Of course, retrogression in voting opportunities, alone, does not automatically establish discriminatory intent. As Ohio's amicus brief explains, States have a "valid interest in protecting 'the integrity and reliability of the electoral process,'" *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 204 (2008) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788 n.9 (1983)), and States may experiment with new forms of voting only to later limit those opportunities as problems emerge. Some of those limitations may disparately affect different populations, and that impact, standing alone, may tell a court little about intent.

But when a state suddenly claws back existing opportunities for voters—particularly voters of color after a historic election—without any genuine need or evidentiary basis, courts should pause. Discovery has yet to reveal the precise motivation for Georgia's adoption of these provisions. What the *Amici* States' experience confirms, however, is that those provisions represent an affirmative choice, and none of them are necessary to bolster voter confidence or protect election integrity. The question of *why* Georgia made the policy choices it did in crafting SB 202—including its reversions from the dominant trend of increased voter access—is thus one that the parties and this Court must explore. But a lack of fit between a problem and a solution raises legitimate questions about whether the State's public reasons for a statute are its real ones. *Cf. Reeves*, 530 U.S. at 148 (explaining that, in the employment-discrimination context, "a plaintiff's prima facie case, combined

with sufficient evidence to find that the employer's asserted justification is false, may permit the trier of fact to conclude that the employer unlawfully discriminated"). Because there is no evidence that the altered aspects of Georgia's electoral system posed any genuine vulnerabilities and, therefore, SB 202's challenged provisions are unnecessary to advance the Act's stated justifications, it is plausible that the Act was motivated by some other, unlawful, purpose.

CONCLUSION

The Court should deny the motions to dismiss.

Respectfully submitted,

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LOCAL RULE 7.1(D) CERTIFICATION

As required by Local Rule 7.1(D), the undersigned counsel certifies that this brief was prepared in Times New Roman, 14-point font, in compliance with Local Rule 5.1.

/s/ Page A. Pate
PAGE A. PATE

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2021, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system.

/s/ Page A. Pate
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