

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555- JPB
<p>THE NEW GEORGIA PROJECT, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	Civil Action No.: 1:21-cv-01229- JPB

NGP PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs New Georgia Project, Black Voters Matter Fund, Rise, Inc., Elbert Solomon, Fannie Marie Jackson Gibbs, and Jauan Durbin respectfully move the Court for a preliminary injunction enjoining Defendant Keith Gammage, in his official capacity as the Solicitor General of Fulton County, and Defendant Gregory W. Edwards, in his official capacity as the District Attorney for Dougherty County, from enforcing during the November 2022 elections, and any other elections held before final

judgment in this case, the provisions of O.C.G.A. § 21-2-414(a) that impose criminal penalties on those who “give, offer to give, or participate in the giving of any money or gifts, including, but not limited to, food and drink, to an elector ... [w]ithin 150 feet of the outer edge of any building within which a polling place is established” or “[w]ithin 25 feet of any voter standing in line to vote at any polling place.”

For the reasons set forth in detail in NGP Plaintiffs’ accompanying Brief in Support of Plaintiffs’ Motion for Preliminary Injunction, Plaintiffs have established that they are likely to succeed on the merits of their claim that this criminal ban violates the First Amendment by unjustifiably restricting their ability to engage in expressive conduct. Enforcement of this law would irreparably harm Plaintiffs and similar organizations and voters across the State; this harm outweighs any harm Defendants Gammage and Edwards would suffer were the Court to order the relief sought by Plaintiffs; the balance of hardships weighs in Plaintiffs’ favor; and a preliminary injunction is in the public interest.

Respectfully submitted this 3rd day of June, 2022,

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CERTIFICATE OF COMPLIANCE

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

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: June 3, 2022

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**NGP PLAINTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Table of Contents

INTRODUCTION.....	1
BACKGROUND	2
LEGAL STANDARD	5
ARGUMENT.....	6
I. Plaintiffs are likely to succeed on the merits of their claim.	6
A. The Line Relief Ban unconstitutionally criminalizes speech and expression.	6
B. NGP, BVMF, and Rise engage in political expression by offering food and water to voters waiting in line.	7
C. A reasonable voter would recognize line relief as conveying a message. .	8
D. The Line Relief Ban is a content-based restriction that is subject to strict scrutiny.	11
E. Alternatively, the Line Relief Ban requires exacting scrutiny because it burdens expression related to elections.	12
F. The Line Relief Ban cannot survive any level of scrutiny.	13
II. Plaintiffs will suffer irreparable harm if the injunction is denied.	16
III. The balance of equities favor granting a preliminary injunction, and such relief is in the public interest.	17
CONCLUSION.....	20

Table of Authorities

	Page(s)
Cases	
<i>Ams. for Prosperity Found. v. Bonta</i> , 141 S. Ct. 2373 (2021).....	12
<i>Baumann v. City of Cumming</i> , No. 2:07-CV-0095-WCO, 2007 WL 9710767 (N.D. Ga. Nov. 2, 2007)	17
<i>Bd. of Educ. Island Trees Union Free Sch. Dist. No. 26 v. Pico</i> , 457 U.S. 853 (1982) (plurality opinion)	7
<i>Burk v. Augusta-Richmond Cnty.</i> , 365 F.3d 1247 (11th Cir. 2004)	11
<i>Burns v. Town of Palm Beach</i> , 999 F.3d 1317 (11th Cir. 2021).....	9
<i>Burson v. Freeman</i> , 504 U.S. 191 (1992) (plurality opinion)	11
<i>Charles H. Wesley Educ. Found., Inc. v. Cox</i> , 408 F.3d 1349 (11th Cir. 2005)	16, 17
<i>Coal. for Good Governance v. Kemp</i> , No. 1:21-CV-02070-JPB, 2021 WL 3710475 (N.D. Ga. Aug. 20, 2021)	16, 20
<i>Feldman v. Ariz. Sec’y of State’s Off.</i> , 843 F.3d 366 (9th Cir. 2016)	19
<i>First Nat’l Bank of Bos. v. Bellotti</i> , 435 U.S. 765 (1978).....	9, 15
<i>Fish v. Kobach</i> , 840 F.3d 710 (10th Cir. 2016)	20

<i>Fla. Businessmen for Free Enter. v. City of Hollywood</i> , 648 F.2d 956 (5th Cir. 1981)	18
<i>Fla. Fam. Pol’y Council v. Freeman</i> , 561 F.3d 1246 (11th Cir. 2009)	7
<i>Ft. Lauderdale Food Not Bombs v City of Ft. Lauderdale</i> , 901 F.3d 1235 (11th Cir. 2018)	10, 11
<i>Ft. Lauderdale Food Not Bombs v. City of Ft. Lauderdale</i> , 11 F.4th 1266 (11th Cir. 2021)	11
<i>Gonzalez v. Governor of Ga.</i> , 978 F.3d 1266 (11th Cir. 2020)	5, 6
<i>Harbourside Place, L.L.C. v. Town of Jupiter</i> , 958 F.3d 1308 (11th Cir. 2020)	12
<i>Joelner v. Vill. of Wash. Park</i> , 378 F.3d 613 (7th Cir. 2004)	18
<i>Jones v. Governor of Fla.</i> , 950 F.3d 795 (11th Cir. 2020)	17
<i>League of Women Voters of Fla., Inc. v. Fla. Sec’y of State</i> , 32 F.4th 1363, 1370 (11th Cir. 2022)	10
<i>League of Women Voters of Fla. v. Lee</i> , No. 4:21CV186-MW/MAF, 2022 WL 969538 (N.D. Fla. Mar. 31, 2022)	9, 10
<i>Lichtenstein v. Hargett</i> , 489 F. Supp. 3d 742 (M.D. Tenn. 2020)	19, 20
<i>McCullen v. Coakley</i> , 573 U.S. 464 (2014)	15
<i>Meyer v. Grant</i> , 486 U.S. 414 (1988)	13

<i>Otto v. City of Boca Raton</i> , 981 F.3d 854 (11th Cir. 2020)	16, 17
<i>Perdue v. Kemp</i> , No. 1:22-CV-0053-MHC, 2022 WL 710959 (N.D. Ga. Feb. 7, 2022)	18, 19
<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006)	18, 19
<i>Riley v. Nat’l Fed’n of the Blind of N.C., Inc.</i> , 487 U.S. 781 (1988)	14, 15
<i>Swain v. Junior</i> , 958 F.3d 1081 (11th Cir. 2020)	17
<i>Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.</i> , 425 U.S. 748 (1976)	7
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008)	5
<i>Wooley v. Maynard</i> , 430 U.S. 705 (1977)	14
Statutes	
O.C.G.A. § 21-2-414(a)	14
Other Authorities	
SB 202 § 2(13)	12, 13

INTRODUCTION

Georgia’s Senate Bill (“SB”) 202 is a systematic assault on the right to vote—the pinnacle of political expression in our democracy. At every turn, SB 202 makes the process of requesting, receiving, and casting a ballot more difficult for Georgians and punishes its citizens for encouraging participation in the political process.

When citizens encounter barriers to voting, Plaintiffs New Georgia Project (“NGP”), Black Voters Matter Fund (“BVMF”), and Rise, Inc. (“Rise”) (collectively, the “Organizations”) respond with corollary forms of political expression, including, for example, educating voters, encouraging turnout, and honoring the dignity of voters waiting in hours-long polling place lines by offering messages of encouragement and solidarity. These forms of political expression—often conveyed by offering water to the thirsty, sharing food with the hungry, and providing other forms of comfort—are specifically targeted by SB 202’s “Line Relief Ban,” SB 202, § 33, which prohibits Plaintiffs from offering “food and drink” to voters within 150 feet of a polling place or within 25 feet of a voter standing in line, and subjects violators to criminal penalties for engaging in such activity. The Ban effectively silences non-partisan, non-disruptive expressions of support for voters, violating the First Amendment rights of Plaintiffs and the voters they serve.

NGP Plaintiffs filed suit against Keith Gammage, in his official capacity as the Solicitor General of Fulton County, and Gregory W. Edwards, in his official capacity as the District Attorney for Dougherty County (collectively, the “District Attorneys”) to enjoin their enforcement of the Ban in areas where NGP Plaintiffs have historically conducted line relief programs. As explained in the AME Plaintiffs’ Motion for Preliminary Injunction—which NGP Plaintiffs adopt and incorporate as noted below—the Line Relief Ban is particularly suitable for preliminary injunction. The governing law is clear. The stakes for Georgians are high. And the requested relief is administratively simple and equitable. The Court should enjoin the District Attorneys from enforcing the Line Relief Ban and its attempt to criminalize constitutionally protected political speech and expression.

BACKGROUND

One of the unfortunate hallmarks of voting in Georgia is that it is oftentimes plagued by long lines, and voters of color tend to vote in precincts where the wait time can stretch for hours. *See* AME Mot. in Supp. of Prelim. Inj., (“AME Br.”) at 2–4, ECF No. 171-1; Ex. 1, Hector Decl. ¶ 17. AME Plaintiffs’ Motion for Preliminary Injunction explains in detail the political acts and proactive messages expressed and facilitated by providing food and water to voters waiting in line. NGP

Plaintiffs join and incorporate AME Plaintiffs’ background discussion in full. *See* AME Br. at 2–10.¹

Like the individual voters and organizations identified in the AME Plaintiffs’ Motion, NGP Plaintiffs have engaged in similar forms of political expression both as providers and recipients of line relief. Plaintiff Jauan Durbin, for instance, received line relief in Fulton County while waiting for hours to vote in the 2018 general election, which lifted his spirits—not merely by satiating his hunger and quenching his thirst, but by reinforcing the message that Mr. Durbin, who is Black, should not “let the delay diminish the voting rights that our forebearers had fought so hard for.” Ex. 2, Durbin Decl. ¶ 4. The message so moved Mr. Durbin that after casting his ballot in 2020, he ordered pizza for voters and election workers at his polling place in Fulton County. *Id.* ¶ 5. His experience in 2018 motivated him to offer support and encouragement to other voters suffering similar burdens, and to express that “no matter which candidates [his] fellow voters favored, [he] wanted to support them for making the effort to have their voices heard.” *Id.*

Billy Honor, NGP’s Director of Organizing, committed to providing line relief after his own experience of standing in long polling place lines, and has since

¹ NGP Plaintiffs’ pin cites to the AME Plaintiffs’ Motion refer to page numbers of the brief itself, rather than the page numbers in the ECF header of the cited document.

recruited hundreds of volunteers on behalf of NGP to provide chairs for voters with weary legs, to give out umbrellas and ponchos for those standing in the rain, and to hand out food and water for voters who grew hungry or thirsty. Ex. 3, Honor Decl. ¶¶ 4, 7, 18–19. By doing so, Mr. Honor sought to express “that civic engagement through the voting process is an important part of being a member of the community, and every individual voter, no matter where they live or who they are, has a valuable voice and their vote should count.” *Id.* ¶ 16.

Ebony Brown, the Deputy State Director at Rise for Georgia, similarly became motivated to support voters in polling place lines after her own experience of arriving at the precinct first thing in the morning, being forced to wait in line for hours without access to food and water, and observing voters who abandoned the line because of the interminable wait. Ex. 4, Brown Decl. ¶¶ 4–9. Through her actions, Ms. Brown sought to communicate, on behalf of Rise, that voters should “not lose hope in the democratic process,” and to express solidarity with “Black voters in particular who might otherwise feel discouraged about the lack of inclusivity in the voting process.” *Id.* ¶ 10.

And Reverend Christopher Johnson, a retired pastor and Chair and Executive Director of the Greater Augusta’s Interfaith Coalition, which is in part funded by BVMF to provide support to voters in line, engaged in line relief with the intent of

sending a simple message to voters: stay in line, we are with you. Ex. 5, Johnson Decl. ¶¶ 2, 5, 6. Reverend Johnson also played music for voters waiting in long lines “just to put some pep in their step.” *Id.* ¶ 5.

Affected voters and communities value these line relief activities and messages of support. *See, e.g.*, Hector ¶ 20. These voters understood Rise’s message, as Rise’s “presence made them feel as though they were ‘a part of a community.’” *Id.*; *see also* Honor Decl. ¶ 19; Ex. 6, Galbreath Decl. ¶ 10; Johnson Decl. ¶ 7. But SB 202 banned these expressions of support and solidarity, criminalizing Mr. Honor’s offer of umbrellas to rain-soaked voters, Mr. Durbin’s offer of pizza, and Ms. Hector’s offer of water to voters standing unsheltered in the Georgia sun, impeding their ability to convey these important messages. *See* SB 202, § 33.

LEGAL STANDARD

A district court may grant a preliminary injunction if the moving party establishes that: (1) it has a substantial likelihood of success on the merits; (2) it will suffer an irreparable injury unless the injunction is granted; (3) the harm from the threatened injury outweighs the harm the injunction would cause the opposing party; and (4) the injunction would not be adverse to the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The third and fourth factors “‘merge’ when, as here, the [g]overnment is the opposing party.” *Gonzalez v. Governor of*

Ga., 978 F.3d 1266, 1271 (11th Cir. 2020) (quoting *Swain v. Junior*, 961 F.3d 1276, 1285 n.3 (11th Cir. 2020)).

ARGUMENT

I. Plaintiffs are likely to succeed on the merits of their claim.

Plaintiffs are likely to prevail on their claim that the Line Relief Ban violates Plaintiffs’ constitutional rights. This standard “requires a showing of only *likely* or probable, rather than *certain*, success.” *Id.* at 1271 n.12 (quoting *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1232 (11th Cir. 2005)) (emphasis in original). The AME Plaintiffs’ Motion establishes that Plaintiffs engage in speech and political expression when providing line relief, that the Line Relief Ban unduly restricts those forms of expression and imposes a threat of criminal penalties on the speakers, and that the Ban cannot withstand First Amendment scrutiny. To avoid repetition and for the Court’s convenience, this Motion joins and incorporates the AME Plaintiffs’ arguments, and emphasizes several points specific to the NGP Plaintiffs’ claims against the District Attorneys.

A. The Line Relief Ban unconstitutionally criminalizes speech and expression.

The Line Relief Ban infringes the First Amendment rights of both speakers and recipients. As explained in the AME Plaintiffs’ Motion, First Amendment protection clearly extends to expressive conduct of the speaker. AME Br. at 11–14.

Just as the Organizations have a right to express themselves through line relief activities, voters like Mr. Durbin also enjoy a reciprocal First Amendment right to receive messages of support and encouragement. *Fla. Fam. Pol’y Council v. Freeman*, 561 F.3d 1246, 1254 (11th Cir. 2009). “An inherent corollary” to the right to free expression is the right to freely receive and engage with the expressive conduct of others. *Bd. of Educ. Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 867 (1982) (plurality opinion). This right not only “follows ineluctably from the *sender’s* First Amendment right to send them,” but it is also “a necessary predicate to the *recipient’s* meaningful exercise of his own rights of speech, press, and political freedom.” *Id.* (emphasis in original). Therefore, “the protection afforded [by the First Amendment] is to the communication, to its source and to its recipients both.” *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 756 (1976) (collecting cases). The Ban thus infringes the rights of both the Organizations offering line relief, and the voters who receive it.

B. NGP, BVMF, and Rise engage in political expression by offering food and water to voters waiting in line.

When the Organizations and their volunteers engage in line relief, they intend to convey a message of support for voting, voters, and the democratic process. NGP, for instance, provides “food, water, and other line-relief resources” to convey “a specific, nonpartisan message that civic engagement through the voting process is

an important part of being a member of the community, and every individual voter, no matter where they live or who they are, has a valuable voice and their vote should count.” Honor Decl. ¶ 16. The Organizations’ line relief activities encourage voters “to remain in line to vote despite the associated hardships,” and express “gratitude and appreciation for voters’ sacrificing many hours of their day in order to participate in the democratic process.” Galbreath Decl. ¶ 9; *see also* Hector Decl. ¶¶ 14–16 (explaining that Rise engaged in line relief to “express to voters that every Georgian should be able to cast a vote without undue barriers”); Brown Decl. ¶ 10 (conveying through line relief that voters should “not lose hope in the democratic process”).

C. A reasonable voter would recognize line relief as conveying a message.

Voters receiving line relief understand and appreciate the message of solidarity and encouragement. Plaintiff Jauan Durbin, who waited close to three hours to cast his ballot in 2018, expressed that he “was grateful for the encouragement and support of various campus organizations that were providing line relief, such as water and snacks. These groups urged us not to let the delay diminish the voting rights that our forebearers had fought so hard for. This message lifted my spirit and strengthened my resolve.” Durbin Decl. ¶ 4.

The Organizations received similar feedback. *See, e.g.*, Honor Decl. ¶ 18 (“voters time and time again expressed their appreciation and gratitude for our

support”); Hector Decl. ¶ 20 (“Many voters expressed to us that our presence made them feel as though they were ‘a part of a community.’”); Galbreath Decl. ¶ 10 (Voters were “uniformly thankful for NGP’s efforts and informed us that the encouragement motivated them to persevere and remain in the long line so that they could make their voices heard.”). These responses reflect a reasonable—indeed, obvious—interpretation of the NGP Plaintiffs’ messages.

The contextual clues for ascertaining the communicative elements of expressive conduct, as outlined by the Eleventh Circuit and in the AME Plaintiffs’ Motion, are also present here. *See Burns v. Town of Palm Beach*, 999 F.3d 1317, 1343–44 (11th Cir. 2021). *First*, the Organizations’ line relief efforts are frequently accompanied by traditional expressive activity, including performance art and religious support, Honor Decl. ¶¶ 9–10; Galbreath Decl. ¶ 4, and conversations about the importance of voting and removing burdens to the franchise, Johnson Decl. ¶¶ 7–8. *Second*, the Organizations provide line relief to all voters indiscriminately, without regard for their political beliefs or candidate choices. Honor Decl. ¶¶ 14–15; Galbreath Decl. ¶ 6. *Third*, they conduct their activities “outside of polling places—an area the U.S. Supreme Court and Eleventh Circuit have both considered to be a traditional public forum.” *League of Women Voters of Fla. v. Lee*, No. 4:21CV186-MW/MAF, 2022 WL 969538, at *64 (N.D. Fla. Mar. 31, 2022) (citing *Burson v.*

Freeman, 504 U.S. 191, 196–97 (1992) (plurality opinion), and *Citizens for Police Accountability Pol. Comm. v. Browning*, 572 F.3d 1213, 1217 n.9, 1218 (11th Cir. 2009)), *stayed pending appeal*, *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, 32 F.4th 1363, 1370 (11th Cir. 2022); *see also* AME Br. at 17–18, 20–21. *Fourth*, line relief “addresses an issue of public concern—voting and democracy.” *Lee*, 2022 WL 969538, at *64.

Finally, the Eleventh Circuit has already recognized that “the significance of sharing meals with others dates back millennia,” holding a key place in numerous religious and patriotic traditions. *Ft. Lauderdale Food Not Bombs v City of Ft. Lauderdale* (“*FNB I*”), 901 F.3d 1235, 1243 (11th Cir. 2018); *Lee*, 2022 WL 969538, at *63 (citing *Burns v. Town of Palm Beach*, 999 F.3d 1317, 1344–45 (11th Cir. 2021)). Applying these factors, a Florida district court recently determined that line relief “activities are expressive activities that a reasonable person would understand to convey a specific message of support, solidarity, and celebration in exercising” their voting rights. *Lee*, 2022 WL 969538, at *65. The same is true here. “Food shared with company differs greatly from a meal eaten alone,” and the Organizations provide more than mere sustenance when they give food and water to voters waiting in long lines. *FNB I*, 901 F.3d at 1243. They are engaged in “an act of political

solidarity meant to convey the organization’s message,” and are entitled to constitutional protection. *Id.* at 1238.

D. The Line Relief Ban is a content-based restriction that is subject to strict scrutiny.

The Line Relief Ban’s plain terms and the General Assembly’s justification for the law reveal that its restrictions are content-based and thus subject to strict scrutiny. *Ft. Lauderdale Food Not Bombs v. City of Ft. Lauderdale* (“*FNB II*”), 11 F.4th 1266, 1291–92 (11th Cir. 2021); *see also* AME Br. at 14–17. For one, the law’s plain terms “do[] not reach other categories of speech, such as commercial solicitation, distribution, and display.” *Burson v. Freeman*, 504 U.S. 191, 197 (1992) (plurality op.); *see Burk v. Augusta-Richmond Cnty.*, 365 F.3d 1247, 1251 (11th Cir. 2004). Plaintiffs remain free to hand out food and water to a person standing only inches from a voter in line so long as the recipient was queuing to enter a bank or a supermarket—or doing anything other than voting. By targeting interactions with voters, the Ban singles out expressive conduct directed at political and civic engagement. *See Burson*, 504 U.S. at 197 (finding restriction on distributing campaign materials within 100 feet of polling place entrances was content-based).

Furthermore, State Defendants themselves all but conceded that the Ban is content-based. They suggest that enjoining the Ban may lead to an “increase[] [in the] risk of improper electioneering/campaigning at polling locations”—a tacit

admission that line relief activities can be expressive and convey a substantive message. State Defs.’ Resp. Pls.’ First Interrog. (“State Defs.’ Interrog.”) No. 2 at 6 (May 16, 2022). In fact, the General Assembly’s justification for the Line Relief Ban openly acknowledges just that: it states that providing line relief may subject voters to “political pressure” and “intimidation.” SB 202 § 2(13). An act that expresses nothing could neither pressure nor intimidate. In this case, the General Assembly’s supposed fears are unfounded because Plaintiffs’ messages convey solidarity and support. But because the Ban on its face targets line relief specifically to restrict the message it conveys, it is presumptively unconstitutional and thus subject to strict scrutiny. *Harbourside Place, L.L.C. v. Town of Jupiter*, 958 F.3d 1308, 1316 (11th Cir. 2020).

E. Alternatively, the Line Relief Ban requires exacting scrutiny because it burdens expression related to elections.

As the AME Plaintiffs’ Motion explains, even if the Line Relief Ban was content neutral, which it is not, it would still be subject to “exacting scrutiny” because it burdens election-related expression. Under that standard, there must be “a substantial relation between the disclosure requirement and a sufficiently important governmental interest,” and thus, in order “[t]o withstand this scrutiny, the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *Ams. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2383

(2021) (quotations omitted). The Supreme Court has repeatedly found that even content-neutral limits on “interactive communication concerning political change,” called “core political speech,” are subject to exacting scrutiny where they have “the inevitable effect of reducing the total quantum of speech on a public issue.” *Meyer v. Grant*, 486 U.S. 414, 420, 423 (1988); *see also* Hector Decl. ¶ 22 (describing how “Rise has had to cease all efforts to support Georgians waiting in line to cast their votes” because of the Line Relief Ban); Honor Decl. ¶ 21 (describing how NGP is now unable to provide support and comfort to voters in line); Johnson Decl. ¶ 11 (describing how BVMF had “completely ceased . . . early voting and election day voter support efforts”); AME Br. at 18–20.

F. The Line Relief Ban cannot survive any level of scrutiny.

For the reasons stated in the AME Plaintiffs’ Motion, the Line Relief Ban fails under strict, exacting, or even less demanding scrutiny. NGP Plaintiffs adopt and incorporate those arguments here, *see* AME Br. at 21–26, which apply equally to the District Attorneys for several reasons.

First, the law serves no compelling or legitimate interest. Neither the Defendants nor the legislature have advanced a coherent theory to explain how a slice of pizza, water bottle, or poncho given to any queuing voter has resulted in “improper interference, political pressure, or intimidation,” SB 202 § 2(13). But

even if they did, the Line Relief Ban is not sufficiently tailored to that interest because it is “prophylactic, imprecise, and unduly burdensome.” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 800 (1988). Long before SB 202’s enactment, Georgia’s election laws prohibited any person near a polling place from “solicit[ing] votes in any manner or by any means or method.” O.C.G.A. § 21-2-414(a). The use of food and water to bribe or pressure a person to vote a certain way was thus already illegal. The Line Relief Ban expanded this narrower restriction to a blanket prohibition on providing food and water to voters in line on the theory that doing so would mitigate “improper electioneering/campaigning at polling locations.” State Defs.’ Interrog. No. 2 at 6. Because Georgia law already provides an enforcement mechanism against improper electioneering and intimidation at the polls, the Line Relief Ban is precisely the type of “[b]road prophylactic rule[.]” that is generally “suspect” and not permitted “in the area of free expression.” *Riley*, 487 U.S. at 801 (citation omitted).

The Supreme Court has been clear that a restriction on speech is not properly tailored if it prohibits a broad range of expression in order to prevent the *possibility* of improper conduct—particularly when the State can achieve the same goal simply by enforcing its existing prohibitions more vigorously. *Id.* at 800; *Wooley v. Maynard*, 430 U.S. 705, 716 (1977) (“The breadth of legislative abridgment must be

viewed in the light of less drastic means for achieving the same basic purpose.”) (quoting *Shelton v. Tucker*, 364 U.S. 479, 488, (1960)). For example, in *McCullen v. Coakley*, 573 U.S. 464 (2014), the Court held that a law creating a “buffer zone” around abortion clinics to prevent illegal harassment was not sufficiently tailored even under *intermediate* scrutiny where “a separate provision . . . prohibit[ed] much of th[e] conduct” the state’s asserted interests sought to address, as did other “generic criminal statutes.” *Id.* at 490–92.

The Line Relief Ban suffers from the same flaws: it adds little to the interests already served by existing laws, and yet prohibits a wide range of political expression “[w]ithin 25 feet of any voter standing in line to vote at any polling place,” and “[w]ithin 150 feet of the outer edge of any building within which a polling place is established,” SB 202, § 33, primarily to impede Plaintiffs’ ability to engage in expressive conduct directed at voters. *See Riley*, 487 U.S. at 801; *First Nat’l Bank of Bos. v. Bellotti*, 435 U.S. 765, 794 (1978) (holding that a regulation that is overinclusive is not narrowly tailored to its goal). In sum, the Line Relief Ban is an overinclusive, prophylactic rule that cannot satisfy the tailoring requirements applicable to regulations of expressive conduct. It therefore violates the First Amendment, and the District Attorneys should be enjoined from enforcing it.

II. Plaintiffs will suffer irreparable harm if the injunction is denied.

Enforcement of the Line Relief Ban will irreparably harm Plaintiffs' rights under the First Amendment. As the Eleventh Circuit held, threats to "associational and franchise-related rights" represent "significant, irreparable harm." *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1355 (11th Cir. 2005). And "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Coal. for Good Governance v. Kemp*, No. 1:21-CV-02070-JPB, 2021 WL 3710475, at *14 (N.D. Ga. Aug. 20, 2021) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

Relatedly, as demonstrated above, SB 202's ban on distributing or coordinating the distribution of food and drink to voters waiting in line is an unconstitutional "direct penalization" of protected speech, and any remedy provided at the conclusion of this case cannot restore the expressive opportunities Plaintiffs will miss in the interim. *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020) (enforcement of speech and associational restrictions, "for even minimal periods of time, constitutes 'a *per se* irreparable injury'"). Thus, without an injunction against the Line Relief Ban, Plaintiffs' and voters' constitutional rights will be irreparably injured.

III. The balance of equities favor granting a preliminary injunction, and such relief is in the public interest.

Where the government opposes a preliminary injunction, the equities merge with the public interest. *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020). “It is clear that neither the government nor the public has any legitimate interest in enforcing an unconstitutional ordinance.” *Otto*, 981 F.3d at 870. Meanwhile, “cautious protection of the Plaintiffs’ franchise-related rights is without question in the public interest.” *Cox*, 408 F.3d at 1355. A preliminary injunction in this case, would “no more than safeguard that interest.” *Jones v. Governor of Fla.*, 950 F.3d 795, 831 (11th Cir. 2020).

While the State may have a general “interest in enforcing its statutes,” that argument “would prove too much” by itself, as it would mean that “hardly any preliminary injunction could ever issue” against a state law. *Id.* at 829. Instead, courts must weigh the specific harm that would result from enjoining the statute against the law’s threatened irreparable harm. *See id.*

Here, the balance of the equities weighs heavily in favor of an injunction because it would pose virtually no hardship to the District Attorneys whatsoever. First, the Line Relief Ban violates the First Amendment, and the District Attorneys have “no legitimate interest in enforcing an unconstitutional” statute and thus no harm from the injunction. *Baumann v. City of Cumming*, No. 2:07-CV-0095-WCO,

2007 WL 9710767, at *7 (N.D. Ga. Nov. 2, 2007); accord *Fla. Businessmen for Free Enter. v. City of Hollywood*, 648 F.2d 956, 959 (5th Cir. 1981); *Joelner v. Vill. of Wash. Park*, 378 F.3d 613, 620 (7th Cir. 2004) (“[T]here can be no irreparable harm to a municipality when it is prevented from enforcing an unconstitutional statute because it is always in the public interest to protect First Amendment liberties.”) (quotation omitted).

Second, enjoining the District Attorneys’ enforcement of the Line Relief Ban does not raise the type of concerns regarding election administration or voter confusion that courts may consider when evaluating whether to order a change in election laws prior to an election. For instance, in *Perdue v. Kemp*, another court in this district specifically rejected the argument that the application of *Purcell v. Gonzalez* counseled against granting injunctive relief against a Georgia statute regulating contributions for elective office. *Perdue v. Kemp*, No. 1:22-CV-0053-MHC, 2022 WL 710959, at *14 n.12 (N.D. Ga. Feb. 7, 2022). The court found that “[t]he so-called ‘Purcell rule’ is grounded in the idea that ‘[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws near, that risk will increase.’” *Id.* (citing *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006)). But because “[t]he injunction entered by th[e] Court has no impact on the casting of

votes, the counting of ballots, or anything to do with the election process . . . the *Purcell* principle [did] not preclude the injunction . . .” *Id.*

Here, Defendants Gammage and Edwards are not election officials. They are county prosecutors. Prohibiting their enforcement of any criminal penalty associated with the Line Relief Ban would have little, if any, impact on the election process itself. *Id.* Importantly, Georgia’s elections will “continue unaltered” if an injunction issues, with “[t]he only effect” being “on third party” line-relief providers “whose efforts to [support voters waiting in line] will not be criminalized.” *Feldman v. Ariz. Sec’y of State’s Off.*, 843 F.3d 366, 368 (9th Cir. 2016).

When weighing the equities of enjoining analogous criminal prohibitions on third-party election-related activity, courts have concluded that an injunction does “not confuse election officials or deter people from going to the polls.” *Id.*; *see also Lichtenstein v. Hargett*, 489 F. Supp. 3d 742, 756 n.16 (M.D. Tenn. 2020) (“[E]njoining enforcement of the Law would merely put a stop to particular criminal prosecutions . . . it would not strain administration of election procedures or risk voter confusion.”).

Finally, to the extent the burdens of implementing relief are properly considered, those burdens are negligible. Rather than requiring “Defendants, or anyone else, to scramble to revamp election procedures or do anything else,” an

injunction “would require only that Defendants *not* do something, *i.e.*,” prosecute violations of the Line Relief Ban. *Lichtenstein*, 489 F. Supp. 3d at 756 (emphasis in original). If the Ban is enjoined, law enforcement officials will simply revert to not interfering with the efforts of non-poll workers to distribute food or water. *See* Spalding Cnty. Resp. Pls.’ First Interrog. No. 2(viii) at 5 (May 13, 2022). Enjoining the District Attorneys from enforcing the Line Relief Ban would thus impose, at most, “modest administrative burdens” that are not “unduly time consuming or costly.” *Fish v. Kobach*, 840 F.3d 710, 754–55 (10th Cir. 2016); *cf. Coal. for Good Governance*, 2021 WL 3710475, at *15 (enjoining election laws even closer to election than present case).

Because the threatened injury to Plaintiffs outweighs any potential harm an injunction may cause to the District Attorney defendants, the balance of the equities and public interest weigh decisively in favor of injunctive relief.

CONCLUSION

For these reasons, NGP Plaintiffs’ Motion for Preliminary Injunction should be granted.

Respectfully submitted this 3rd day of June, 2022,

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CERTIFICATE OF COMPLIANCE

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

Dated: June 3, 2022

/s/ Uzoma N. Nkwonta
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: June 3, 2022

/s/ Uzoma N. Nkwonta
Counsel for Plaintiffs

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555- JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229- JPB

**DECLARATION OF UZOMA NKWONTA IN SUPPORT OF
NGP PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Uzoma Nkwonta, hereby declare as follow:

1. I am over the age of 18 and competent to make this declaration. I am an attorney with the law firm Elias Law Group LLP, and am counsel for Plaintiffs New Georgia Project, Black Voters Matter Fund, Rise, Inc., Elbert Solomon, Fannie Marie Jackson Gibbs, and Jauan Durbin. I submit this declaration to provide the Court true and correct copies of certain documents submitted in support of NGP

Plaintiffs' Motion for Preliminary Injunction:

2. **Exhibit 1** is a true and correct copy of the declaration of Mary-Pat Hector, dated June 3, 2022.

3. **Exhibit 2** is a true and correct copy of the declaration of Jauan Durbin, dated June 2, 2022.

4. **Exhibit 3** is a true and correct copy of the declaration of Billy Honor, dated June 3, 2022.

5. **Exhibit 4** is a true and correct copy of the declaration of Ebony Brown, dated June 3, 2022.

6. **Exhibit 5** is a true and correct copy of the declaration of Christopher G. Johnson, dated June 2, 2022.

7. **Exhibit 6** is a true and correct copy of the declaration of Esohe Galbreath, dated June 3, 2022.

Respectfully submitted this 3rd day of June, 2022,

/s/ Uzoma N. Nkwonta
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I electronically filed this document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record.

Dated: June 3, 2022

/s/ Uzoma N. Nkwonta
Uzoma Nkwonta

Counsel for Plaintiffs

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
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DECLARATION OF MARY-PAT HECTOR

I, Mary-Pat Hector, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. My name is Mary-Pat Hector. I am currently the Georgia Program Director of Rise, Inc. ("Rise"). I have served in that positions since 2020. Prior to my work at Rise, I was the National Youth Director for the National Action Network. In 2019 I received a bachelors degree in comparative women's studies and pollical

science from Spelman College in Atlanta Georgia. I am now pursuing a master's degree in public policy from Georgia State University.

3. I founded and manage Rise's Black the Vote program, which trains Black college students attending public and private colleges and universities throughout Georgia in the fundamentals of political organizing. Those students return to their campuses and educate their fellow students about issues of college affordability, food and housing needs of college students, and other policies that will put higher education in reach for all Georgians who seek it.

About Rise, Inc.

4. Rise, Inc. is a student-led 501(c)(4) nonprofit organization that runs statewide advocacy and voter mobilization programs in Georgia and on a number of campuses nationwide. Rise is a student- and youth-driven organization, and our leadership is comprised of students and young people, as are our organizers, partners, and volunteers. Rise's mission is to fight for free higher education by eliminating tuition and fees at public colleges and universities, end college student housing and food insecurity, and increase voting access for college students. Rise operates student-led advocacy campaigns, training programs, and volunteer networks across Georgia to further its mission.

5. To achieve the goal of expanding students' access to the franchise in particular, Rise must build the political power of college students and young people,

so that elected officials become more responsive to their needs. This engagement encompasses not only advocacy with lawmakers such as lobbying in state capitols, but also erasing gaps between the voting rates of college students and young voters compared to the general population. If students and young people are not engaged and voting at high rates, policymakers will fail to invest in college students and public higher education and Rise cannot accomplish our mission.

6. Thus, Rise's student organizers and volunteers engage in grassroots voter registration, education, and turnout activities, including on-campus get-out-the-vote drives and canvasses. Rise volunteers also distribute food and water at polling locations to encourage voters to cast their ballots. Rise has also achieved success by helping students and young people vote absentee and informing them about services offering free and discounted transportation to polling locations.

7. Rise also uses technology to encourage students across the United States to participate in the political process, such as partnering with BallotReady, a civic technology company, to build unique technologies that help young people educate and mobilize their peers to vote. Through peer-to-peer outreach and Rise's website, Rise also informs students and youth about how to vote and—crucially—enables students to share information with one another about the voting process. Rise is also active on social media, which it uses to further support and engage student voters.

8. Rise also partners with student groups, student governments, and individual students across the country. Rise provides them with resources, including funding and technology, to execute their ideas to mobilize their fellow students' participation in the political process through lobbying, policymaking, and voting. Rise also operates a grant-making program called "Run With It" which gives \$1,500 grants to college students who develop innovative plans to turn out their fellow students to vote.

9. Rise operates nationwide, including in Georgia. We launched our Georgia campaign because of the wealth of colleges and universities, including HBCUs, offering tremendous opportunity to advance our goals in the state. As a full-time State Director, I manage the Georgia campaign.

Rise's Georgia Campaign

10. During the 2020 primary, general, and runoff elections, Rise staff and volunteers participated in get-out-the-vote activities on election day and also supported Georgians waiting in line to vote. As part of these efforts, volunteers provided food, water, and other aid such as chairs for elderly and disabled individuals who were unable to stand for long periods of time.

11. Rise organizers also provided voters with access to sample ballots via a QR code to aid voters in preparing to cast their votes. All assistance is available to any person waiting in line to vote. Rise organizers do not advocate for or against any

candidate or issue appearing on the ballot but do speak about the importance of civic engagement.

12. These activities were particularly important in 2020 where many Georgians faced tremendous obstacles when casting their ballots. While heat or rain presents a challenge for anyone forced to endure it for hours, it posed particularly serious threats of physical injury to voters who are ill, elderly, or disabled.

13. Additionally, due to childcare constraints, some Georgians found it necessary to bring their children with them to polling places and those children, too, faced the same challenges including thirst from the heat and missed meals due to long wait times.

14. In response to these needs of voters across Georgia communities, Rise organized and provided funding for student Fellows, Ambassadors, and volunteers to provide comfort to voters in line. Rise engaged in these activities to express to voters that every Georgian should be able to cast a vote without undue barriers. By providing food and water, we sought to support voters by encouraging them to persist, despite challenges such as long lines or inclement weather, and that their vote is important and necessary.

15. When providing support such as chairs for the elderly and disabled voters, Rise sought to express to those voters and others standing around these voters in line that there are many inherent burdens for certain groups of voters to cast their

ballot in Georgia, and these aren't always just inconveniences, but oftentimes are actual threats to voters' health and well-being. By providing support to these voters, Rise sought to convey a sense of solidarity and support for these engaged citizens.

16. Many of the communities served by Rise are predominantly Black and almost all are what would be described as "low income" (including students who often live on limited budgets). By providing line relief, Rise was also expressing to those voters a recognition that Georgia's poor and minority communities have historically faced tremendous barriers to casting their ballots, and the provision of food, water, and other support simultaneously recognizes past as well as the present barriers that still exist in the voting experience today. Rise also sought to convey that it supports those voters and encourages them to persist and make their voices heard, and that their civic act is appreciated.

17. In 2020, I personally provided line relief to Georgia voters. Among the sites I visited during early voting was the polling place at the C.T. Martin Recreation Center. I spoke with voters who had waited more than three hours and had still been unable to cast their votes. Much of the long line was exposed and despite moderate weather conditions, some voters were physically distressed from standing, unprotected, in the direct sun.

18. Elderly voters were particularly uncomfortable. Because the line had grown so long, there were too few chairs for those voters who were having difficulty standing.

19. Rise supported these voters in line by filling several coolers with water and snacks and walking up and down the line, offering the provisions to voters as they waited.

20. Most voters expressed their gratitude by thanking us. Many voters expressed to us that our presence made them feel as though they were “a part of a community.” Other voters expressed that, whether waiting to vote or offering support, they were taking part in an act of “solidarity.” I believe that by providing such support I, as a representative of Rise, expressed an empowering and uplifting message to my community on behalf of my organization.

21. I am aware of the Georgia law that now makes it illegal to offer food and water and other support materials to voters waiting in line at polling places.

22. I am concerned about the ongoing impact the Ban will have on Rise’s Georgia operations. In response to this law, Rise has had to cease all efforts to support Georgians waiting in line to cast their votes. Rise has also dedicated significant staff time, including my own, to understanding the new restrictions, including how they differ from longstanding and well-understood prohibitions on

electioneering, and retraining Rise's Fellows and Ambassadors on the new laws that prohibit line relief activities that we had previously engaged in.

23. This includes researching the new law, revising training materials, and altering training schedules to dedicate additional time to cover new restrictions including the ban on providing food and water to voters waiting in line.

24. The Ban has also caused fear among potential student organizers, forcing Rise to dedicate more time to recruitment. Despite the increased recruitment efforts, Rise has been unable to recruit as many Ambassadors since SB 202 was passed. One of the reasons cited is a fear of prosecution for efforts to aid voters.

25. Personally, as the manager of Rise's operations in Georgia, I have been forced to abandon a number of Rise's priorities because of SB 202, including the line relief ban. For example, Rise had planned to restart a dormant fellowship for students at Historically Black Colleges and Universities ("HBCUs") and other minority-serving institutions of higher education. Because of the time I have had to spend mitigating the harm SB 202 has caused on Rise's operations, I have not been able to restart the fellowship.

26. I have also been unable to offer support to existing Fellows. Two Rise Fellows attending Spelman College, for example, have been engaged in protests for better student housing. Prior to SB 202, I would have offered them support by providing guidance on recruiting other students to join their efforts, communicating

with the school's administration, and communicating with the media. I have been unable to offer them such support because my attention and efforts are needed elsewhere as a result of the enactment of SB 202.

27. I have also been forced to abandon key policy advocacy efforts. I previously helmed an effort to cancel student loan debt. I communicated with policy makers and organized student efforts to do the same. These efforts have been almost completely halted.

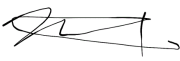
28. I also severely cut back the time I was able to dedicate to educating Georgia's lawmakers about issues such as a considered increase in GPA requirements for the HOPE scholarship and grant and the Zell Miller scholarship and grant, programs which are critical for access to higher education in Georgia.

29. In addition to modifying Rise's allocation of resources, the ban prohibits activity that is highly effective in helping Rise achieve its goal of mobilizing voters. Line relief measures provide Rise with opportunities to speak with and hear from voters. Each of these interactions provides a platform for organizers to discuss of the importance of voting for exercising political power particularly for students.

30. But for the ban on line relief, Rise would organize and deploy student organizers, grant recipients, and volunteers to provide food and water and other relief to Georgians waiting in line to vote.

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

Executed on June ³ __, 2022

By:  _____

Mary-Pat Hector
Georgia State Program Director
Rise, Inc.

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229-JPB

DECLARATION OF JAUAN DURBIN

I, Jauan Durbin, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. I am 23 years old and a resident of Atlanta, Georgia, in Fulton County. I have been a registered Georgia voter since I turned 18.

3. I recently graduated from Morehouse College, where I was elected “Mr. HBCU.” In that role, I organized students in support of a number of political issues important to young Black people, including voting rights. Helping young Black

people navigate and overcome obstacles imposed by the political process remains one of my top priorities.

4. In the 2018 general election, I voted in-person at my Fulton County polling place on the Morehouse College campus. Because the polling place lines were so long, I had to wait 2.5 to 3 hours to cast my ballot. I was grateful for the encouragement and support of various campus organizations that were providing line relief, such as water and snacks. These groups urged us not to let the delay diminish the voting rights that our forebearers had fought so hard for. This message lifted my spirit and strengthened my resolve.

5. In the 2020 primary election, I voted in person shortly after noon. After I cast my ballot, I ordered pizza to be delivered to my polling location for any voter or poll worker to consume. I told the voters waiting in line that I appreciated that they were there during their lunch hour, which is often the only time of day that working class people are able to vote. I explained that, no matter which candidates my fellow voters favored, I wanted to support them for making the effort to have their voices heard. Nobody should miss lunch and go hungry because they took the time to vote.

6. I am aware that SB 202 criminalizes the forms of encouragement and support that I received while waiting in line to vote in 2018 and that I provided to fellow voters in 2020. I plan to vote in person again in the November 2022 general

election and am concerned that these restrictions will silence the messages of solidarity and encouragement that were critical in helping me to persevere and make sure my voice was heard despite long lines, and are essential for activists like me to share with fellow Georgians.

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

Executed on June 2, 2022.

By: JUAN DURBIN

Jauan Durbin

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229-JPB

DECLARATION OF BILLY HONOR

I, Billy Honor, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. My name is Billy Honor. I am currently the Director of Organizing at New Georgia Project (“NGP”), a 501(c)(3) nonpartisan, community-based nonprofit organization based in Fulton County, Georgia that is dedicated to helping Georgians become more civically active through voter education and engagement.

3. Prior to my current role, I was the Director of Faith and Civic Organizing at NGP. In that position, I organized faith-based non-partisan voter mobilization and social justice campaigns.

4. As part of my work as a faith-based community organizer in Georgia over the last few years, I have recruited hundreds of volunteers across the state to participate in providing line-relief resources, including passing out water, snacks, ponchos, and other items to Georgia voters standing in long lines at their local precinct.

5. I first became involved in providing voter support to those standing in long lines in 2010, when I was the pastor of New Life Presbyterian, a South Fulton-based congregation at a church that also happened to be a polling precinct.

6. On election days, lines to get into the fellowship hall where people voted sometimes stretched down the church's long hallway onto the outside sidewalks. Whenever that happened, the church staff and I passed out water and offered chairs to voters. We also passed out umbrellas when it rained.

7. Although it was not our responsibility as a polling site to provide these resources to voters waiting in line, I personally had experienced the hardships associated with Georgia's long voter lines during the 2008 general election. I voted at the North Fulton Government Center during that election, where the only access

to food and water that I had during an eight-hour wait time to cast my ballot was a public water fountain and candy offered to me by a lady standing next to me in line.

8. From then on, I saw it as my duty to support and encourage those waiting in line to exercise a basic democratic right, and to make the process more bearable.

NGP's Line Warming Activities

9. In 2018, as Director of Faith and Civic Organizing for NGP, I built up a program called "Poll Chaplains," which consisted of a large network of faith leaders who provided care to voters all over metropolitan Atlanta.

10. Under the program, clergy went to crowded, overwhelmed polling precincts to pass out items including water, snacks, ponchos, fans, books, and phone chargers. We instructed volunteers to pass out only line-relief resources.

11. We specifically trained these clergy volunteers to tell voters nothing more than, "Thank you for coming." Talking about candidates, political platforms, or parties was always strictly prohibited.

12. NGP ran these line-relief programs during the 2020 elections as well. We partnered with organizations and prominent ministers from several denominations to expand the program, sending hundreds of people of faith to the polls to provide resources for Georgia voters.

13. We conducted several trainings for volunteer poll chaplains in Georgia, and in several other states as well. Training for these individuals started with an overview of what to expect on election day, including which counties were likely to experience the longest lines; conflict de-escalation techniques; rules for when and how photography was permitted; and guidance on what was appropriate for poll chaplains to wear, do, and say on Election Day.

14. Notably, people who attended our trainings were never trained on any particular political topics or issues related to electioneering. Instead, we emphasized that this was a faith-inspired, nonpartisan act of civic engagement.

15. To my knowledge none of NGP's volunteers ever violated the important principle we set forth about simply providing nonpartisan, nonpolitical support to any voter in line who may need it. Volunteers never spoke to voters about whom they were voting for or how they might vote on specific issues.

16. In providing food, water, and other line-relief resources to voters, NGP was expressing a specific, nonpartisan message that civic engagement through the voting process is an important part of being a member of the community, and every individual voter, no matter where they live or who they are, has a valuable voice and their vote should count. Providing food and water to voters in line was our way of showing solidarity and support for voters who persist and stay in line to cast their ballot, no matter what the conditions may be.

17. This message was meaningful not only to the voters receiving direct support in the form of line-relief resources, but also to the other voters who witnessed the support NGP volunteers brought to individuals waiting in line to cast their ballot.

18. The message NGP conveyed through its efforts to provide line-relief resonated with the voters we interacted with. When we provided food, water, or other items to encourage voters to persevere, and voters time and time again expressed their appreciation and gratitude for our support.

19. On one memorable occasion, NGP set up a table at a precinct in Cobb County where long voting lines had formed outside, fully exposed to the elements. It began to storm, and NGP's poll chaplains were able to hand out ponchos, water, and other resources to the voters who were forced to wait in the rain. The voters were extremely thankful for NGP's support and encouragement, and many expressed that it motivated them to remain in line where otherwise they may not have.

SB 202 Prohibition on Line Relief

20. I am aware of the Line Relief Ban that was introduced through SB 202. It is my understanding that the law no longer allows groups like NGP or its poll chaplains to provide food and water to voters waiting in line at a polling precinct.

21. NGP has been forced to adapt its programs to comply with the Ban. We now host public events where we provide food and water to anyone who passes and wishes to take it, regardless of whether they are heading to the polling place to vote.

However, these events take place far away from polling locations and they are no substitute for providing support and encouragement directly to voters waiting in line.

22. As long as the Line Relief Ban remains in place, NGP cannot freely express its message of support and solidarity to encourage these voters to persevere even when faced with difficult condition, or convey that participating in elections is an important and highly valued act of democracy.

23. NGP has also had to retrain volunteers on how to engage with voters and comply with the Line Relief Ban, including by informing them that they are no longer permitted to engage directly with voters in line on election day, and instead must operate on the fringes outside the immediate vicinity.

24. This has ultimately required NGP to put more resources and time and effort into crafting new training programs for volunteers and developing initiatives to effectively organize in Georgia under this new legal landscape. This has taken time, attention, and resources that would otherwise be spent towards voter registration and mobilization.

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

Executed on 6/3/2022.

By: Billy Honor

Billy Honor
Organizing Director
New Georgia Project

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229-JPB

DECLARATION OF EBONY BROWN

I, Ebony Brown, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. My name is Ebony Brown. I am currently the Georgia Deputy State Director at Rise, Inc. (“Rise”), a student-led 501(c)(4) nonprofit organization that runs statewide advocacy and voter mobilization programs on campuses in Georgia and nationwide.

3. Although I have not yet participated in Rise's election protection, poll monitoring, or line relief activities, I do plan on participating in whatever activities are hosted by Rise this upcoming election cycle.

4. My motivation for participating in these election support activities is in part due to personal experiences I have had as a voter in the 2020 election.

5. On November 3, 2020, I went to my polling precinct at 7 a.m. in the morning with plans to cast my ballot for the general election.

6. However, after arriving, I realized that the precinct was not letting voters inside and the line to vote had built up to more than 100 voters. As I waited, the line outside the precinct continued to grow, around a third of the voters standing in line left.

7. At around 7:45 a.m., after I had been waiting in line for almost an hour, poll workers came outside to where the voters were lined up and informed us that the polling machines were broken. Finally, after waiting in line for about two hours, I was able to vote.

8. My experience voting in person for the 2020 election was particularly frustrating. My plan had been to vote early in the morning to avoid long lines, which is why I arrived at my polling location at 7 a.m.

9. However, because I expected that I would be able to cast my ballot before a long line formed, I had yet eaten breakfast and had not prepared food or

water to bring with me to the precinct. Throughout the two-hour wait, there was no way for me to get access to food or water without losing my place in line. The experience was difficult and discouraging to say the least.

10. It is also what motivated me to participate in Rise's efforts to support voters during the upcoming election cycle. In particular, I wanted to join other Rise volunteers to help provide food and water to voters standing in long lines so that we could encourage them to persevere and not lose hope in the democratic process. I wanted to express support for those voters and remind them that they are not alone in their quest to cast their ballot, and that Rise was there to support them despite whatever difficult circumstances might arise that make voting more onerous. This expression of solidarity would have been targeted at Black voters in particular who might otherwise feel discouraged about the inclusivity of the voting process.

11. These messages are also nonpartisan and reflect the core value of civic engagement that Rise advocates for as an organization.

12. It is my understanding that the Line Relief Ban now prohibits groups like Rise and individuals like me from providing relief or support to voters waiting in line at a polling precinct. Rise has ceased polling place activities as a result to avoid violating the Ban.

13. If Rise is successful in this litigation, Rise will once again deploy its student fellows and volunteers to engage in organizing voter support and line relief efforts during early voting and on election day, as described.

14. Every day that passes with the Line Relief Ban in effect makes it more difficult for Rise to accomplish its mission and stifles Rise's ability to convey its messages of support to Georgians waiting in line to vote.

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

Executed on June ^{06/03/2022}____, 2022.

By: Ebony Brown

Ebony Brown
Georgia Deputy State Director
Rise, Inc.

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229-JPB

DECLARATION OF CHRISTOPHER G. JOHNSON

I, Christopher G. Johnson, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. My name is Christopher G. Johnson. I am a retired pastor and currently serve as the Chair and Executive Director of the Greater Augusta's Interfaith Coalition ("the Coalition"). I am a resident of Augusta, Georgia.
3. The Coalition is a 501(c)(3) non-profit organization comprised of more than 400 community service and faith-based groups. The Coalition advocates for

greater social justice, including improved support for the intellectually and developmentally disabled and care for the earth. We advocate primarily through encouraging citizens to engage in the civic process by voting. We do not advocate for or against any candidate or party represented on the ballot.

4. Our Power the Vote program, for example, hosts community events with food and entertainment. We encourage attendees to register to vote and to develop a plan for voting. We provide information about various methods of voting such as absentee voting, early voting, and voting on election day.

5. We also provide support to voters waiting in line during early voting and on election day. In 2020, we received funding from the Black Voters Matter Fund (“BVMF”) to provide water, bologna sandwiches, cheeseburgers, and other food to voters waiting in line in order to further our shared goals of promoting civic participation and engagement. As with all of our activities, we made our offerings available to all people standing in line without consideration for the voter’s political affiliation and beliefs. Our volunteers never ask about a voters’ preferred candidate or position on ballot issues. We only ask one question: Do you want something to eat or drink? We have also played music for voters waiting in long lines just to put some pep in their step.

6. The message we intend to send is simply “stay in line, we are with you.” We are trying to keep them from walking away before they have had a chance to

vote. By addressing their food and hunger we are saying “You came out here, now it’s important to stay, and we appreciate your efforts to improve our democracy.”

7. Voters have received these messages with gratitude. These interactions frequently lead to deeper conversations with voters about the unreasonable difficulties of casting their ballots. Older Black voters have frequently told me that today’s voting challenges are proof that there is still a ways to go in terms of voting rights.

8. Each of these conversations is an opportunity for us to engage with voters about the importance of their vote and how their vote might improve the well-being of communities in Georgia and beyond. Such conversation, sparked by our simple offerings, are at the core of our mission.

9. We first began offering voter support in 1998 after I waited for more than eight hours to cast my own ballot. In the more than two decades of offering voter support, I have observed people suffering from extreme heat exhaustion, I have seen people soaked to the bone by downpours, and I have seen people hungry and thirsty. I have had voters tell me that they were diabetic and but for our offer of food they would have had to abandon the line in order to eat and stave off a diabetic emergency. Because of these experiences, I view voter support as a humanitarian statement of support for those who have a need.

10. However, I understand that those voter support activities are now illegal. And it is my understanding that a new law, SB 202, now prohibits groups like BVMF and the Coalition from providing food and water and other support items to voters waiting in line at a polling precinct.

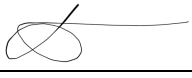
11. Because of this new law, the Coalition and BVMF have completely ceased our early voting and election day voter support efforts in order to avoid subjecting ourselves or our volunteers to criminal penalties. We have instead shifted our efforts toward encouraging citizens to have a plan to cast their ballot. We do this through our Power the Vote program and also through canvassing. We have also spent more of our resources on educating voters about new voting restrictions, rules, and procedures that may help them avoid long lines. Many voters who have voted absentee in the past, for example, are confused about the numerous new requirements for requesting and casting an absentee ballot.

12. These efforts, however, are no replacement for our voter support activities and they are far less likely to lead to conversations. Voters who are languishing in a voting line are often uniquely interested in discussing ways in which we can improve civic processes and increase civic engagement. While we will continue to pursue our goals, the restrictions on voter support make it more difficult for us to engage with voters and convey our message and for citizens to carry out their civic duties.

13. If providing food and water to voters in line is permitted in the November 2022 election, the Coalition will once again partner with BVMF and deploy volunteers to engage in voter support efforts during early voting and on election day.

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

Executed on June 2, 2022.

By:  _____

Christopher G. Johnson
Chair and Executive Director
Greater Augusta's Interfaith Coalition

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555-JPB
THE NEW GEORGIA PROJECT, <i>et al.</i> , <i>Plaintiffs,</i> v. BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i> , <i>Defendants,</i> REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i> , <i>Intervenor-Defendants.</i>	Civil Action No.: 1:21-cv-01229-JPB

DECLARATION OF ESOHE GALBREATH

I, Esohe Galbreath, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.

2. My name is Esohe Galbreath. I am currently the Chief Executive Consultant at Sohé Solutions, a consulting company that assists small businesses and nonprofits in the Atlanta area with creative projects. I have also founded several of my own enterprises involving art and creative expression, including Urban Art Expression—a company dedicated to encouraging individual art expression and

building the individual art experience; ARTiculate ATL—an annual art social featuring over 30 artists; and UAE Youth Artists Program—a 501(c)(3) non-profit dedicated to bridging the exposure gap of some of Atlanta’s most visually talented youth.

3. I previously worked as a both a contracted consultant and a volunteer for the New Georgia Project (“NGP”), a 501(c)(3) nonpartisan, community-based nonprofit organization based in Fulton County, Georgia. In these roles, I organized many of NGP’s programs that involved expressive art and working with creative professionals. For example, in 2018 I helped NGP host Politi-Art, a politically themed art show featuring all female artists of color. And in 2019 I assisted with organizing NGP’s Game Jam, a team-based video game design competition intended to foster civic engagement with new, previously untapped constituencies including young, first-time voters and the larger gaming community.

4. In 2018, I managed NGP’s election day voter comfort and entertainment program in the Atlanta area, and I assisted in managing the same program during the 2020 election cycle. Under this program, NGP’s volunteers—whom we called “comfort captains”—distributed food, water, snacks, and other comfort and support items such as ponchos, fans, phone chargers, and personal protective equipment during the COVID-19 pandemic to voters as they waited in long lines to vote while musicians and other performance artists entertained the

voters. NGP employed a diverse array of entertainers for these events, from mariachi bands to circus performers.

5. The food, water, snacks, and other comfort supplies that NGP's volunteers distributed were not accompanied by or labeled with any information regarding candidates or requests for people to vote for a particular candidate or issue. These comfort items were provided free of charge to any and all individuals who were waiting in line, regardless of their personal politics or the candidates or positions for which they intended to vote.

6. NGP also trained its volunteers and performers not to inquire into voters' politics or endorse any specific candidate or political position while distributing comfort items or performing, and any dialogue that they did engage in with voters was strictly nonpartisan. To my knowledge, NGP's volunteers never violated this prohibition.

7. NGP carried out this program at polling places across the Atlanta area and elsewhere in Georgia, focusing on precincts at which voters were required to wait in line for a half hour or more in order to vote. These included pre-identified sites where NGP knew from past experience and public information that long lines were very likely to form. NGP also operated a call center where members of the public could report that long lines had formed at a specific polling place in real time so that NGP's performers and volunteers could be dispatched appropriately.

8. In 2018, NGP deployed the program on election day, and it was implemented at approximately 20 to 25 polling locations in the Atlanta area. During the 2020 election cycle, the program was expanded to also include primary election and early voting sites, ultimately covering approximately 40 locations in the Atlanta area.

9. The goal of the program was for NGP and the volunteers to express support for and solidarity with these voters to encourage them to remain in line to vote despite the associated hardships, and to express gratitude and appreciation for voters' sacrificing many hours of their day in order to participate in the democratic process. The program was also meant to be an expressive celebration of democratic participation that communicated both the crucial importance of voting and that voters are part of a larger effort to improve the community through civic engagement.

10. The voters with whom NGP interacted during these programs consistently expressed their understanding and appreciation for NGP's message. They were uniformly thankful for NGP's efforts and informed us that the encouragement motivated them to persevere and remain in the long line so that they could make their voices heard.

11. And this message was meaningful not only to the voters receiving direct support in the form of line-relief resources, but also to the other voters in the vicinity

who witnessed the support we, as NGP volunteers, brought to individuals waiting in line to cast their ballot.

SB 202 Prohibition on Line Relief

12. It is my understanding that a new law, SB 202, no longer allows groups like NGP and its comfort captains to provide support or distribute food and water directly to voters waiting in line at a polling precinct.

13. I am concerned about the impact this Line Relief Ban will have on voters in the urban and suburban areas of Atlanta, in particular, which have large populations of voters of color and often encounter long lines at their local precincts.

14. With this Ban in place, I would not be able to conduct the type of voter comfort program that I previously managed for NGP, nor could I convey our messages of support, solidarity, and encouragement as effectively without the ability to share our comfort items (food, water, snacks, etc.) with voters waiting in long lines.

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

Executed on 6/3/2022.

By: Esohe Galbreath

Esohe Galbreath

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

IN RE GEORGIA SENATE BILL 202	Master Case No.: 1:21-MI-55555- JPB
<p>THE NEW GEORGIA PROJECT, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants,</i></p> <p>REPUBLICAN NATIONAL COMMITTEE, <i>et al.</i>,</p> <p style="text-align: center;"><i>Intervenor-Defendants.</i></p>	<p>Civil Action No.: 1:21-cv-01229- JPB</p>

**[PROPOSED] ORDER ON NGP PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

THIS MATTER comes before this Court on NGP Plaintiffs’ Motion for Preliminary Injunction. Upon considering the motion and supporting authorities, the responses from Defendants, and the evidence and pleadings of record, this Court finds that Plaintiffs are likely to succeed on the merits of their claim, that they will be irreparably harmed if this motion is not granted, that the balance of equities tip in Plaintiffs’ favor, and that the requested equitable relief is in the public interest. It is hereby:

ORDERED that NGP Plaintiffs' Motion for a Preliminary Injunction is **GRANTED**, and Defendant Keith Gammage, in his official capacity as the Solicitor General of Fulton County; Defendant Gregory W. Edwards, in his official capacity as the District Attorney for Dougherty County; their respective agents, officers, employees, and successors; and all persons acting in concert with each or any of them are hereby **ENJOINED** from enforcing during the November 2022 elections, and any other elections held before final judgment in this case, the provisions of O.C.G.A. § 21-2- 414(a) imposing criminal penalties on those who “give, offer to give, or participate in the giving of any money or gifts, including, but not limited to, food and drink, to an elector ... [w]ithin 150 feet of the outer edge of any building within which a polling place is established” or “[w]ithin 25 feet of any voter standing in line to vote at any polling place.”

IT IS SO ORDERED this the ____ day of ____, 2022.

Hon. J. P. Boulee
United States District Judge
Northern District of Georgia