

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

COAKLEY PENDERGRASS, *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS'  
MOTION FOR SUMMARY JUDGMENT**

**INTRODUCTION**

In moving for summary judgment on the entirety of their claims, Plaintiffs ignore binding precedent and continue their efforts to over-simplify the “intensely local appraisal of the design and impact of a voting system,” which this Court must undertake in a case involving Section 2 of the Voting Rights Act (VRA). *Johnson v. Hamrick*, 296 F.3d 1065, 1074 (11th Cir. 2002). While it is typical for courts to grant summary judgment to *defendants* in VRA cases, grants of summary judgment to *plaintiffs* in Section 2 cases are “unusual.” *Ga. State Conference of the NAACP v. Fayette Cnty. Bd. of Comm’rs*, 775 F.3d 1336, 1345 (11th Cir. 2015). And this makes sense. Failure to establish even one of the *Gingles* preconditions is fatal to a plaintiff’s Section

2 claim because each of the three preconditions must be met, so cases can routinely resolve at summary judgment in favor of defendants. *See Johnson v. DeSoto Cnty. Bd. of Comm'rs*, 204 F.3d 1335, 1343 (11th Cir. 2000); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1199 (11th Cir. 1999); *Brooks v. Miller*, 158 F.3d 1230, 1240 (11th Cir. 1998); *Negron v. City of Miami Beach*, 113 F.3d 1563, 1567 (11th Cir. 1997).

But to find for Plaintiffs as they request, this Court must not only find they have met the three *Gingles* preconditions, but it must also review the non-exhaustive list of “Senate Factors” to assess the totality of the circumstances. *Nipper v. Smith*, 39 F.3d 1494, 1512 (11th Cir. 1994) (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50-51 (1986)); *Gingles*, 478 U.S. at 79; *Johnson v. De Grandy*, 512 U.S. 997, 1011 (1994). This assessment of the totality of the circumstances happens “pursuant to a bench trial, with judgment issued under Federal Rule of Civil Procedure 52.” *Fayette Cnty. Bd. of Comm'rs*, 775 F.3d at 1343. A bench trial is necessary because, at summary judgment, “the district court may not weigh the evidence or find facts” and may not “make credibility determinations of its own.” *Id.* (quoting *Morrison v. Amway Corp.*, 323 F.3d 920, 924 (11th Cir. 2003) and citing *FindWhat Investor Grp. v. FindWhat.com*, 658 F.3d 1282, 1307 (11th Cir. 2011)).

This Court should grant summary judgment to Defendants for all the reasons explained in Defendants' Motion [Doc. 175] and need not reach the totality of the circumstances. But if this Court disagrees, Plaintiffs have still failed to carry their burden to obtain summary judgment for any portion of this case on at least three grounds.

First, despite redistricting cases being district-specific, Plaintiffs have presented no evidence of their standing to bring these claims as to each district they challenge as part of their Statement of Undisputed Material Facts. Without evidence on which to base determinations that Plaintiffs live in the districts they challenge, this Court cannot grant summary judgment to Plaintiffs and cannot even be certain that it has jurisdiction over Plaintiffs' claims.

Second, Plaintiffs gloss over their significant evidentiary shortcomings after discovery by claiming there are no disputes of fact. But disputes exist for facts necessary to find for Plaintiffs regardless of whether an opposing expert has contested each point. For example, Mr. Cooper was unable to explain his process for complying with traditional redistricting principles, instead working specifically to create a majority-Black congressional district in Atlanta after previously opining that a new majority-Black congressional district should have been created in eastern Georgia just five years ago. Mr. Cooper relied on

race when drawing the plan and could not explain his decisions in drawing other districts on the illustrative plan where, for example, he paired heavily Black Hancock County with heavily white mountain counties in the same district. Dr. Palmer likewise testified that he never looked at primaries or anything that would have allowed him to view polarization apart from politics. And Plaintiffs rely on non-admissible evidence like hearsay newspaper articles for some of their totality-of-the-circumstances proof.

Third, the existence of competing summary-judgment motions demonstrates that, at least on some points necessary for this Court to decide for *Plaintiffs*, there is a dispute of fact. Unlike Defendants, who can succeed on summary judgment by pointing to Plaintiffs' failure to support a threshold finding, Plaintiffs must carry their *entire* burden of proof. They have not, or at the very least, have demonstrated this Court must weigh the impact of certain pieces of evidence before it can decide in their favor.

While this Court should grant summary judgment to Defendants for all the reasons outlined in their motion, it should not grant summary judgment to Plaintiffs, especially on the entire case as Plaintiffs seek. This Court should deny Plaintiffs' motion and allow this case to move to its resolution—either by granting Defendants' motion or after trial.



## ADDITIONAL FACTUAL BACKGROUND<sup>1</sup>

### I. Additional facts regarding illustrative plan.

Five of Georgia's fourteen members of Congress are Black individuals. SAMF ¶ 1, Cooper Dep. 19:19-21. Despite this fact, Plaintiffs' expert set out to draw an additional majority-Black<sup>2</sup> district beyond those drawn by the state plan. SAMF ¶ 2, Cooper Dep. 14:15-15:2. Mr. Cooper set out to draw a new majority-Black district in this case in Atlanta despite opining in a 2018 case that a new majority-Black congressional district should have been drawn in east Georgia, combining Macon, Augusta, and Savannah in the same district. SAMF ¶ 3, Cooper Dep. 41:22-42:23. He could not explain why he chose a different approach here apart from population-growth numbers and a different Census. SAMF ¶ 4, Cooper Dep. 43:4-13.

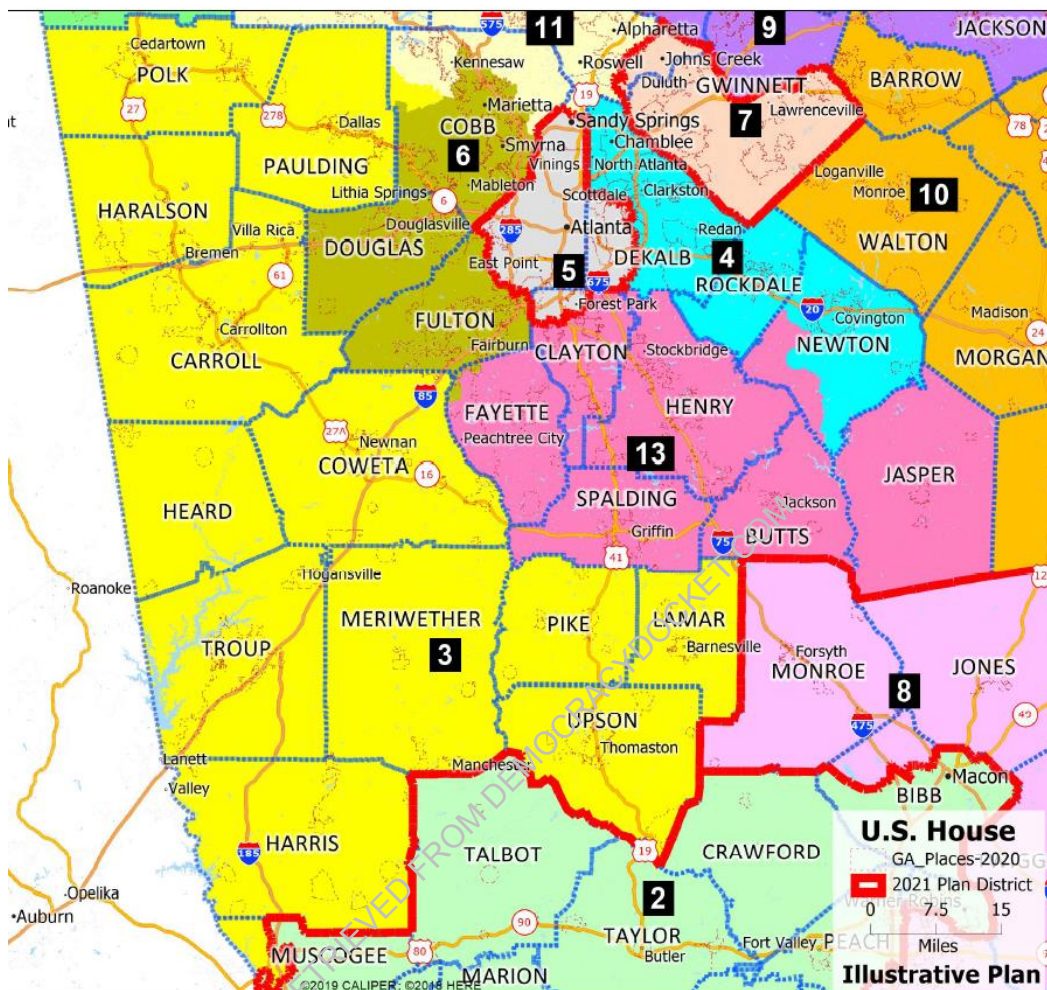
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<sup>1</sup> As required by this Court's instructions, III. I., all citations to the record are included in the brief and in the accompanying Statement of Additional Material Facts (SAMF) that is filed contemporaneously with this brief. The SAMF includes the full citations to the shortened deposition citations in the brief, along with the exhibits and deposition excerpts required by the Local Rules.

<sup>2</sup> Map-drawers distinguish "majority-minority" from "majority-Black." Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single racial category constitute a majority of a district. SAMF ¶ 5, Cooper Dep. 16:14-20.

In illustrative District 6, Mr. Cooper united a Black community in Fulton County with non-majority-Black portions of surrounding counties to create a new majority-Black district. SAMF ¶ 6, Cooper Dep. 77:12-17. As a result, the only portion of a county in illustrative District 6 that is majority-Black is Fulton County. SAMF ¶ 7, Cooper Dep. 77:12-17. Without the portion of Fulton County that Mr. Cooper moved out of District 13 into illustrative District 6, the remaining components of the district would not allow it to be majority-Black. SAMF ¶ 8, Cooper Dep. 78:6-11.

In order to create District 6 as a majority-Black district, Mr. Cooper adjusted other districts in ways that he could not explain but that appear to be calculated to connect disparate communities for the purpose of fashioning an additional majority-Black congressional district. He connected urban areas in North Fulton with rural areas in Bartow County. SAMF ¶ 9, Cooper Dep. 59:6-60:1. He connected Cobb County with rural parts of Georgia going all the way down to Columbus, Georgia, in District 3. SAMF ¶ 10, Cooper Dep. 63:15-24, 64:17-65:4. The only connection he could identify to this similar configuration of enacted District 14 was that Heard and Troup counties were closer to Atlanta. SAMF ¶ 11, Cooper Dep. 65:20-66:2.

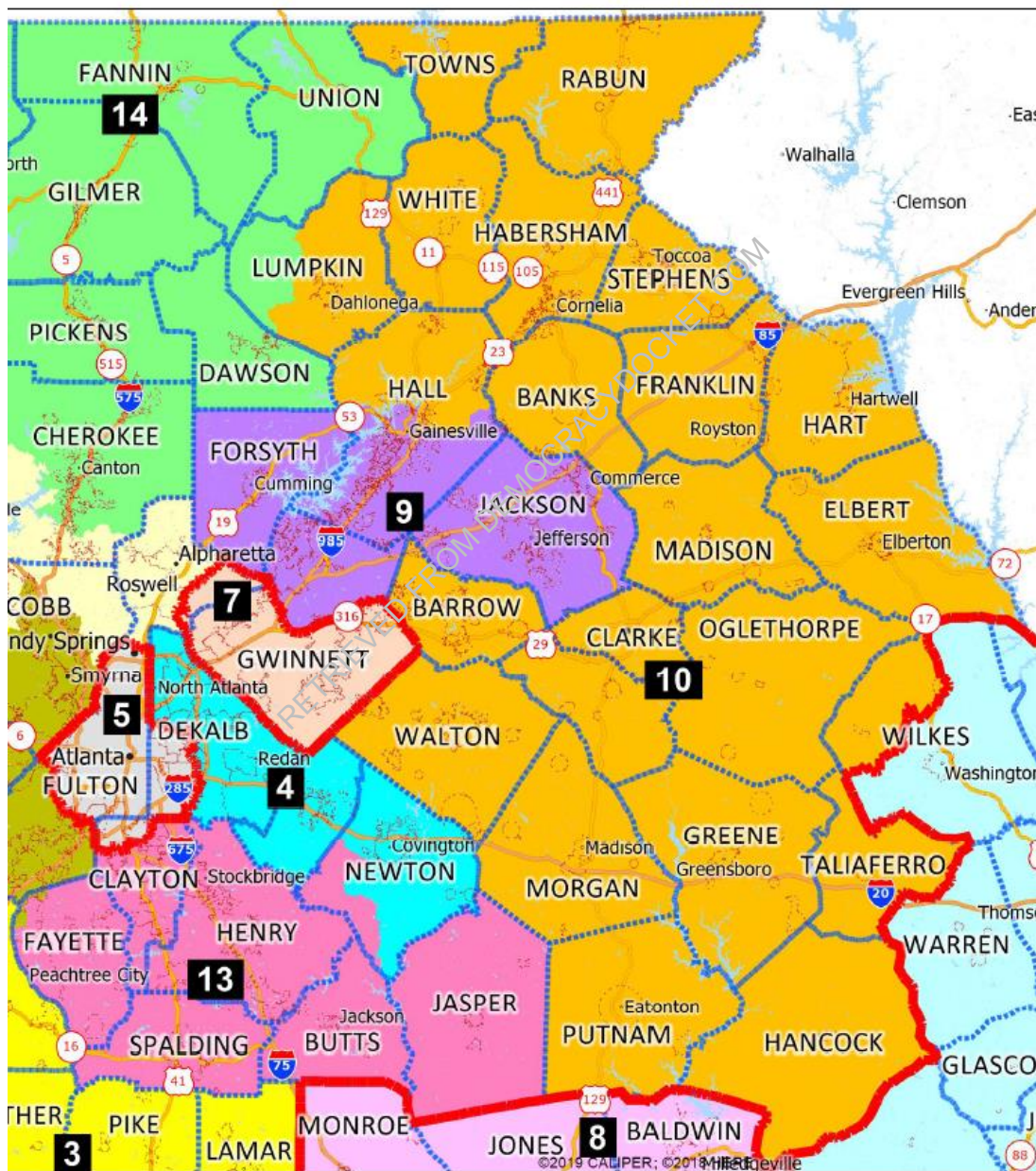


Illustrative District 3 (Cooper Report, Ex. I-2).

He also agreed that his illustrative District 13 connected urban (and heavily Black) parts of Clayton County with rural areas out to Jasper County. SAMF ¶ 12, Cooper Dep. 73:13-17. And when asked why he connected majority-Black Hancock County (from the Black Belt, according to his testimony in other cases) to the North Carolina border, he could only point to population equality. SAMF ¶ 13, Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8. He



also could not explain why he included Athens/Clarke County in the same district as Hancock County and Rabun County. SAMF ¶ 14, Cooper Dep. 71:21-72:11.



Illustrative Districts 10 and 13 (Cooper Report, Ex. I-2).

## II. Additional facts regarding polarized voting.

Plaintiffs' sole statistical expert, Dr. Palmer, declined to examine primary contests in his report. SAMF ¶ 16, Palmer Dep. 59:23-60:1. Without those primary contests which would remove partisanship from the calculation, Dr. Palmer found only highly polarized general-election contests. SAMF ¶ 17, Palmer Dep. 59:23-60:1. As a result, Dr. Alford opined that "one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver..." SAMF ¶ 19, Alford Dep. 156:1-5. In Dr. Alford's view, the way to do that is by "looking at primaries." SAMF ¶ 20, Alford Dep. 156:6.

## ARGUMENT AND CITATION OF AUTHORITIES

In order to prevail at summary judgment, Plaintiffs must show there is no genuine issue of material fact and they are entitled to judgment as a matter of law. Fed. R. Civ. P. 56. Further, this Court must view all evidence and reasonable factual inferences in the light most favorable to Defendants. *Witter v. Delta Air Lines*, 138 F.3d 1366, 1369 (11th Cir. 1998). As explained by all parties, a plaintiff bears the burden of first proving each of the three *Gingles* preconditions to show a Section 2 violation. *Nipper*, 39 F.3d at 1510. After a plaintiff establishes the three preconditions, a court then reviews the "Senate

Factors” to assess the totality of the circumstances. *Id.* at 1512; *Gingles*, 478 U.S. at 79; *De Grandy*, 512 U.S. at 1011.

Grants of summary judgment to plaintiffs in Section 2 cases are “unusual.” *Fayette Cnty. Bd. of Comm’rs*, 775 F.3d at 1345. That is because “[n]ormally,” Section 2 claims “are resolved pursuant to a bench trial.” *Id.* at 1343. Granting summary judgment to a plaintiff is rarely appropriate “due to the fact-driven nature of the legal tests required by the Supreme Court and [Eleventh Circuit] precedent.” *Id.* at 1348. This remains true even when the parties agree on many basic facts:

Summary judgment may be inappropriate even where the parties agree on the basic facts, but disagree about the inferences that should be drawn from these facts. If reasonable minds might differ on the inferences arising from undisputed facts, then the court should deny summary judgment.

*Burton v. City of Belle Glade*, 178 F.3d 1175, 1187 (11th Cir. 1999) (quoting *Clemons v. Dougherty Cnty., Ga.*, 684 F.2d 1365, 1369 (11th Cir. 1982)); see also *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 657 F. App’x 871, 872 (11th Cir. 2016) (reversing grant of summary judgment to plaintiffs in Section 2 case).

Courts considering Section 2 claims must conduct an “intensely local appraisal” of the facts in the local jurisdiction, which is not generally amenable to resolution as a matter of law. *De Grandy*, 512 U.S. at 1020-21 (no statistical

shortcuts to determining vote dilution); *Gingles*, 478 U.S. at 45, 78 (stating that courts must conduct a “searching practical evaluation of the ‘past and present reality’” of the challenged electoral system and whether vote dilution is present is “a question of fact”); *White v. Regester*, 412 U.S. 755, 769-70 (1983) (assessing the impact “in light of past and present reality, political and otherwise”).

**I. Plaintiffs have presented no evidence of their standing, as required to grant their Motion.**

A federal court is not “a forum for generalized grievances,” and the requirement that plaintiffs have a personal stake in the claim they bring “ensures that courts exercise power that is judicial in nature.” *Lance v. Coffman*, 549 U.S. 437, 439, 441 (2007). Federal courts uphold these limitations by insisting that a plaintiff satisfy the familiar three-part test for Article III standing: (1) injury in fact, (2) traceability, and (3) redressability. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016).

In redistricting cases alleging vote dilution, plaintiffs must reside in particular districts or geographic areas. “To the extent the plaintiffs’ alleged harm is the dilution of their votes, **that injury is district specific.**” *Gill v. Whitford*, 138 S. Ct. 1916, 1930 (2018) (emphasis added). And this matters for standing because “[a] plaintiff who complains of gerrymandering, but who does

not live in a gerrymandered district, ‘assert[s] only a generalized grievance against governmental conduct of which he or she does not approve.’” *Id.* (quoting *United States v. Hays*, 515 U.S. 737, 745 (1995)).<sup>3</sup>

Nowhere in Plaintiffs’ brief or their Statement of Undisputed Material Facts do they point to any admissible evidence supporting the residence of particular plaintiffs at the time of the Complaint or currently.<sup>4</sup> Without these facts, this Court cannot enter summary judgment for Plaintiffs on all counts as they seek.

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<sup>3</sup> While *Gill* involved a constitutional racial-gerrymandering challenge, Section 2 “is a constitutional exercise of congressional enforcement power under the Fourteenth and Fifteenth Amendments.” *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1550 (11th Cir. 1984). And district courts that considered standing for Section 2 cases have concluded that individuals must reside in particular geographic areas to have standing. *See, e.g., Robinson v. Ardoin*, 605 F. Supp. 3d 759, 818 (M.D. La. 2022); *LULAC v. Abbott*, No. EP-21-CV-00259-DCG-JES-JVB, 2022 U.S. Dist. LEXIS 176337, at \*31-32 (W.D. Tex. Sept. 28, 2022); *Harding v. Cnty. of Dall.*, Civil Action No. 3:15-CV-0131-D, 2018 U.S. Dist. LEXIS 35138, at \*11-13 (N.D. Tex. Mar. 5, 2018); *Pope v. Cnty. of Albany*, No. 1:11-cv-0736 (LEK/CFH), 2014 U.S. Dist. LEXIS 10023, at \*18 (N.D.N.Y. Jan. 28, 2014); *Broward Citizens for Fair Dists. v. Broward Cnty.*, No. 12-60317-CIV, 2012 U.S. Dist. LEXIS 46828, at \*7-8 (S.D. Fla. Apr. 3, 2012).

<sup>4</sup> The stipulated facts used at the preliminary-injunction phase more than a year ago specifically were limited to those motions and did not bind parties later in the litigation. [Doc. 63, p. 2 n.1]. And in any event, “[s]ince they are not mere pleading requirements but rather an indispensable part of the plaintiff’s case, each element [of standing] must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of litigation.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992).



## **II. Plaintiffs’ facts do not support a grant of summary judgment in their favor.**

Plaintiffs have also failed to carry their burden to show there is no disputed material fact about *every element* they must prove at trial, which is necessary to grant summary judgment in their favor. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A review of what Plaintiffs presented demonstrates that they cannot carry this burden at this stage of the case.

### **A. Plaintiffs’ evidence on the first *Gingles* precondition.**

Plaintiffs rely on a revised map from Mr. Cooper for their showing under the first *Gingles* precondition, but oversimplify the analysis of this precondition, relying on a new majority-Black district and breezily asserting that the new map “undeniably complies with traditional redistricting principles.” [Doc. 173-1, p. 12]. But they ignore Mr. Cooper’s deposition testimony where he could not explain many features of his plan, including why he looked at Atlanta instead of east Georgia, as he did in 2018, to draw a new majority-Black congressional district. SAMF ¶¶ 21-23 Cooper Dep. 42:10-23, 41:25-43:3, 42:19-23. The various scores and calculations about the illustrative plan trumpeted by Plaintiffs do not provide much useful information to the Court. Plaintiffs must do more than just draw a district—they must demonstrate connections between the disparate geographic communities they

unite that go beyond race. *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 433 (2006) (*LULAC*); *Bush v. Vera*, 517 U.S. 952, 997 (1996). Defendants incorporate their arguments in their Motion for Summary Judgment on the first *Gingles* precondition [Doc. 175-1, pp. 14-17] but will respond to several additional issues raised by Plaintiffs.

Plaintiffs focus only on Mr. Cooper's District 6 in isolation from other districts, claiming that it best preserves various communities. [Doc. 173-1, p. 14]. But Mr. Cooper connected the same types of communities he criticized the enacted plan for connecting, placing parts of Cobb County with rural parts of west Georgia stretching all the way down to Columbus. SAMF ¶ 25, Cooper Dep. 63:15-24, 64:17-65:4, 73:13-17. The fact that Mr. Morgan did not analyze some parts of Mr. Cooper's plan does not change the fact that *Mr. Cooper* could not explain his own approach to map-drawing beyond drawing a majority-Black district with a focus on population in other districts. SAMF ¶ 26, Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8.

Mr. Cooper further could not identify a process to determine the geographic compactness of the Black community in Atlanta—he just drew a district and concluded there was geographic compactness as a result, which the Supreme Court does not allow. *LULAC*, 548 U.S. at 433. The only portion of District 6 as drawn by Mr. Cooper that is majority-Black is one county out of

four, casting further doubt on whether his District 6 demonstrates there is a geographically compact Black community that district unites. SAMF ¶¶ 27-32, Cooper Dep. 22:13-23:17, 45:19-46:1, 57:21-58:8, 77:12-17; 78:6-11. Because the Section 2 analysis of compactness is not centered on “the relative smoothness [and contours] of the district lines,” but rather the compactness of the *minority population itself*, *LULAC*, 548 U.S. at 432-33, Plaintiffs have failed to carry this burden. This is because the inquiry is whether “the minority group is geographically compact.” *Id.* at 433 (quoting *Shaw v. Hunt*, 517 U.S. 899, 916 (1996)).

All of these facts, combined with the facts outlined in Defendants’ Motion about the racial predominance Mr. Cooper used in the creation of his illustrative plan [Doc. 175-1, pp. 14-17], which are incorporated by reference, demonstrate that Plaintiffs cannot prevail on their Motion regarding the first *Gingles* precondition.

Further, while Plaintiffs rely on it, the fact that a new majority-Black district would elect Democrats is not surprising. [Doc. 173-1, p. 16]. Again, Plaintiffs ask this Court to reduce Section 2 to a very simple checklist. If the only determination necessary to find in favor of Plaintiffs on the first *Gingles* precondition was drawing an additional district that elects Democrats, then courts have engaged in far more analysis than necessary for decades.

**B. Plaintiffs’ evidence on the second and third *Gingles* preconditions.**

Plaintiffs likewise oversimplify Section 2 on the issue of racial polarization, devoting just three pages of their forty-page Motion to the topic. And in those pages, it is apparent that they lack evidence proving this crucial element of their claim.

Plaintiffs claim that they satisfy the second and third *Gingles* preconditions merely because their lone racial polarization expert, “found that Black voters in Georgia are extremely cohesive” [Doc. 173-1, p. 20], and in the relevant areas “the white majority votes sufficiently as a bloc to enable it...usually to defeat the minority’s preferred candidate.” *Id.* at 21 (quoting *Gingles*, 478 U.S. at 51 (internal quotations omitted)). But Plaintiffs’ approach relies on a legally and constitutionally untenable understanding of the *Gingles* plurality opinion and elevates the plurality opinion by Justice Brennan to majority status, effectively ignoring the *actual Gingles* majority’s opinion on this crucial point, as well as federal circuit caselaw.

To prove vote dilution under Section 2, a plaintiff must establish that a bloc of voters “invidiously” cancels out his or her vote, *Regester*, 412 U.S. at 765, “on account of race,” 52 U.S.C. § 10301. It is not enough to establish racial

bloc voting merely by showing a divergence in voting patterns between Black and white voters, as shown below.

***1. To establish vote dilution “on account of race,” a plaintiff must prove racial bloc voting, not bloc voting attributable to ordinary partisan disagreement.***

Where race-neutral, “partisan” preference determines electoral outcomes, there is no Section 2 violation. *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 999 F.2d 831, 855 (5th Cir. 1993) (en banc) (*Clements*). “[E]ven when election returns in effect short-circuit a minority group’s voting power, the electoral structure is not illegal if the defeat represents nothing more than the routine operation of political factors.” *Vecinos de Barrio Uno v. City of Holyoke*, 72 F.3d 973, 982 (1st Cir. 1995). And the Eleventh Circuit, on one of its first occasions to examine racially polarized voting after the enactment of the 1982 amendments to Section 2, has at least tacitly endorsed this view. Describing the “significance of racially polarized voting,” the Eleventh Circuit noted that “[i]n the *absence* of racially polarized voting, black *candidates* could not be denied office because they were black, and a case of ... dilution could not be made.” *Marengo County*, 731 F.2d at 1566 (emphasis added) (quoting *Nevett v. Sides*, 571 F.2d 209, 223 n.16 (5th Cir. 1978)). Thus, the focus of the Eleventh Circuit with respect to racially polarized voting fell on the *candidates* and not the *electorate* itself. This occurred several

times in the opinion. “[B]loc voting may [also] be indicated by a showing of the consistent lack of success of qualified black *candidates*.” *Id.* at 1567 n.34, quoting *Nevett*, 571 F.2d at 223 n.18 (emphasis added). And when confronted with the argument that the race of the candidate *should not matter* for purposes of determining whether minority groups are adequately represented, the Eleventh Circuit disagreed but said it, “look[ed] hopefully toward the day when elections... are conducted without regard to the race of the candidates.” *Id.* at 1567.

Here, the Plaintiffs advocate for precisely the opposite standard, focusing exclusively on the race of the *electorate*, and ignoring the race of the *candidate*. The Eleventh Circuit in *Marengo County*<sup>5</sup> never endorsed this view, and the majority of Supreme Court Justices considering the question two years later in

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<sup>5</sup> Defendants are not insensible to the fact that courts in this judicial circuit, including this Court in prior rulings, have disagreed with this interpretation of racial polarization for purposes of the second and third *Gingles* preconditions. But a holistic review of the statutory language, and placing the controlling portion of the *Gingles* opinion on racial polarization in its proper context, reveals that failing to interpret those provisions in the way Defendants propose is not only inconsistent with the statutory language, but also threatens the ongoing constitutional viability of Section 2. Defendants return to the initial interpretations of Section 2 in this circuit not to suggest that their view of racial polarization is unquestionably settled law at this stage. Rather, it is simply to show that from the beginning, racial polarization was viewed as being something more than just conflicting bloc voting by different races.

*Gingles* never endorsed it, either. An examination of the text and relevant caselaw surrounding Section 2 explains why.

Beginning with the text, Plaintiffs have no answer to the plain statutory directive that race, as opposed to ordinary policy disagreements, must “cause” minorities to have less “opportunity” than other voters. *Greater Birmingham Ministries v. Sec’y of Ala.*, 992 F.3d 1299, 1329-30 (11th Cir. 2021). Thus, if Black Democratic voters have the same opportunity to elect candidates of their choice as white Democratic voters, Asian Democratic voters, Latino Democratic voters, and so forth, they have the same “opportunity” as “other members of the electorate.” 52 U.S.C. § 10301. In the absence of something more, the simple fact is that “in a majoritarian system, numerical minorities lose elections.” *Holder v. Hall*, 512 U.S. 874, 901 (1994) (Thomas, J., concurring) (citations omitted). But there is no injury under Section 2 if Black voters lose merely because the majority votes Republican.

While Plaintiffs assert that *Gingles* held that racial bloc voting is present anywhere that a minority group votes differently from the majority, [Doc. 173-1, p. 21], even a cursory reading of the *Gingles* opinions reveals that five Justices *rejected* that view. Justice White could not have been more clear, saying he did “not agree” that “there is polarized voting” merely because “the majority of white voters vote for different candidates than the majority of

[B]lacks.” *Gingles*, 478 U.S. at 83 (White, J., concurring). And that is why he specifically declined to join the plurality opinion upon which this Court relied at the preliminary-injunction phase—the very portion that would have held that racial causation is not required. Justice O’Connor, with whom three other Justices joined, stated even more categorically: “I would reject the Court’s test for vote dilution,” *id.* at 97 (O’Connor, J., concurring), and explicitly stated, “I agree with Justice White that Justice Brennan’s conclusion that the race of the candidate is always irrelevant in identifying racially polarized voting conflicts with *Whitcomb* and is not necessary to the disposition of this case.” *Id.* at 101.

Plaintiffs do not attempt to grapple with this repudiation of the four-Justice plurality on the meaning of racial polarization. As the Supreme Court made clear in *Whitcomb v. Chavis*, 403 U.S. 124 (1971), which *Gingles* did not overturn and which the Congress attempted to codify<sup>6</sup> through Section 2, where Black voters lose because they vote “predominantly Democratic” and Republicans tend to win, there is no vote dilution. 403 U.S. at 153. And it is not just *Gingles* itself that casts doubt on Plaintiffs’ casual claim that the race of the candidate is immaterial for purposes of establishing racial polarization.

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<sup>6</sup> “In enacting § 2, Congress codified the ‘results’ test this Court had employed, as an interpretation of the Fourteenth Amendment, in *White* and *Whitcomb*.” *Gingles*, 478 U.S. at 97 (O’Connor, J., concurring).



Indeed, several years after *Gingles*, the Supreme Court stated even more clearly that, “the ultimate right § 2 is equality of opportunity, *not a guarantee of electoral success for minority preferred candidates of whatever race.*” *De Grandy*, 512 U.S. at 1014 n. 11 (emphasis added).

Against this legal backdrop, Plaintiffs’ evidence of racial polarization is not enough to carry their burden of proof. Indeed, the only evidence from Plaintiffs’ expert on racial polarization is insufficient to even *survive* summary judgment by Defendants, let alone *grant* it in favor of Plaintiffs. Plaintiffs’ evidence on the question of racial polarization can be summed up in two sentences outlining the findings of their sole statistical expert. First, “Dr. Palmer found that Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections he examined...” [Doc. 173-1, p. 20]. Second, “Dr. Palmer found high levels of white bloc voting in opposition to the candidates whom Black voters cohesively supported....” [Doc. 173-1, p. 21]. Based on these statements alone, Plaintiffs claim they have presented incontrovertible evidence of racial polarization sufficient to be granted summary judgment. But as outlined above, the polarization that Dr. Palmer found tells us little (if anything) about the existence and extent of *racial* polarization in Georgia elections.

Dr. Palmer's data is lacking in several key respects—and because it is Plaintiffs' burden to prove racial polarization, this evidentiary defect is fatal to their Motion. First, Dr. Palmer only examined general-election contests. SAMF ¶¶ 16-18, Palmer Dep. 59:23-60:1. With no primary contests to use to compare voter behavior, there is no way to determine whether voters are voting for a particular candidate on the basis of race, or if they are voting for a particular party on the basis of politics. Second, Dr. Palmer's conclusion ignores the import of a crucial contest wherein both candidates for a major statewide United States Senate race were Black. This election contest, between Senator Raphael Warnock and Herschel Walker offered an opportunity to determine whether racial considerations would *at all* affect the voting patterns or preferences of Georgia's electorate.

Dr. Palmer declined to examine primary contests in his report. SAMF ¶¶ 16-18, Palmer Dep. 59:23-60:1. And while Defendants' expert agreed that Dr. Palmer found highly polarized general-election contests, the lack of data related to primary elections (which take party out of the equation) leaves no way to determine the meaning of that polarization. "[B]ecause [Dr. Palmer] has no primary analysis, we really don't have anything other than the general election setting to look at." SAMF ¶ 40, Alford Dep. 29:12-14. And Dr. Alford explained that "one of the ways that you can recognize the limited nature of

the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver...” SAMF ¶ 41, Alford Dep. 156:1-5. In Dr. Alford’s view, the way to do that is by “looking at primaries.” SAMF ¶ 42, 156:6. Further, Dr. Alford conducted an analysis of the statewide primary election for the United States Senate, in which Herschel Walker prevailed, and noted that “the evidence here suggests that white voters in the Republican primary did support Black candidates.” SAMF ¶ 43-44, Alford Dep. 157:5-7.

Of course, one election does not alter a finding of racial polarization *if there was evidence* that it otherwise existed. But the Court here has no evidence before it that such polarization exists. To the contrary, all the Court has before it is the unremarkable confirmation by Dr. Palmer that Black voters support Democrats and white voters—to a lesser extent—support Republicans. And this support is stable regardless of the race of the candidate in either party. Where the white candidate is a Democrat in a given election contest, Black voters support that candidate. And where the Black candidate is Republican in a given election contest, Black voters overwhelmingly reject that candidate. Under a proper *Gingles* analysis, as outlined above, there is no legally significant racially polarized voting on this evidence.

***2. Under the Plaintiffs’ preferred racial polarization theory, § 2 of the Voting Rights Act is unconstitutional.***

In addition, as outlined in Defendants’ Motion, which is incorporated by reference [Doc. 175-1], endorsing Plaintiffs’ approach to the second and third *Gingles* preconditions would render Section 2 unconstitutional. That is yet another reason to reject their Motion.

**C. Plaintiffs’ totality of the circumstances analysis.**

Plaintiffs quickly run through the Senate Factors in a way that defies the intensely local appraisal this Court must conduct. *Johnson*, 296 F.3d at 1074. As this Court is aware, weighing the totality is more than just checking off boxes. This Court must determine whether Black voters are subject to a “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote *on account of race or color*.” 52 U.S.C. § 10301(a) (emphasis added). It is Plaintiffs’ burden to show in the totality that “the political processes . . . in the State or political subdivision are *not equally open* to participation by members of a class of citizens . . . in that its members have *less opportunity than other members of the electorate to participate in the political process* and to elect representatives of their choice.” *Id.* § 10301(b) (emphasis added). Section 2 thus requires Plaintiffs to show that the “challenged law... *caused*” them, “on account of race,” to have less

opportunity to elect their preferred candidates than members of other races. *Greater Birmingham Min.*, 992 F.3d at 1329 (emphasis in original).

The text explicitly does not “guarantee” partisan victories or “electoral success.” *LULAC*, 548 U.S. at 428 (citation omitted). If minority voters’ preferred candidates lose for non-racial reasons, such as failing to elect candidates because they prefer Democrats in Republican-dominated areas, they nonetheless have precisely the same opportunity as “other members of the electorate,” and they have not suffered any “abridgement” of their right to vote “on account of race.” 52 U.S.C. § 10301. Section 2 does not, in other words, relieve racial minorities of the same “obligation to pull, haul, and trade to find common political ground” that affects all voters. *De Grandy*, 512 U.S. at 1020.

### ***1. History of discrimination.***

Defendants acknowledge Georgia’s history of discrimination, especially when the State initially drew redistricting plans after the passage of the VRA. But while citing a number of examples, Plaintiffs do not connect the challenged 2021 congressional plan to that history beyond claiming partisan incentives exist. [Doc. 173-1, p. 28] (citing Burton report about Republican officials). Further, in relying on past redistricting plans, Plaintiffs gloss over the 2011 congressional plan, which was precleared by the U.S. Department of Justice under Section 5 of the VRA on the first attempt. SAMF ¶ 45, Burton Dep.

63:18-25. Plaintiffs likewise rely on incorrect timelines for post-*Shelby County* impact voting changes; rely on the impact of polling-place closures, which is not the responsibility of state officials, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at \*49 (N.D. Ga. Feb. 16, 2021); and voter-list maintenance, which this Court upheld, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at \*63 (N.D. Ga. Mar. 31, 2021). Response to Plaintiffs’ Statement of Undisputed Material Facts (RSUMF) ¶¶ 111-113. Plaintiffs even acknowledge that partisan motivations may be at issue here versus racial ones. [Doc. 173-1, p. 28].

Plaintiffs have not carried their burden, merely by reciting that history, to show this history of discrimination is causing Black voters “on account of race” to have less opportunity to elect their preferred candidates than members of other races. *Greater Birmingham Min.*, 992 F.3d at 1329. And by its own terms, Plaintiffs’ arguments require this Court to weigh the evidence—something it cannot do at this stage. *Burton*, 178 F.3d at 1187.

## ***2. Racially polarized voting.***

Defendants will not repeat their prior discussion of the second and third *Gingles* preconditions, but as discussed above, Plaintiffs’ experts never analyzed primary elections. Therefore, Plaintiffs cannot show that the

polarization their expert found is on account of race or color instead of on account of partisanship.

### ***3. Past voting practices.***

Plaintiffs rely on “discriminatory” practices that this Court found in other cases are not actionable or are not a burden on the right to vote. *Compare* [Doc. 173-1, p. 31] *with Fair Fight Action*, 2021 U.S. Dist. LEXIS 261570, at \*49 (polling place closures); *Fair Fight Action*, 2021 U.S. Dist. LEXIS 261571, at \*63 (list maintenance). And Plaintiffs continue to claim that a majority-vote requirement “permanently” affects Black voters, [Doc. 173-1, p. 32] (quoting *Port Arthur v. United States*, 459 U.S. 159, 167 (1982)), when that very requirement led to the election of two Black-preferred U.S. Senators from Georgia and the re-election of Georgia’s first Black U.S. Senator in 2022.

### ***4. Past discrimination affecting ability to participate.***

In support of Senate Factor Five, Plaintiffs recite Census data, relying on several incorrect statements by Dr. Collingwood and not connecting those racial disparities to current inability to participate in district-based elections or inability to participate in the political process. RSUMF ¶ 165, 167, 170. Plaintiffs’ expert agreed that socioeconomic disparities affect political participation, regardless of the race of the voters involved. SAMF ¶ 50, Collingwood Dep. 58:24-59:7. He also agreed that voter motivation can affect

voter turnout. SAMF ¶¶ 51-53, Collingwood Dep. 64:1-25, 71:16-72:17, and Collingwood Report at 8, 12.

Significantly, Dr. Collingwood did not and would not offer an opinion that racism, rather than other factors, has caused lower turnout for Black voters compared to White voters in Georgia. SAMF ¶ 55, Collingwood Dep. 86:22-87:13. And he did not have an opinion on whether the 2021 Georgia redistricting (or prior redistricting since 2010) may have caused the lower levels of Black voting participation compared to White voting participation that he found in Georgia. SAMF ¶ 56, Collingwood Dep. 87:21-88:1.

Thus, while *Marengo County*, 731 F.2d at 1569, is relevant here, this Court must also weigh this additional testimony and the recent success of Black-preferred candidates in Georgia. This is insufficient to demonstrate a continuing inability of Black voters to participate in the political process, as required by this Senate factor.

### ***5. Racial appeals.***

Despite their experts primarily citing non-congressional racial appeals in campaigns,<sup>7</sup> Plaintiffs also claim that racial appeals pervade Georgia

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<sup>7</sup> Statements made by Congresswoman Marjorie Taylor Greene were not made during a campaign and Congressman Gingrich's statement was made 45 years ago.



politics. As this Court found, racial appeals must be for the relevant elections that are challenged, so their failure to offer such appeals in congressional races means they cannot carry their burden on this factor. *Rose v. Raffensperger*, Civil Action No. 1:20-cv-02921-SDG, 2022 U.S. Dist. LEXIS 140097, at \*44 (N.D. Ga. Aug. 5, 2022). Further, several statewide races involved candidates who lost after making the alleged racial appeals. SAMF ¶¶ 59-60, Burton Dep. 127:14-23.

Plaintiffs also now claim that efforts to prevent voter fraud—which the Supreme Court found are legitimate, *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2340 (2021)—are proof of racism. And Plaintiffs rely extensively on hearsay for this factor, which is not admissible. Even if Plaintiffs presented admissible evidence here, to decide for Plaintiffs on this point, this Court must weigh evidence of these alleged appeals, especially because Plaintiffs claim they are “more coded.” [Doc. 173-1, p. 39]. This is not an analysis appropriate for summary judgment.

#### **6. Rate of election of Black candidates.**

Plaintiffs cite readily available statistics about the number of Black officials—ignoring judicial candidates and Black members of statewide courts—but again ask this Court to weigh evidence by connecting those

elections (or lack thereof) to Black voters having less opportunity to participate in the political process, which cannot occur at summary judgment.

### **7. *Responsiveness to Black residents.***

In discussing Senate Factor Eight, Plaintiffs do not even attempt to show what particular issues or concerns would be unique to Black residents of Georgia to which elected officials have been unresponsive. Instead, they merely assume this factor is met based on socioeconomic disparities. [Doc. 173-1, pp. 40-41]. But disparate effect is not enough—more is required; and that additional evidence requires that this Court weigh *what* issues are unique to Black voters and *how* elected officials in Georgia have been unresponsive. See *Rose*, 2022 U.S. Dist. LEXIS 140097 at \*46. Without that evidence, they cannot carry their burden on this factor.

### **8. *Justification is tenuous.***

Plaintiffs reduce the additional factor of whether the justification for the plan is tenuous to arguing that, because the state failed to draw this district, the justification is tenuous. [Doc. 189-1, p. 38]. But the veiled allegations of racism in drawing district maps is not enough, especially when the evidence before this Court shows state officials were motivated by partisanship. *Brnovich*, 141 S. Ct. at 2349 (rejecting cat's paw theory of intent). Plaintiffs do not even attempt to grapple with unrebutted testimony of legislators and staff

about the impact of partisanship on the map-drawing process. *See* [Doc. 175-1, p. 6].

### ***9. Proportionality.***

Perhaps most surprisingly, Plaintiffs do not address proportionality despite its clear application to this case.<sup>8</sup> That failure is telling, because if “minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters’ respective shares in the voting age population,” no violation of Section 2 can be found. *De Grandy*, 512 U.S. at 1000. Mr. Cooper agrees that Black candidates and Black-preferred candidates are elected in five of Georgia’s 14 districts, which is 35.7% of the Georgia congressional delegation. SAMF ¶ 1, Cooper Dep. 19:19-21. The Any-Part Black VAP for Georgia as a whole is 31.73%. SAMF ¶ 48, Cooper Report, ¶ 18. Thus, Black voters in Georgia enjoy “rough proportionality,” and Plaintiffs thus cannot carry their burden that there is no evidence that “voters in either minority group have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *De Grandy*, 512 U.S. at 1024 (quoting 52 U.S.C. § 10301(b)).

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<sup>8</sup> Plaintiffs know proportionality is a factor in Section 2 cases because their counsel included it in their Statement of Undisputed Material Facts in the *Grant* case at paragraphs 220 through 223, despite not citing it in their brief.

#### **D. Conclusions about Plaintiffs’ evidence.**

Plaintiffs have not carried their heavy burden to show that they can prevail without this Court weighing any evidence at trial, based on undisputed material facts on every component of their burden of proof. That alone is enough to deny summary judgment in their favor.

#### **III. Competing motions require inferences about totality.**

But even if Plaintiffs have presented evidence supporting each *Gingles* precondition and Senate factor—which they have not—Plaintiffs’ Motion asks this Court to draw inferences about which plans are “better” and whether their Senate-factor evidence supports claims that Black voters have less opportunity to participate in the political process. At the very least, those requests combined with Defendants’ competing Motion for Summary Judgment demonstrates that, on points necessary to decide for Plaintiffs, inferences and weighing of facts are necessary. And this Court cannot weigh evidence or make inferences even from undisputed facts at this stage, so it must deny summary judgment to Plaintiffs. *Burton*, 178 F.3d at 1187.

#### **CONCLUSION**

Defendants’ Motion for Summary Judgment is targeted at the *Gingles* preconditions and proportionality. Those are proper bases on which this Court can rule on the legal impact of the undisputed material facts in this case

without weighing evidence. In contrast, Plaintiffs' attempt to avoid a trial requires this Court to weigh evidence and make inferences to find in favor of Plaintiffs on every point. Even if Plaintiffs had provided this Court with evidence of which districts they reside in, this Court cannot find in their favor at this point in the case.

This Court should deny Plaintiffs' motion and grant Defendants' motion, or at the very least, allow this case to proceed to trial for the intensely local appraisal of facts and law required by Section 2.

Respectfully submitted this 19th day of April, 2023.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Brief has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson  
Bryan P. Tyson

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

COAKLEY PENDERGRASS, *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

**DEFENDANTS' STATEMENT OF ADDITIONAL MATERIAL FACTS  
WHICH PRESENT A GENUINE ISSUE FOR TRIAL**

Defendants Brad Raffensperger, in his official capacity as Secretary of State; and State Election Board Members William S. Duffey, Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, also in their official capacities (collectively, "Defendants"), pursuant to Local Civil Rule 56.1(B)(2)(b), provide their Statement of Additional Material Facts Which Present a Genuine Issue for Trial, showing the Court the following:

1. Five of Georgia's fourteen members of Congress are Black individuals. Deposition of William Cooper [Doc. 167] ("Cooper Dep.") 19:19-21.
2. Plaintiffs' expert set out to draw an additional majority-Black district beyond those drawn by the state plan. Cooper Dep. 14:15-15:2.



3. Mr. Cooper set out to draw a new majority-Black district in this case in Atlanta despite opining in a 2018 case that a new majority-Black congressional district should have been drawn in east Georgia, combining Macon, Augusta, and Savannah in the same district. Cooper Dep. 41:22-42:23.

4. Mr. Cooper could not explain why he chose a different approach here apart from population-growth numbers and a different Census. Cooper Dep. 43:4-13.

5. Map-drawers distinguish “majority-minority” from “majority-Black.” Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single racial category constitute a majority of a district. Cooper Dep. 16:14-20.

6. In illustrative District 6, Mr. Cooper united a Black community in Fulton County with non-majority-Black portions of surrounding counties to create a new majority-Black district. Cooper Dep. 77:12-17.

7. The only portion of a county in illustrative District 6 that is majority-Black is Fulton County. Cooper Dep. 77:12-17.

8. Without the portion of Fulton County that Mr. Cooper moved out of District 13 into illustrative District 6, the remaining components of the district would not allow it to be majority-Black. Cooper Dep. 78:6-11.

9. Mr. Cooper connected urban areas in North Fulton with rural areas in Bartow County. Cooper Dep. 59:6-60:1.

10. Mr. Cooper connected Cobb County with rural parts of Georgia all the way to Columbus, Georgia, in District 3. Cooper Dep. 63:15-24, 64:17-65:4; Cooper Report, Ex. I-2.

11. The only connection Mr. Cooper could identify to this similar configuration of enacted District 14 was that Heard and Troup counties were closer to Atlanta. Cooper Dep. 65:20-66:2.

12. Mr. Cooper agreed that his illustrative District 13 connected urban (and heavily Black) parts of Clayton County with rural areas out to Jasper County. Cooper Dep. 73:13-17.

13. When asked why he connected majority-Black Hancock County (from the Black Belt, according to his testimony in other cases) to the North Carolina border, Mr. Cooper could only point to population equality. Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8; Cooper Report, Ex. I-2.

14. Mr. Cooper could not explain why he included Athens/Clarke County in the same district as Hancock County and Rabun County. Cooper Dep. 71:21-72:11.

15. In drawing the illustrative plan, Mr. Cooper did not alter several districts that current elect Black Democratic members of congress. Cooper Dep. 36:5-14.

16. Plaintiffs' sole statistical expert, Dr. Palmer, declined to examine primary contests in his report. Deposition of Maxwell Palmer [Doc. 168] ("Palmer Dep.") 59:23-60:1.

17. Without those primary contests which would remove partisanship from the calculation, Dr. Palmer found highly polarized general-election contests. Palmer Dep. 59:23-60:1.

18. Dr. Palmer only examined general election contests in the focus areas within the timeframes considered by his report. Palmer Dep. 59:23-60:1.

19. Dr. Alford opined that "one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver..." Deposition of John Alford [Doc. 158] ("Alford Dep.") 156:1-5.

20. In Dr. Alford's view, the way to do that is by "looking at primaries." Alford Dep. 156:6.

21. Mr. Cooper could not explain many features of his plan, including why he looked at Atlanta instead of east Georgia, as he did in 2018, to draw a new majority-Black congressional district. Cooper Dep. 42:10-23.

22. In 2018, Mr. Cooper analyzed a 71-county area in east Georgia for the creation of a new majority-Black congressional district. Cooper Dep. 41:25-43:3.

23. In 2018, Mr. Cooper drew an additional majority-Black congressional district in east Georgia by joining Black communities in Macon, Augusta, and Savannah. Cooper Dep. 42:19-23.

24. Mr. Cooper did not consider any other area of the state to draw an additional majority-Black congressional district besides metro Atlanta in this case. Cooper Dep. 43:4-13.

25. Mr. Cooper's illustrative plan connects the same types of communities he criticized the enacted plan for connecting, placing parts of Cobb County with rural parts of west Georgia stretching all the way down to Columbus. Cooper Dep. 63:15-24, 64:17-65:4, 73:13-17.

26. Mr. Cooper could not explain his own approach to map-drawing beyond drawing a majority-Black district with a focus on population in other districts. Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8.

27. The prior congressional district 6 was electing a Black candidate to Congress with a 14.6% Black VAP. Cooper Dep. 45:19-22.

28. The 2021 enacted plan lowered the Black VAP percentage in District 6 by almost five points to 9.9%. Cooper Dep. 45:23-46:1.

29. The 2021 enacted plan Black VAP population for congressional district 4 is 54.52%. Cooper Report, Ex. K-1.

30. On the illustrative plan, District 13 is below 50% Black on the DOJ Black number. Cooper Dep. 57:21-25.

31. The illustrative plan lowers the Black population in district 14 by nine points compared to the enacted plan. Cooper Dep. 58:1-8.

32. Mr. Cooper could not identify a process to determine the geographic compactness of the Black community in Atlanta—he just drew a district and concluded there was geographic compactness as a result. Cooper Dep. 22:13-23:17.

33. Mr. Cooper added an additional split of Cobb County in the illustrative plan over the plan he presented at the preliminary injunction hearing. Cooper Dep. 51:3-6.

34. The only portion of District 6 as drawn by Mr. Cooper that is majority-Black is one county out of four. Cooper Dep. 77:12-17; 78:6-11.

35. The portion of Fulton County that is in illustrative district 6 is 88.29% Black VAP. Cooper Dep. 77:12-17.

36. The portion of Cobb County that is in illustrative district 6 is 37.4% Black VAP. Cooper Dep. 76:22-25.

37. The portion of Douglas County that is in illustrative district 6 is below 50% Black VAP. Cooper Dep. 77:2-5.

38. The portion of Fayette County that is in illustrative district 6 is 21.73% Black VAP. Cooper Dep. 77:6-11.

39. Without the portion of Fulton County Mr. Cooper included, illustrative District 6 would not be a majority-Black district. Cooper Dep. 78:6-11.

40. The lack of data related to primary elections (which take party out of the equation) leaves no way to determine the meaning of polarization. Alford Dep. 29:12-14.

41. Dr. Alford opined that “one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver...” Alford Dep. 156:1-5.

42. In Dr. Alford's view, the way to do that is by "looking at primaries." Alford Dep. at 156:6.

43. Dr. Alford conducted an analysis of the statewide primary election for United States Senate, in which Herschel Walker prevailed. Alford Dep. at 157:5-7.

44. Dr. Alford noted that "the evidence here suggests that white voters in the Republican primary did support Black candidates." Alford Dep. at 157:5-7.

45. Plaintiffs do not discuss the 2011 congressional plan, which was precleared by the U.S. Department of Justice under Section 5 of the VRA on the first attempt. Deposition of Orville Burton [Doc. 185] ("Burton Dep.") 63:18-25.

46. The challenge to House Districts 105 and 111 in 2015 was dismissed after Democrats won those seats. Burton Dep. 73:19-24.

47. The 2015 Georgia House redistricting plan was never found to be illegal by any court. Burton Dep. 73:25-74:2.

48. The Any-Part Black VAP for Georgia as a whole is 31.73%. Cooper Report, ¶ 18.

49. Dr. Loren Collingwood was not asked by Plaintiffs to look at the role of partisanship in the voting patterns of Black and White voters in

Georgia. Deposition of Loren Collingwood [Doc. 186] (“Collingwood Dep.”) 32:15-18.

50. Socioeconomic disparities affect political participation, regardless of the race of the voters involved. Collingwood Dep. 58:24-59:7.

51. Voter motivation can affect voter turnout for different groups of voters. Collingwood Dep. 64:1-14.

52. Dr. Collingwood admitted that the narrowest gap in voter turnout between Black and White Georgia voters from 2010-22 was in 2012, the year that President Obama ran for re-election, and that it was a “pretty plausible hypothesis” that Black Georgia voters were turning out in greater numbers in 2012 than in 2010 to vote for Mr. Obama. Collingwood Dep. 64:1-25.

53. Dr. Collingwood also testified that motivation may have increased Black voter turnout in 2018, when Stacy Abrams, who is African-American, ran as the Democratic nominee for Governor, and the gap in voter turnout between Black and White Georgia voters narrowed from 11.6% in 2016 to 8.3% in 2018. Collingwood Dep. 71:16-72:17; Report of Loren Collingwood [Doc. 174-6] (“Collingwood Report”) at 8, 12.

54. Dr. Collingwood opined that for Black voters, voter turnout goes down as the percentage of Black voters without a high-school education goes



up, but he does not know whether the same is true for White voters with and without a high-school education. Collingwood Dep. 84:3-8.

55. Dr. Collingwood did not and would not offer an opinion that racism, rather than other factors, has caused lower turnout for Black voters compared to White voters in Georgia. Collingwood Dep. 86:22-87:13.

56. Dr. Collingwood did not have an opinion on whether the 2021 Georgia redistricting (or prior redistricting since 2010) may have caused the lower levels of Black voting participation compared to White voting participation that he found in Georgia. Collingwood Dep. 87:21-88:1.

57. Dr. Collingwood testified that the data taken from the 2020 Cooperative Election Study (“CES”) in Table 10 of his Report, “Did a candidate or political campaign organization contact you during the 2020 election?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:1-4; Collingwood Report at 37.

58. Dr. Collingwood testified that the data taken from the 2020 CES in Table 11 of his Report, “Have you ever run for elective office at any level of government (local, state or federal)?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:5-6; Collingwood Report at 38.

59. Congressman Jody Hice lost the 2022 primary election. Burton Dep. 127:14-18.

60. Senator Butch Miller lost the 2022 primary election. Burton Dep. 127:19-23.

61. Mr. Cooper is unable to determine how much of the change in Black voters residing in majority-Black districts on the illustrative plan was due to the reconfiguration of District 6. Cooper Dep. 99:13-92:4.

Respectfully submitted this 19th day of April, 2023.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

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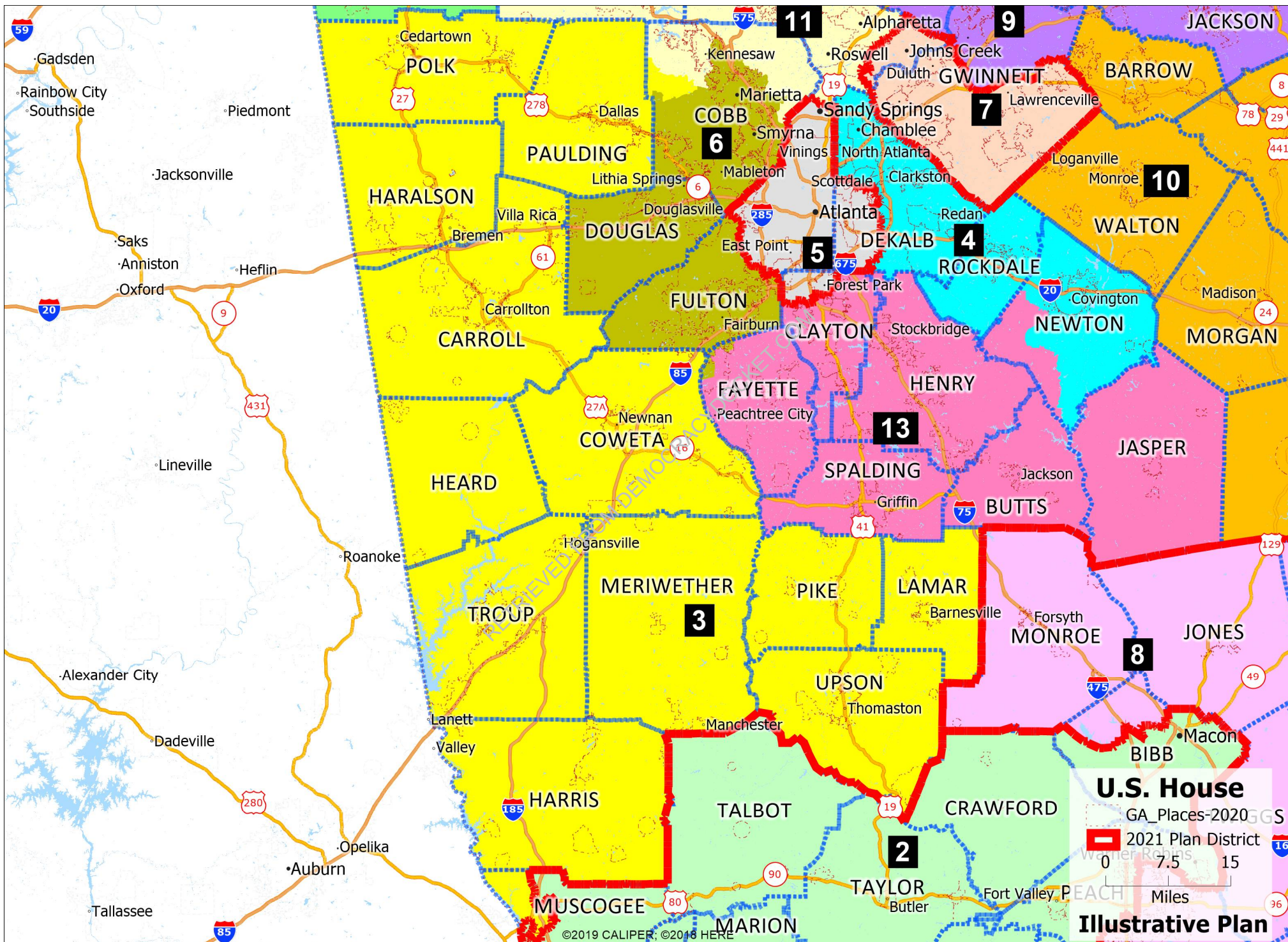
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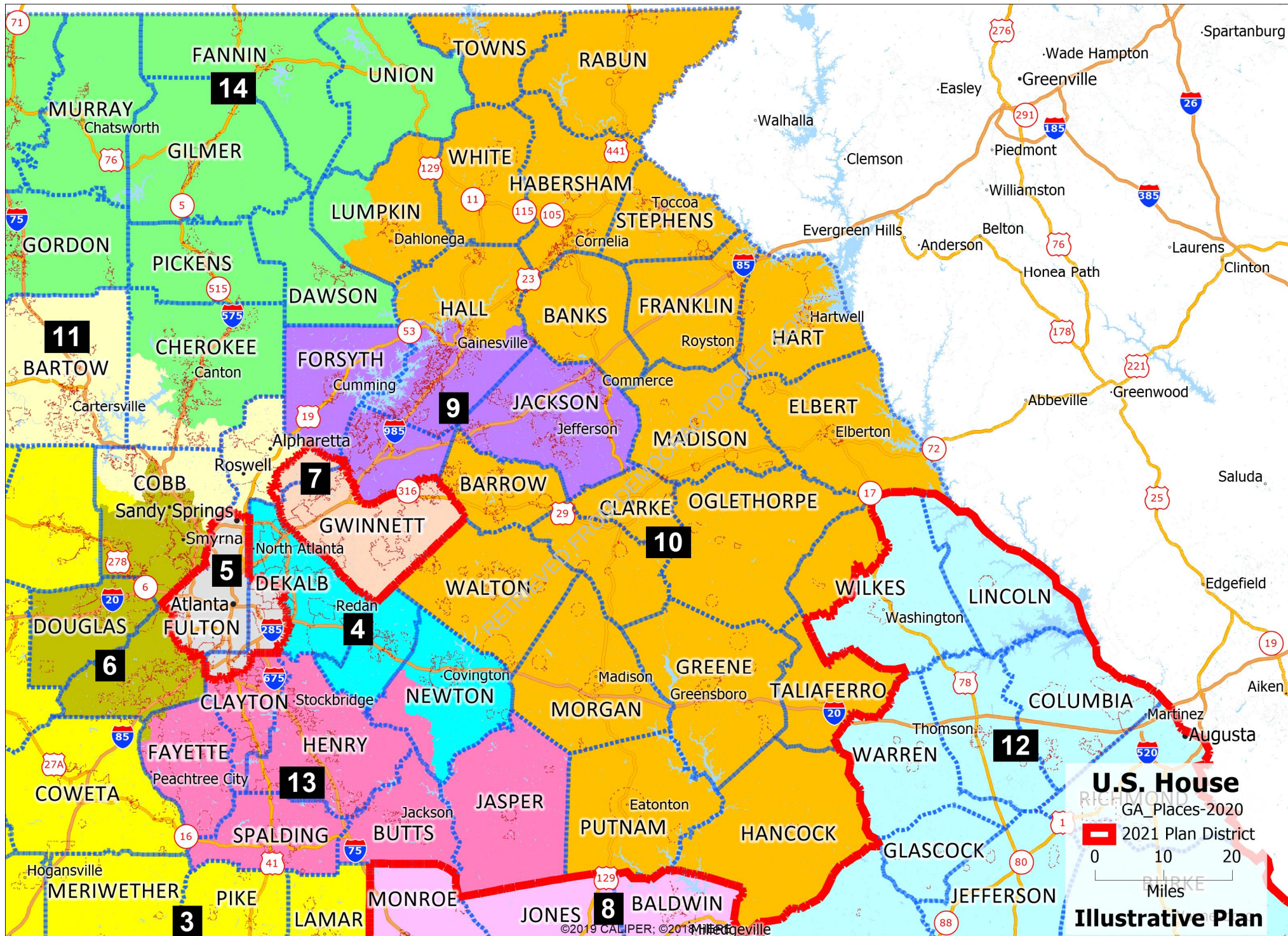
# EXHIBIT A

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**DECLARATION OF WILLIAM S. COOPER:**  
**EXHIBIT K-1**

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## Population Summary Report

## Georgia U.S. House -- 2020 Census -- Enacted Plan

District	Population	Deviation	% Deviation	AP Black	% AP Black	Latino	% Latino	NH White	% NH White
001	765137	1	0.00%	230783	30.16%	59328	7.75%	440636	57.59%
002	765137	1	0.00%	393195	51.39%	45499	5.95%	305611	39.94%
003	765136	0	0.00%	188947	24.69%	48285	6.31%	492494	64.37%
004	765135	-1	0.00%	423763	55.38%	88947	11.63%	197536	25.82%
005	765137	1	0.00%	392822	51.34%	56496	7.38%	273819	35.79%
006	765136	0	0.00%	78871	10.31%	78299	10.23%	487400	63.70%
007	765137	1	0.00%	239717	31.33%	181851	23.77%	225905	29.52%
008	765136	0	0.00%	241628	31.58%	54850	7.17%	443123	57.91%
009	765137	1	0.00%	87130	11.39%	117758	15.39%	495078	64.70%
010	765135	-1	0.00%	184137	24.07%	58645	7.66%	486487	63.58%
011	765137	1	0.00%	143404	18.74%	99794	13.04%	469264	61.33%
012	765136	0	0.00%	294961	38.55%	43065	5.63%	398843	52.13%
013	765137	1	0.00%	520094	67.97%	93554	12.23%	125106	16.35%
014	765135	-1	0.00%	118694	15.51%	97086	12.69%	520854	68.07%
<b>Total</b>	<b>10711908</b>		<b>0.00%</b>	<b>3538146</b>	<b>33.03%</b>	<b>1123457</b>	<b>10.49%</b>	<b>5362156</b>	<b>50.06%</b>

District	18+ Pop	18+ SR Black	% 18+ SR Black	18+ AP Black	% 18+ AP Black	18+ Latino	% 18+ Latino	18+ NH White	% 18+ NH White
001	589266	157770	26.77%	166025	28.17%	39938	6.78%	440636	57.59%
002	587555	281564	47.92%	289612	49.29%	30074	5.12%	305611	39.94%
003	586319	130099	22.19%	136708	23.32%	31274	5.33%	492494	64.37%
004	589470	308266	52.30%	321379	54.52%	59670	10.12%	197536	25.82%
005	621515	295885	47.61%	308271	49.60%	41432	6.67%	273819	35.79%
006	574797	50334	8.76%	56969	9.91%	52353	9.11%	487400	63.70%
007	566934	157650	27.81%	169071	29.82%	120604	21.27%	225905	29.52%
008	585857	170421	29.09%	175967	30.04%	35732	6.10%	443123	57.91%
009	592520	56416	9.52%	61747	10.42%	76361	12.89%	495078	64.70%
010	588874	126798	21.53%	133097	22.60%	38336	6.51%	486487	63.58%
011	595201	98212	16.50%	106811	17.95%	66802	11.22%	469264	61.33%
012	588119	207872	35.35%	215958	36.72%	28628	4.87%	398843	52.13%
013	574789	370024	64.38%	383663	66.75%	60467	10.52%	125106	16.35%
014	579058	77108	13.32%	82708	14.28%	61247	10.58%	520854	68.07%
<b>Total</b>	<b>8220274</b>	<b>2488419</b>	<b>30.27%</b>	<b>2607986</b>	<b>31.73%</b>	<b>742918</b>	<b>9.04%</b>	<b>5362156</b>	<b>65.23%</b>

District	% NH Single-Race Black CVAP*	% NH DOJ Black CVAP**	% Latino CVAP	% SR NH White CVAP
001	29.16%	29.67%	4.49%	63.10%
002	49.55%	50.001%	3.17%	44.62%
003	22.53%	22.86%	3.38%	71.12%
004	57.71%	58.46%	3.98%	32.82%
005	51.64%	52.35%	3.48%	39.75%
006	9.72%	10.26%	5.63%	76.60%
007	31.88%	32.44%	11.20%	43.69%
008	30.46%	30.76%	3.79%	63.40%
009	10.03%	10.34%	7.35%	77.37%
010	22.11%	22.56%	4.06%	70.80%
011	17.57%	18.30%	6.28%	71.12%
012	36.60%	37.19%	3.39%	56.94%
013	66.36%	67.05%	5.80%	23.21%
014	13.19%	13.71%	6.20%	78.21%

## CVAP Source:

\* 2016-20 ACS Special Tabulation <https://redistrictingdatahub.org/dataset/georgia-cvap-data-disaggregated-to-the-block-level-2020/>

Note: Citizen Voting Age Population (CVAP) percentages are disaggregated from block-group level ACS estimates

\* Single race NH Black CVAP, \*\*NH DOJ Black= SR NH Black CVAP+SR NH Black/White CVAP

## **Expert Report of Dr. Loren Collingwood**

*Pendergrass v. Raffensperger*, No. 1:21-CV-05339-SCJ (N.D. Ga.)

December 12, 2022

*Loren Collingwood*

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## Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 39 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and racially polarized voting. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I am the redistricting consultant for the West Contra Costa Unified School District, California, independent redistricting commission, in which I am charged with drawing court-ordered single-member districts.

I have served as an expert witness in a number of cases related to redistricting. I testified for the plaintiff in the Voting Rights Act (VRA) Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I was also the racially polarized voting (RPV) expert in several cases during this redistricting cycle: *East St. Louis Branch NAACP v. Illinois State Board of Elections*, No. 1:21-cv-05512 (N.D. Ill.), having filed two reports and sat for a deposition; *Johnson v. Wisconsin Elections Commission*, No. 2021AP1450-OA (Wis.), having filed three reports; *Rivera v. Schwab*, No. 2022-CV-000089 (Kan. Dist. Ct.), having filed a report, sat for a deposition, and testified at trial; *LULAC v. Abbott*, No. 3:21-CV-00259-DCG-JES-JVB (W.D. Tex.), having filed three reports and sat for a deposition; *Walen v. Burgum*, No. 1:22-cv-00031-PDW-CRH (D.N.D.), having filed a report and testified at trial; and *Soto Palmer v. Hobbs*, No. 3:22-cv-05035-RSL (W.D. Wash.), having filed a report.

I have also served as an expert witness in other cases related to voting rights more generally. I am the quantitative expert in *LULAC of Iowa v. Pate*, No. CVCV061476 (Iowa Dist. Ct.), and have filed an expert report in that case. I am the BISG expert in *LULAC Texas v. Scott*, No. 1:21-cv-00786-XR (W.D. Tex.), and have filed two reports and been deposed in that case. I am also the RPV expert in *Lower Brule Sioux Tribe v. Lyman County*, No. 3:22-CV-03008-RAL (D.S.D.), where I filed a report and testified at trial.

I am being compensated at a rate of \$400/hour. No part of my compensation is dependent upon the conclusions that I reach or the opinions that I offer.

## Executive Summary

- On every metric, Black Georgians are disadvantaged socioeconomically relative to non-Hispanic white Georgians. Blacks are worse off than whites on the following measures: income, unemployment, poverty, health, and educational attainment.
- These socioeconomic disparities have an adverse effect on the ability of Black Georgians to participate in the political process, as measured by voter turnout and other forms of political participation.
- This means that the political system does not respond to Black Georgians in the same way it responds to white Georgians. If the system did respond, we would expect to see fewer gaps in both health and economic indicators and a reduction in voter turnout gaps.
- Instead, Black Georgians vote at significantly lower rates than white Georgians. That is true at the statewide, county, and precinct levels—including in the Atlanta-Sandy Springs-Alpharetta Metropolitan area. This is also true in the Black Belt region of Georgia.
- The data show a significant relationship between turnout and disparities in health, employment, and education: as health, education, and employment outcomes increase, so does voter turnout in a material way.
- Black Georgians also lag behind white Georgians in other forms of political participation, like making campaign contributions, engaging local officials, and running for office.
- The academic literature overwhelmingly shows that these low levels of political participation are attributable to the socioeconomic disparities discussed above.

My opinions are based on the following data sources: the American Community Survey (ACS) across time; 2020 and 2022 statewide-, county-, and precinct-level voter registration and aggregate turnout data from the Georgia Secretary of State; 2010-2022 statewide voter turnout from the Georgia Secretary of State; 2014-2022 county-level voter turnout data from the Georgia Secretary of State; and the 2020 Cooperative Election Study.

## Analysis

### A. Senate Factor 5

I have been asked to examine item 5 of what has come to be known as the Senate Factors. During the 1982 Voting Rights Act extension, the Senate Judiciary Committee listed out factors that could be considered in evaluating a Section 2 VRA claim. These factors allow experts to inform the court as to the extent that minorities “are denied equal access to the political process.”

Senate Factor 5 examines the extent that minority group members (here, Black individuals) in a political jurisdiction (in this case the state of Georgia) bear the effects of discrimination in education, employment, and health that hinder said group’s political participation. Without a doubt, my analysis demonstrates that Black Georgians face clear and significant disadvantages in the above areas that reduce their ability to participate in the political process.

This analysis also speaks to Senator Factor 8: whether elected officials are less responsive to the particularized needs of the members of the minority group. My findings show that clear disparities across health and socioeconomic indicators impede Black Georgians' political participation. It follows that the political system is relatively unresponsive to Black Georgians; otherwise, we would not observe such clear disadvantages in healthcare, economics, and education.

## **B. Socioeconomic Disparities**

Starting with the 2015-2019 ACS, I constructed the following metrics for both the Black and white populations in Georgia: household median income; total households reporting income above \$100,000; total households reporting income above \$125,000; households receiving Supplemental Nutrition Assistance Program (SNAP, or food stamps) benefits in the past 12 months; percent of the population living below the poverty line in the last 12 months; percent of children living below the poverty line; percent of adults living below the poverty line; percent of the population over the age of 25 with a high school diploma; percent of the population over the age of 25 with a college degree; unemployment rate; percent of the population reporting a disability; and percent of the population reporting health insurance. These metrics reflect broad racial disparities in education, employment, and health.

As shown in Table 1, there are clear racial disparities in employment. The unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%). And disparities persist among those *with* employment: white households are twice as likely as Black households to report an annual income above \$100,000. Black Georgians, meanwhile, were more than twice as likely—and Black children in particular more than three times as likely—to live below the poverty line over the past year. Black Georgians were nearly three times more likely than white Georgians to receive SNAP benefits.

On education, Black adults over the age of 25 are more likely than their white peers to lack a high school diploma (13.3% compared to 9.4%). These disparities fare no better in higher education: 35% of white adults over the age of 25 have obtained a bachelor's degree or higher compared to 24% of their Black counterparts.

Finally, on health, the Black population in Georgia is more likely to report a disability (11.8% compared to 10.9% for whites) and is more likely to lack health insurance (18.9% compared to 14.2% among 19-64 year-olds). All told, the numbers convey consistent racial disparities across economics, health, employment, and education.

I also reproduced the same analyses using the 2016-2020 ACS. As shown in Table 2, the racial disparities reported above hold across the different economic, health, employment, and education metrics.

	Black	White	White - Black
Median Household Income	\$44670	\$67955	\$23285
Pct. HH Income > \$100K	0.165	0.322	0.157
Pct. HH Income > \$125K	0.096	0.224	0.128
Pct. HH receiving SNAP	0.227	0.077	-0.15
Pct. below poverty line	0.215	0.101	-0.114
Pct. below poverty line, children	0.313	0.115	-0.198
Pct. below poverty line, VAP	0.18	0.098	-0.082
Pct. w/ Less than HS Diploma	0.133	0.094	-0.039
Pct. w/ Bachelor's Degree or higher	0.24	0.351	0.111
Pct. Unemployed	0.087	0.044	-0.043
Pct Disabled, ages 19-64	0.118	0.109	-0.009
Pct. Uninsured, ages 19-64	0.189	0.142	-0.047

*Table 1. Socioeconomic indicators across Black and white Georgians, 2015-2019 ACS.*

	<b>Black</b>	<b>White</b>	<b>White - Black</b>
Median Household Income	\$46964	\$70784	\$23820
Pct. HH Income > \$100K	0.18	0.34	0.16
Pct. HH Income > \$125K	0.108	0.24	0.132
Pct. HH receiving SNAP	0.222	0.071	-0.151
Pct. below poverty line	0.201	0.098	-0.103
Pct. below poverty line, children	0.293	0.108	-0.185
Pct. below poverty line, VAP	0.169	0.095	-0.074
Pct. w/ Less than HS Diploma	0.124	0.088	-0.036
Pct. w/ Bachelor's Degree or higher	0.251	0.358	0.107
Pct. Unemployed	0.085	0.043	-0.042
Pct Disabled, ages 19-64	0.121	0.109	-0.012
Pct. Uninsured, ages 19-64	0.187	0.141	-0.046

*Table 2. Socioeconomic indicators across Black and white Georgians, 2016-2020 ACS.*

These patterns hold across nearly every county in the state. Using the 2015-2019 ACS, I gathered the same metrics at the county level and considered only counties with at least 1,000 white and 1,000 Black residents. Georgia has 159 counties; of these, 141 meet this threshold. Whites have a higher median household income than Blacks in 136 of 141 of these counties.<sup>1</sup> Just two counties—Habersham and Paulding—feature a higher Black median household income (Habersham: \$64,286 vs. \$50,418; Paulding: \$50,418 vs. \$68,843). Among households making more than \$100,000, whites have an advantage over Blacks in 140 of the 141 counties.

Turning to SNAP, a higher percentage of Blacks have relied on SNAP in the past 12 months than whites in 140 of the 141 counties. In 136 of the 141 counties, Blacks are more likely to live below the poverty line than are whites. And in 130 of the 141 counties, whites are more likely than Blacks to have a 4-year college degree or higher.

<sup>1</sup> The ACS does not provide median income for Black households in three counties so these counties are treated as missing for this median household income comparison.



While the county distribution is not as pronounced with respect to unemployment and uninsured status, these disparities are still heavily weighted towards Black disadvantage. Blacks have a higher unemployment rate than whites in 118 of the 141 counties (84%), and the share of the population that is uninsured is higher for Blacks than for whites in 92 of the 141 counties (65%).<sup>2</sup>

## **C. Effect on Political Participation**

### **1. Academic Literature**

Socioeconomic disparities like these unquestionably affect political participation. There is a vast literature in political science that demonstrates a strong and consistent link between socioeconomic status (SES) and voter turnout. In general, voters with higher income and education are disproportionately likely to vote and participate in American politics (Wolfinger and Rosenstone 1980; Leighley and Nagler 2013; Nie et al. 1996; Mayer 2011). Brady, Verba, and Schlozman (1995) argue that resources—conceptualized as time, money, and civic skills (all related to education and income)—drive donation behavior, campaign volunteering, and voting. These broad SES findings hold using a variety of research designs. For example, Henderson (2018) uses a hookworm eradication program haphazardly (i.e., at random) applied to counties in the early 20th century South (the program exogenously covaries with educational attainment) to show a causal relationship between education and political participation.

Other research is in accord. Avery (2015) indicates that states with higher income inequality have greater income bias in turnout. Shah and Wichowsky (2019) show a link between home foreclosures and participation: Neighborhoods with a higher share of home foreclosures during the 2008 financial crisis subsequently experienced a drop in voter turnout, and affected individuals were less likely to vote in future elections. And findings in Pacheco and Fletcher (2015) indicate an association between self-reported health and voter turnout.

This overwhelming academic literature shows that the socioeconomic disadvantages suffered by Black Georgians affect their ability to participate in the political process.

This means that the political system does not respond to Black Georgians in the same way it responds to white Georgians. If the system did respond, we would expect to see fewer gaps in both health and economic indicators and a reduction in voter turnout gaps. A clear and consistent finding in political science research demonstrates that elected officials do not respond to constituent inquiry from minorities as readily as they do to white constituents (Barreto et al. 2004; Costa, 2017; White et al., 2015).

### **2. Voter Turnout**

When Georgians register to vote, they indicate their race. The Georgia Secretary of State maintains yearly statewide-, county-, and precinct-level voter registration and turnout by race. I gathered

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<sup>2</sup> My conclusions about the reported racial disparities do not change when relying on the 2016-2020 ACS.



these data for the 2020 and 2022 general elections.<sup>3</sup> To calculate voter turnout, for both Black and white Georgians, I divided the total number of Black and white people who voted by the total number of the respective registered voter counts.

**a. Statewide Analysis**

For the years 2010-2022, I gathered statewide turnout data by race. The 2010-2012 turnout data is only available on the Secretary of State's website at the statewide level. Table 3 displays even-year statewide general election voter turnout by race across the 2010-2022 time period. This is a comprehensive list of elections as it covers both midterm and presidential election cycles.

For each election cycle, registered white voters turned out at higher rates than did registered Black voters. For instance, during the 2022 midterm election, whites turned out at 58.3%, whereas Blacks turned out at 45.0%, which translates into a gap of 13.3 percentage points in turnout. A similar gap (12.6%) is visible in the 2020 presidential election cycle. This Black-white gap is most narrow during President Obama's 2012 re-election – at 3.1% -- but in every single case whites vote at a noticeably higher rate than do Blacks.

<b>Year</b>	<b>Black TO</b>	<b>White TO</b>	<b>Gap</b>	<b>Total Turnout</b>
<b>2022</b>	<b>45</b>	<b>58.3</b>	<b>-13.3</b>	<b>50.5</b>
<b>2020</b>	<b>60</b>	<b>72.6</b>	<b>-12.6</b>	<b>65.7</b>
<b>2018</b>	<b>53.9</b>	<b>62.2</b>	<b>-8.3</b>	<b>56.4</b>
<b>2016</b>	<b>56.2</b>	<b>67.9</b>	<b>-11.6</b>	<b>62</b>
<b>2014</b>	<b>40.6</b>	<b>47.5</b>	<b>-6.9</b>	<b>42.9</b>
<b>2012</b>	<b>72.6</b>	<b>75.7</b>	<b>-3.1</b>	<b>72.9</b>
<b>2010</b>	<b>50.4</b>	<b>55.9</b>	<b>-5.5</b>	<b>52.1</b>

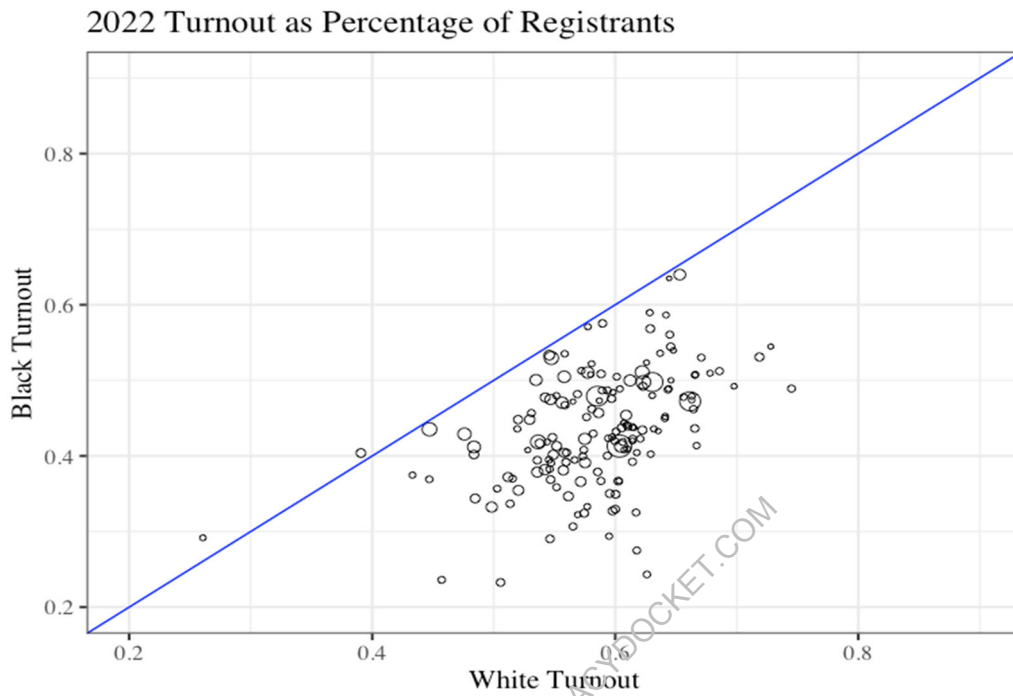
*Table 3. Statewide voter turnout by race, 2010-2022.*

**b. Countywide Analysis**

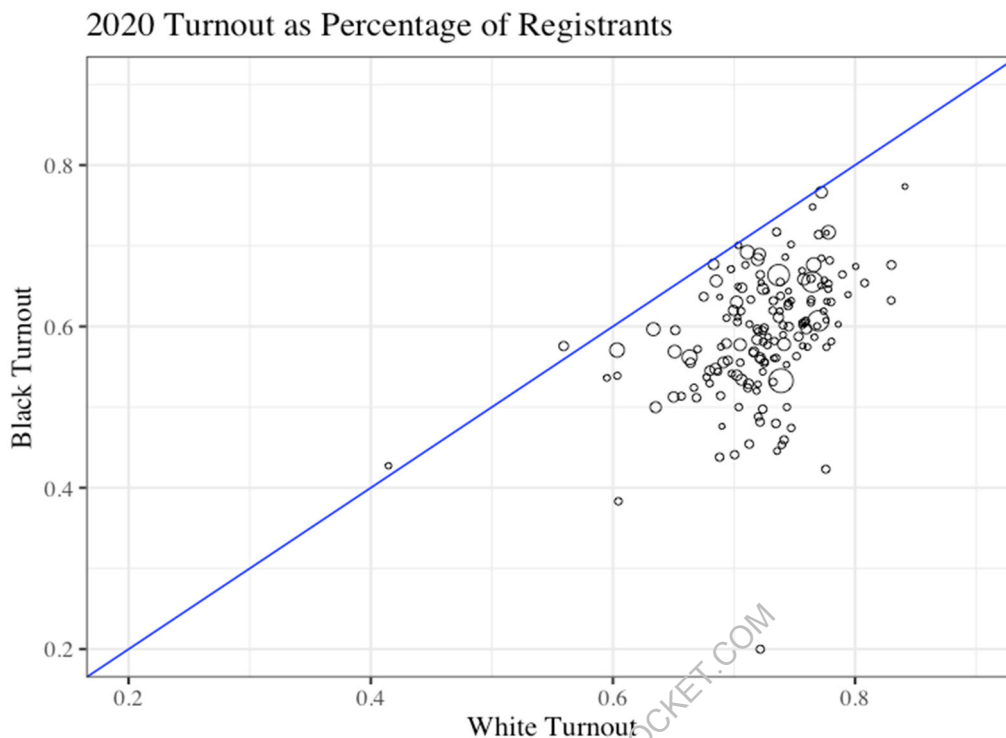
Next, I compared the share of a county's white registrants who voted in 2022 against the share of a county's Black registrants who voted in 2022. Figure 1 visually compares turnout (denominator is registration) between whites and Blacks across the state's counties. In almost every single county, white registrants voted at higher rates than did Black registrants. This is visually demonstrated by the fact that almost all of the dots (counties) fall below the blue identity line, as opposed to above. Only in Chattahoochee and Liberty Counties did Black registrants cast ballots

<sup>3</sup> This data was previously available at: [https://sos.ga.gov/index.php/elections/general\\_election\\_turnout\\_by\\_demographics\\_november\\_2020](https://sos.ga.gov/index.php/elections/general_election_turnout_by_demographics_november_2020).

at (slightly) higher rates than did white registrants. Using 2020 data, I find nearly identical results, as illustrated in Figure 2.



*Figure 1. 2022 turnout by county; white-Black differential based on voter registration.*



*Figure 2. 2020 turnout by county; white-Black differential based on voter registration.*

Below, Figures 3 and 4 plot out the same relationship but swap out registration for voting age population (VAP) as the denominator. The relationship is very similar using both 2022 and 2020 turnout data. Stated differently, the substantive findings do not change regarding which denominator is selected: white Georgians clearly vote at higher rates than Black Georgians.

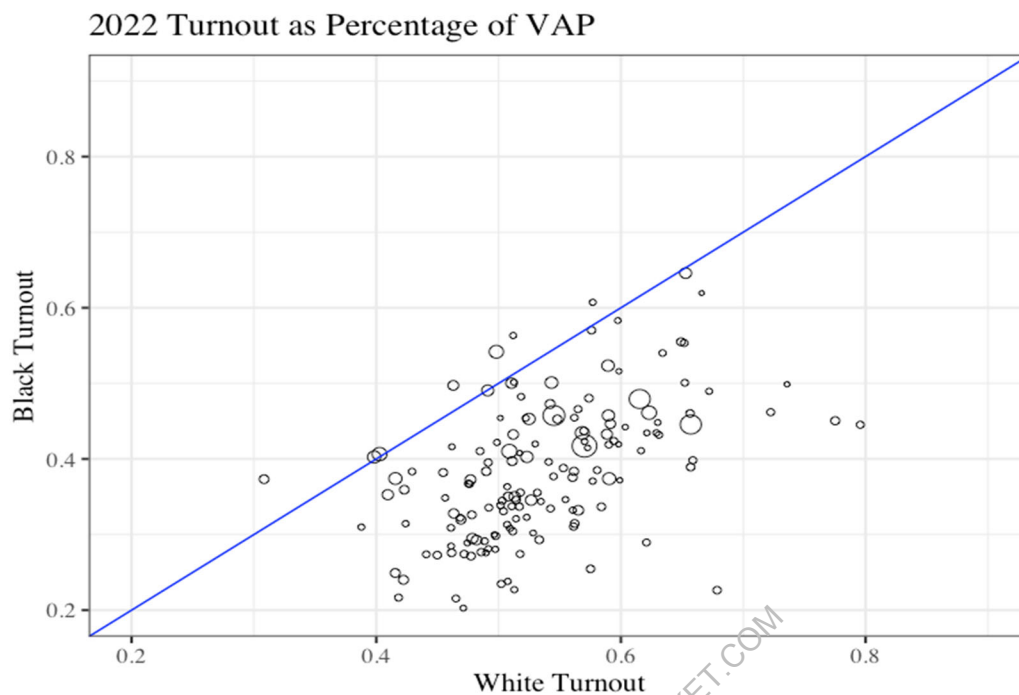


Figure 3. 2020 turnout by county; white-Black differential based on VAP.

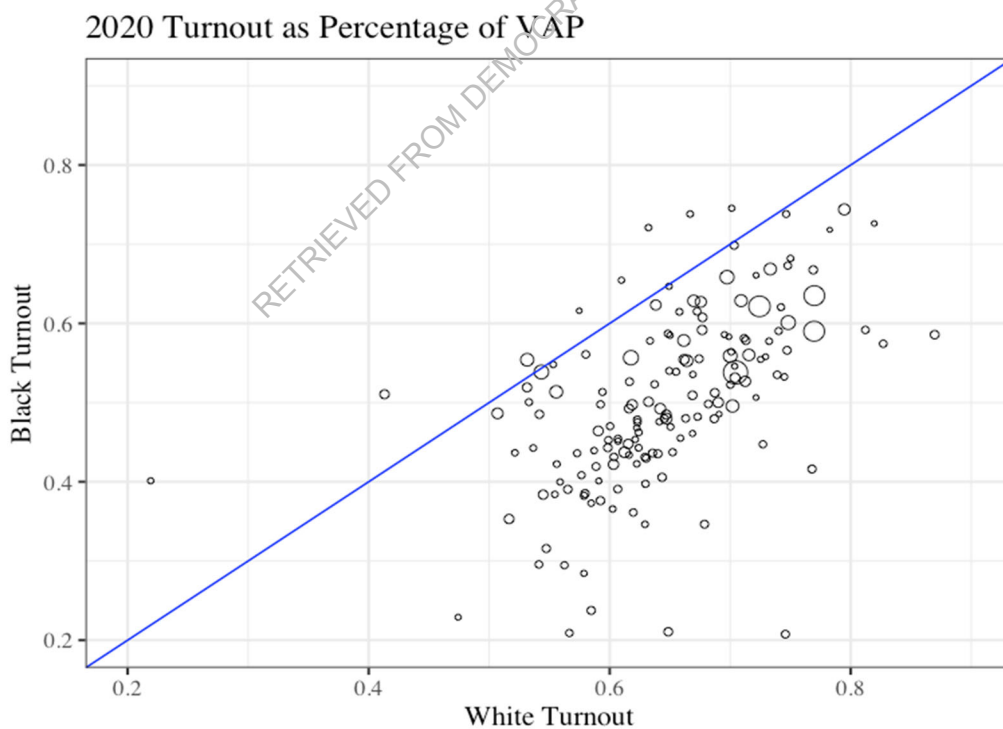
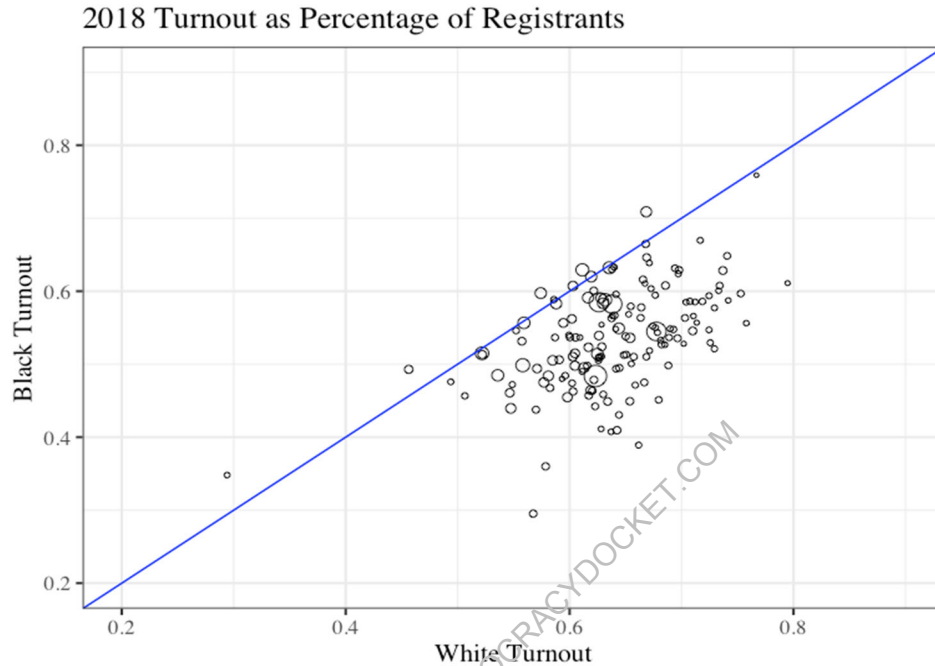


Figure 4. 2020 turnout by county; white-Black differential based on VAP.

I also replicated the white-Black turnout differential analysis for the 2014-2018 elections because such data are readily available from the Georgia Secretary of State. Figure 5 plots out the 2018 white vs. Black turnout gap and demonstrates substantively the same trends discussed above. Figures 6 and 7 present the same analyses for the 2016 and 2014 elections, respectively.



*Figure 5. 2018 turnout by county; white-Black differential based on voter registration.*

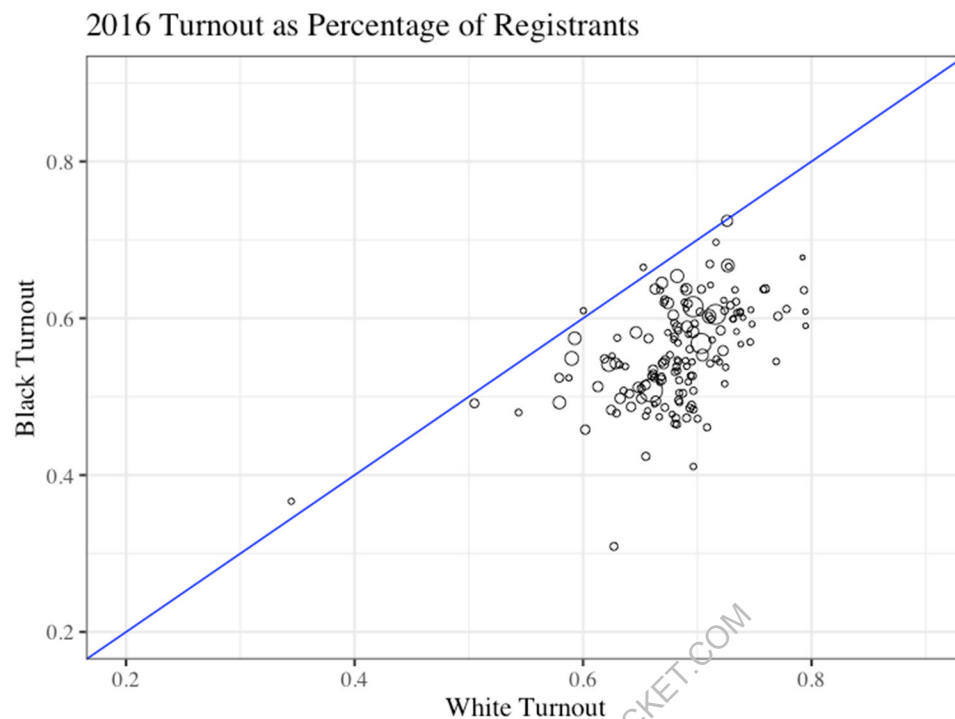


Figure 6. 2016 turnout by county; white-Black differential based on voter registration.

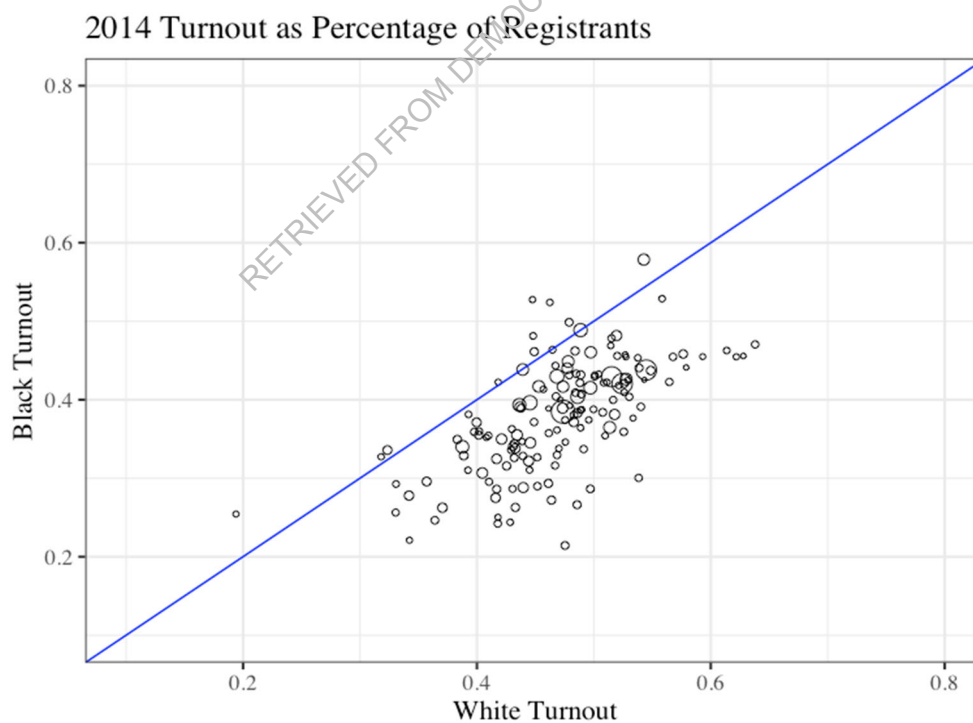


Figure 7. 2014 turnout by county; white-Black differential based on voter registration.

**c. Precinct-Level Analysis**

I replicated the 2020 and 2022 county analysis with Georgia precincts gathered from the Secretary of State's website.<sup>4</sup> The 2020 precinct file contains 2,784 precincts across the state and the 2022 precinct file contains 2,852 precincts. Both files include both registration and votes cast for whites and Blacks. I then subset the datasets to precincts with more than 100 Blacks and 100 whites to reduce the influence of outliers—namely, extremely small precincts. This resulted in a total of 1,957 precincts in the 2020 data and 2,010 precincts in the 2022 data.

The analysis of precinct-level turnout does not change the core substance of the reported findings. Of the 1,957 precincts in 2020, whites have a higher turnout in 1,549 (79.2%) precincts and Blacks in only 408 (20.8%) precincts. In 2022, whites have a higher turnout in 1,629 (81.0%) of the precincts, while Blacks have a turnout advantage in only 381 (19.0%) of the precincts. Figures 8 and 9 visually display the results, which are consistent with both the statewide and county analyses. The clear majority of precinct dots fall below the blue identity line.

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<sup>4</sup> This data was previously available at: [https://sos.ga.gov/index.php/elections/general\\_election\\_turnout\\_by\\_demographics\\_november\\_2020](https://sos.ga.gov/index.php/elections/general_election_turnout_by_demographics_november_2020).

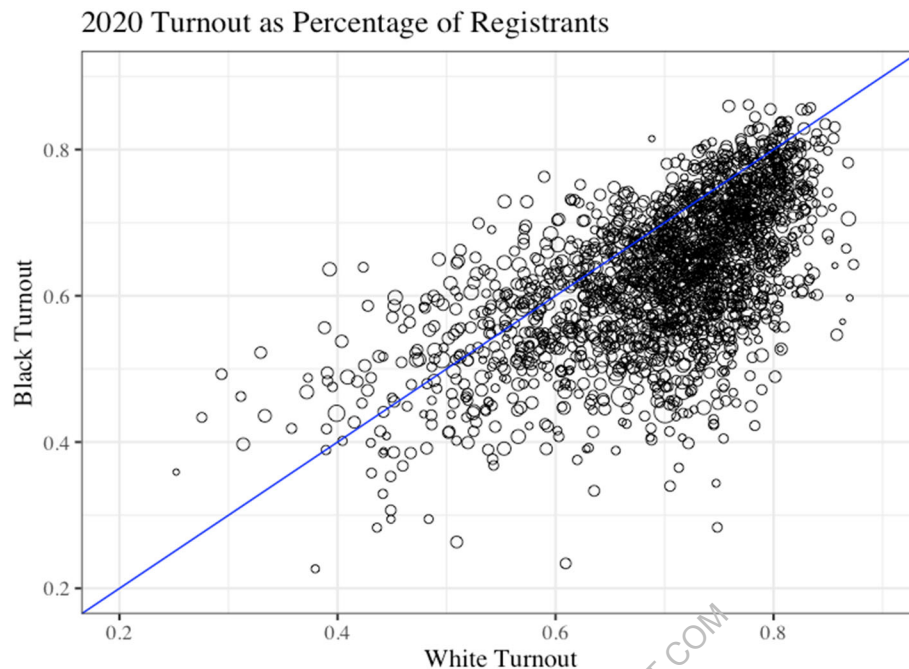


Figure 8. 2020 turnout by precinct; white-Black differential based on voter registration.

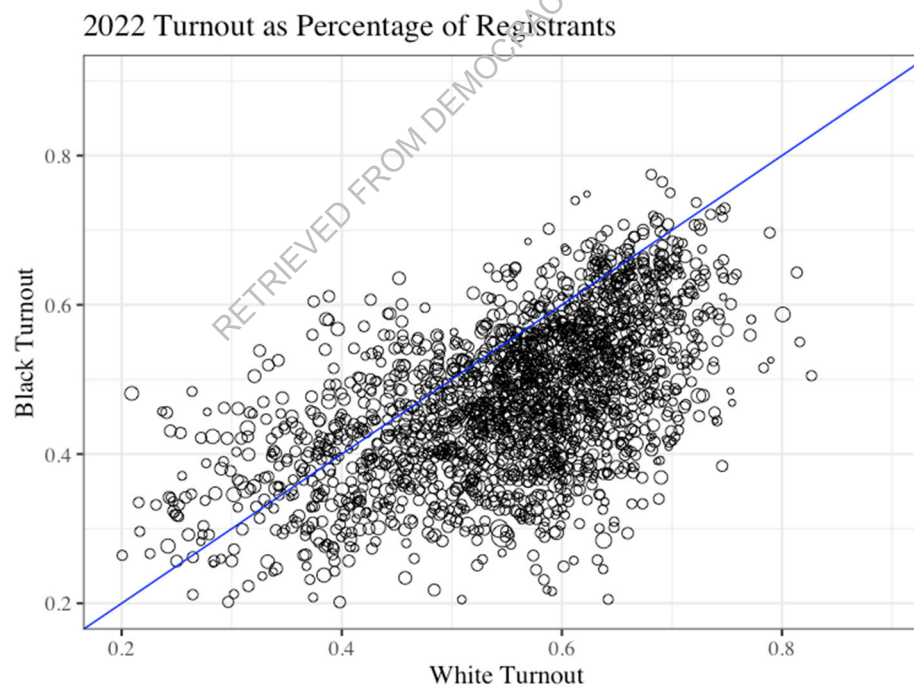


Figure 9. 2020 turnout by precinct; white-Black differential based on voter registration.



**d. Analysis of Atlanta-Sandy Springs-Alpharetta Metropolitan Area**

I also examined Black vs. white voter turnout rates in the Atlanta metropolitan area and Black Belt. For the former, I analyzed a subset Georgia counties: those in the Atlanta-Sandy Springs-Alpharetta Metropolitan Statistical Area.<sup>5</sup> Figures 10 through 13 plot out the white vs. Black turnout gap in the 2020 and 2022 general elections based on both registration and voting age population as the denominators. The trend is very similar to the overall statewide trend. In the 2020 election, Black turnout was not higher than white turnout in any of the counties. This result is consistent with the 2022 election, except that Black turnout very slightly exceeded white turnout in only three counties (Clayton, Henry, and Rockdale) when using voting age population, rather than registration, as the denominator.

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<sup>5</sup> The counties include: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton.

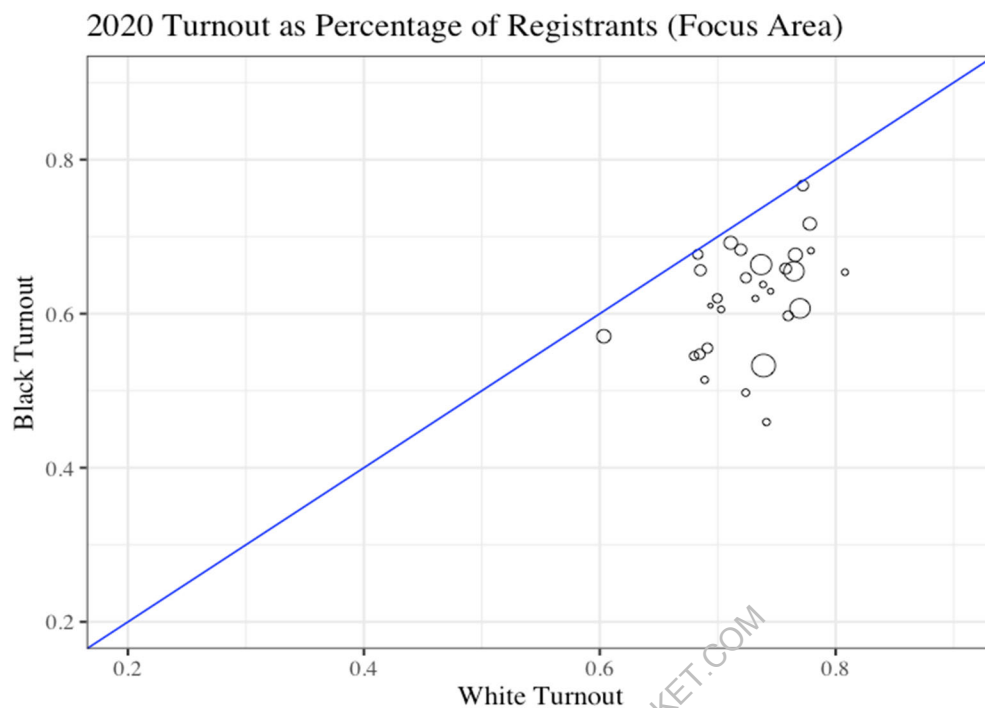


Figure 10. 2020 turnout by county in Atlanta metropolitan area; white-Black differential based on voter registration.

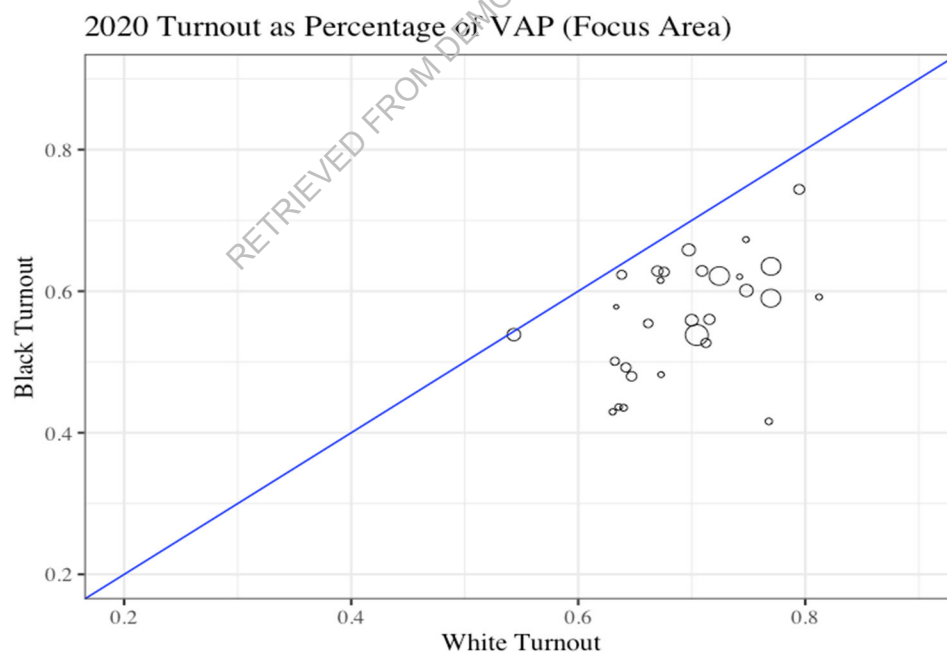


Figure 11. 2020 turnout by county in Atlanta metropolitan area; white-Black differential based on VAP.

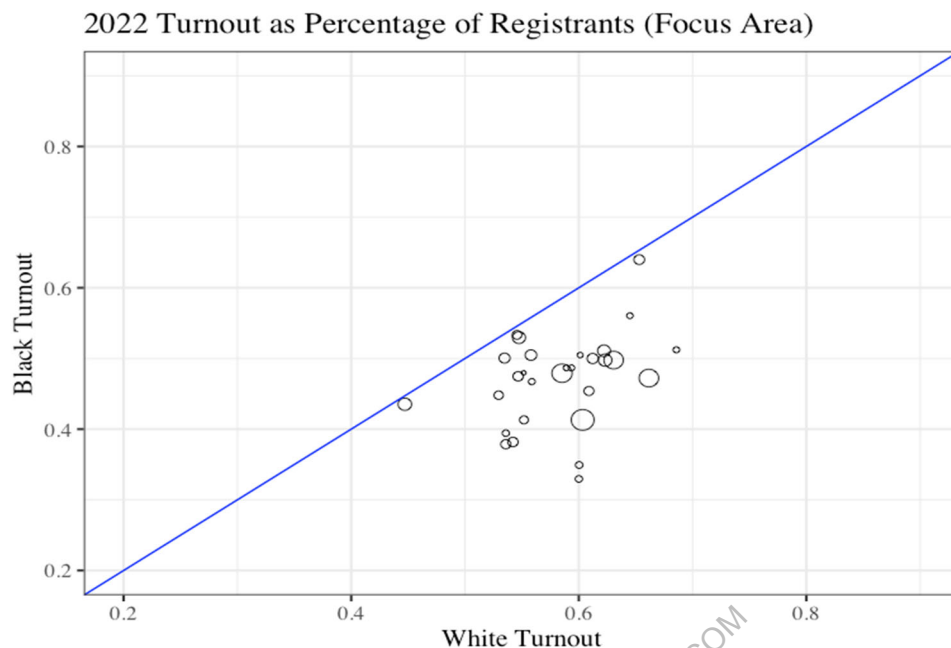


Figure 12. 2022 turnout by county in Atlanta metropolitan area; white-Black differential based on voter registration.

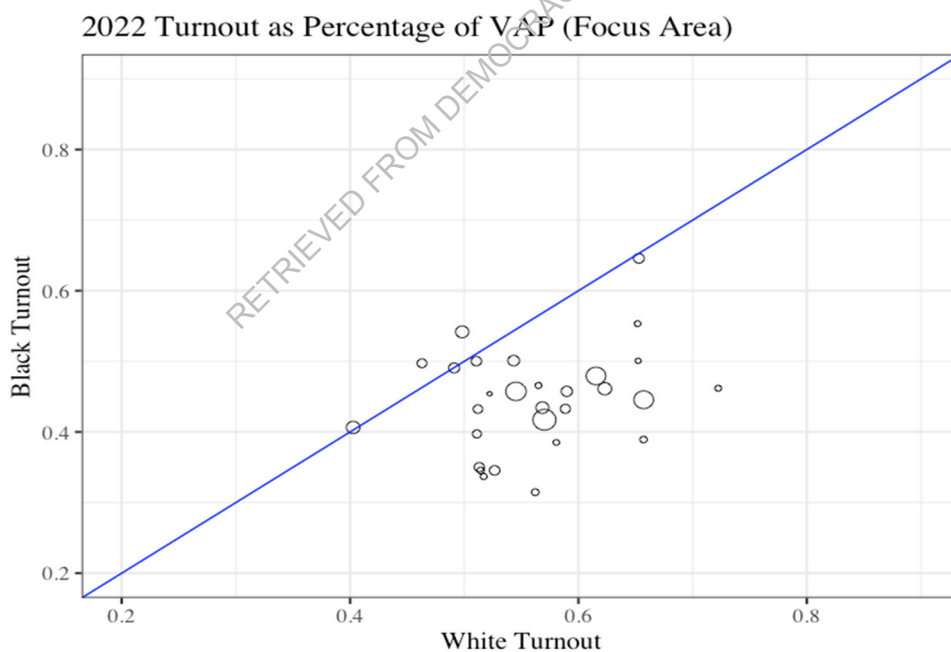


Figure 13. 2020 turnout by county in Atlanta metropolitan area; white-Black differential based on VAP.

Finally, I conducted the same analysis among precincts falling in the same set of counties. Again, as shown in Figures 14 and 15, whites vote at higher rates than do Blacks in the overwhelming majority of precincts.

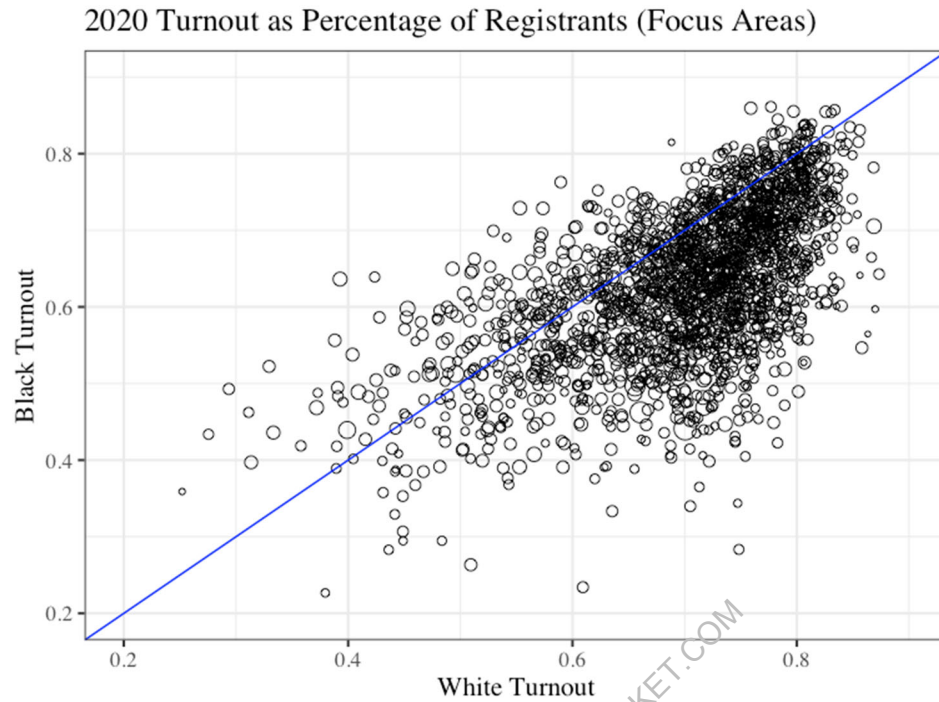


Figure 14. 2020 turnout by precinct in Atlanta metropolitan area; white-Black differential based on voter registration.

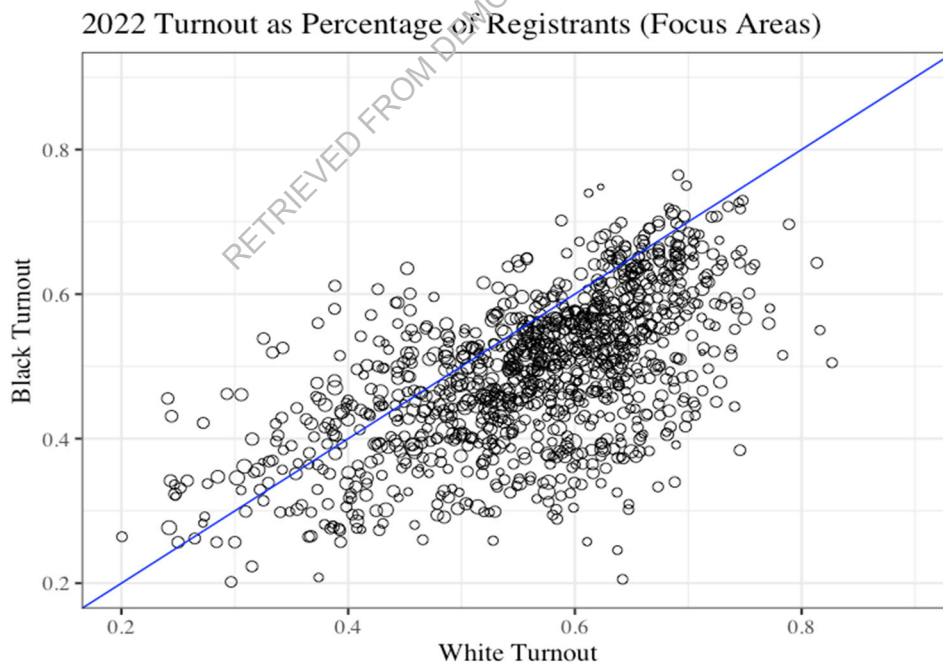


Figure 15. 2022 turnout by precinct in Atlanta metropolitan area; white-Black differential based on voter registration.

**e. Analysis of the Black Belt Area**

As an additional set of analyses, I examined 2020 and 2022 Black vs. white voter turnout rates in the traditional “Black Belt” area of the state. The geographic area includes the following counties, which I subset the data to: Baker, Bibb, Burke, Calhoun, Chattahoochee, Clay, Dooly, Dougherty, Early, Glascock, Hancock, Houston, Jefferson, Lee, Macon, Marion, McDuffie, Miller, Mitchell, Muscogee, Peach, Quitman, Randolph, Richmond, Schley, Stewart, Sumter, Talbot, Taliaferro, Taylor, Terrell, Twiggs, Warren, Washington, Webster, and Wilkinson.

Figures 16 through 19 plot out the Black vs. white turnout gap based on both registration and VAP in this area. The trend is very similar to the overall statewide trend for both the 2020 and 2022 general elections.

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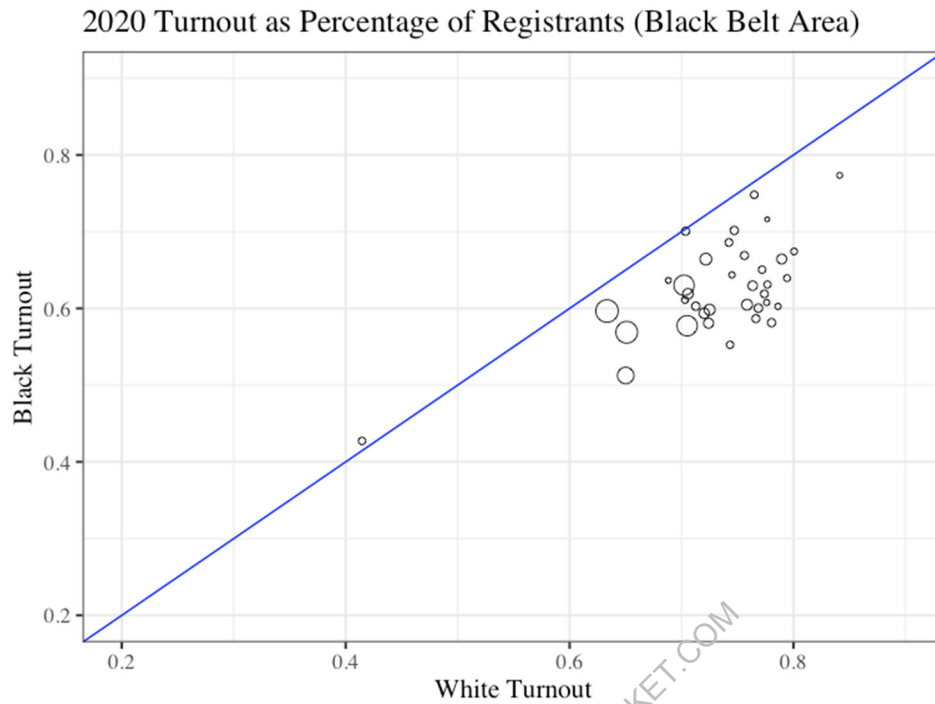


Figure 16. 2020 turnout by county in Black Belt; white-Black differential based on voter registration.

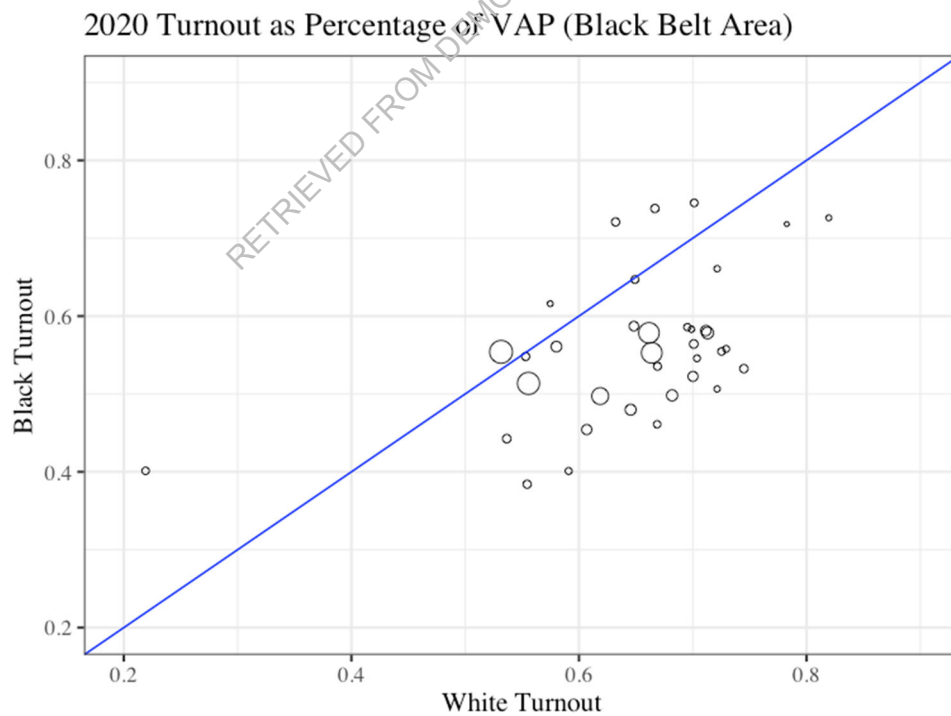


Figure 17. 2020 turnout by county in Black Belt; white-Black differential based on VAP.

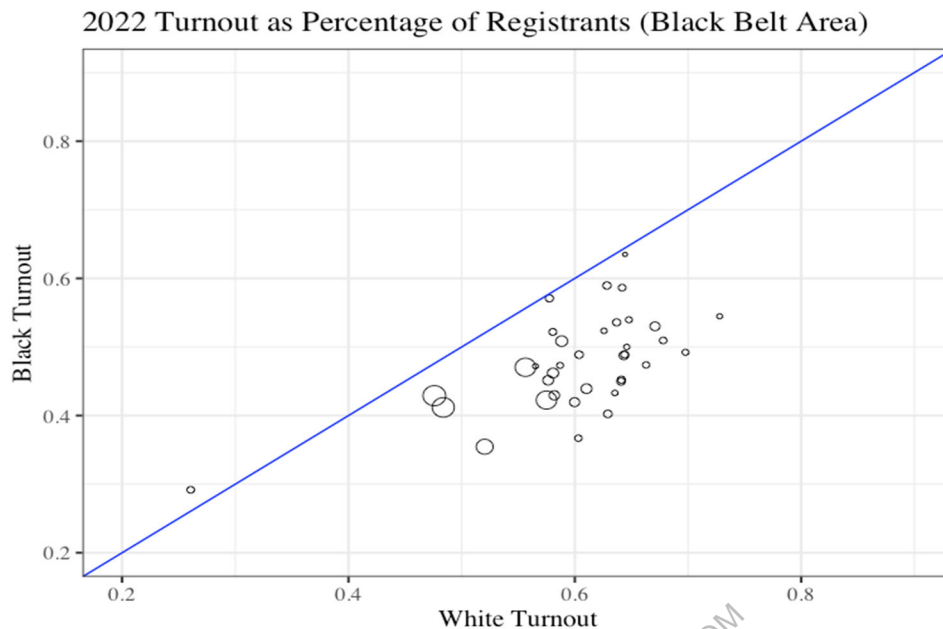


Figure 18. 2022 turnout by county in Black Belt; white-Black differential based on voter registration.

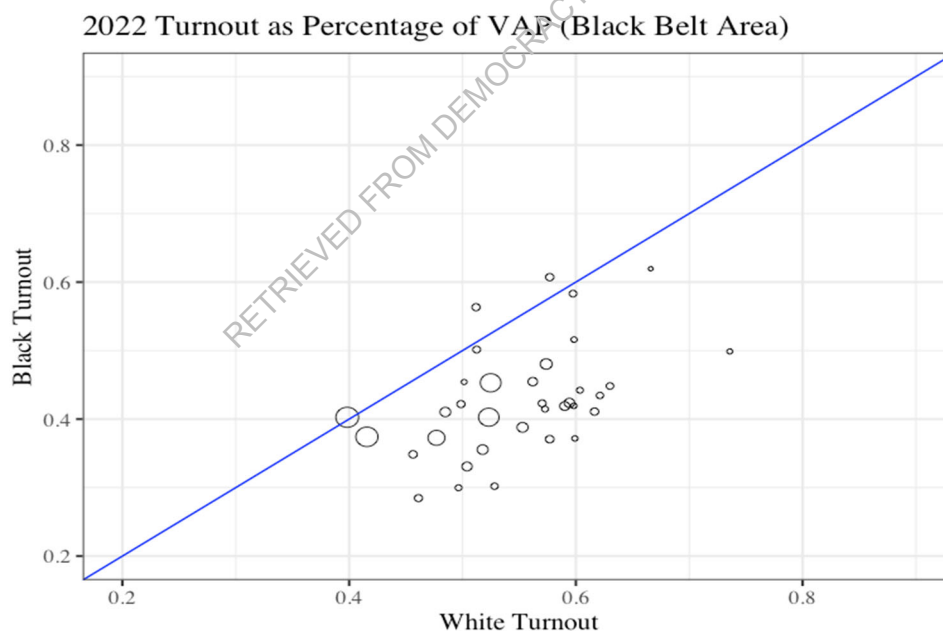


Figure 19. 2020 turnout by county in Black Belt; white-Black differential based on VAP.

Similar to the analysis in the Atlanta metropolitan area, I examined the white-Black turnout differential among precincts falling into the set of Black Belt counties. As depicted in Figures 20 and 21, once again, I find that whites vote at higher rates than do Blacks in the clear majority of the precincts.

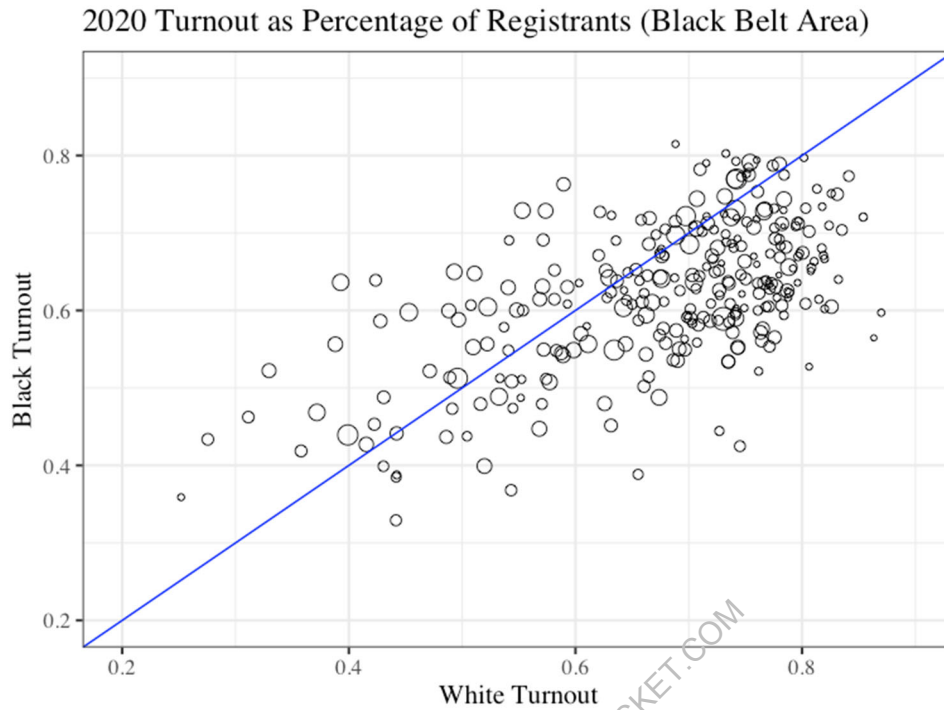


Figure 20. 2020 turnout by precinct in Black Belt; white-Black differential based on voter registration.

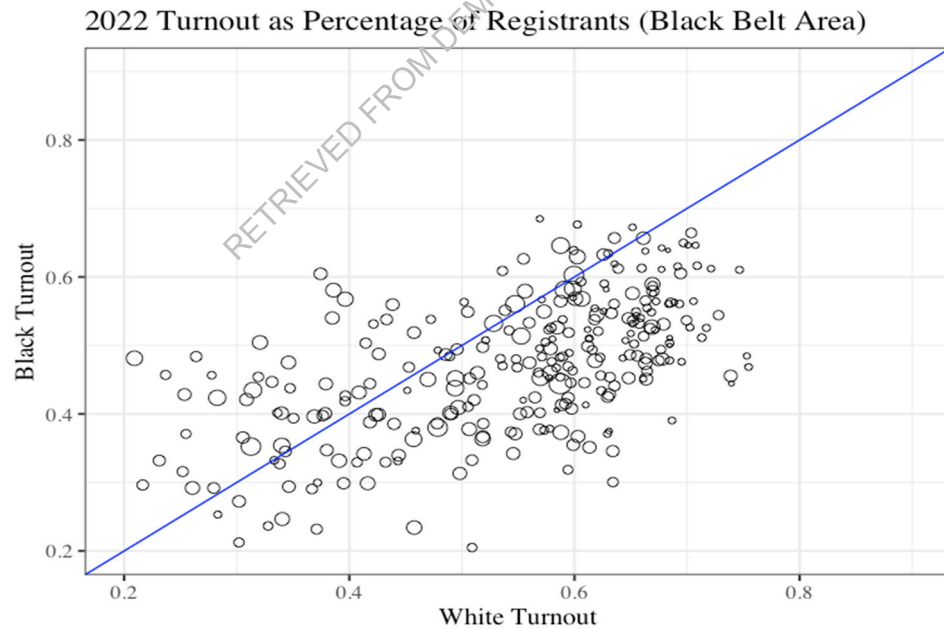


Figure 21. 2022 turnout by precinct in Black Belt; white-Black differential based on voter registration.



**f. Relationship Between Turnout in 2020 and Socioeconomic Disparities**

This section examines how the documented turnout differences are related to the socioeconomic disparities discussed at the outset of this report, like education and income, using both the 2015-2019 and 2016-2020 ACS datasets. Specifically, I examined the county-level relationship between different measures of Black educational attainment and Black voter turnout using the 2020 general election data.<sup>6</sup> Figure 22 plots out the relationship between percent Black with less than a high school education and Black voter turnout using the 2015-2019 ACS.<sup>7</sup> The blue line is the bivariate regression line ( $\beta = -0.35$ ,  $p < 0.001$ ), which shows that each 10-percentage-point increase in the size of the Black population without a high school degree decreases Black turnout by 3.5 percentage points. The difference between counties with the highest percentage of Black population with less than a high school education compared to counties with the lowest percentage of Black population with less than a high school degree (referred to as “min-max effects”)<sup>8</sup> surmounts to a decline of 11.8 [7.0, 16.5] percentage points in the Black turnout.

Figure 23 shows that these relationships hold when relying on the 2016-2020 ACS estimates for educational attainment. Specifically, a 10-percentage-point increase in the size of the Black population without a high school degree corresponds to a statistically significant 3.8 percentage point ( $p < 0.001$ ) decline in the Black turnout. The corresponding min-max decline in turnout is 12.4 [7.5, 17.3] percentage points.

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<sup>6</sup> I replicated this analysis using 2022 turnout data, as shown in subsection (g).

<sup>7</sup> For each analysis I subset the data to counties with more than 1,000 registered Black voters. I do this to avoid outlier issues that can emerge with smaller counties. However, this subset does not change in any substantive way the results compared to a full data analysis. All regression analyses are weighted by total Black registration in the county.

<sup>8</sup> Min-max effect is the discrete change of moving from minimum to maximum value of the independent variable (for example, percent black population without high school education). Ninety-five percent (95%) confidence intervals for each estimate are reported in brackets.

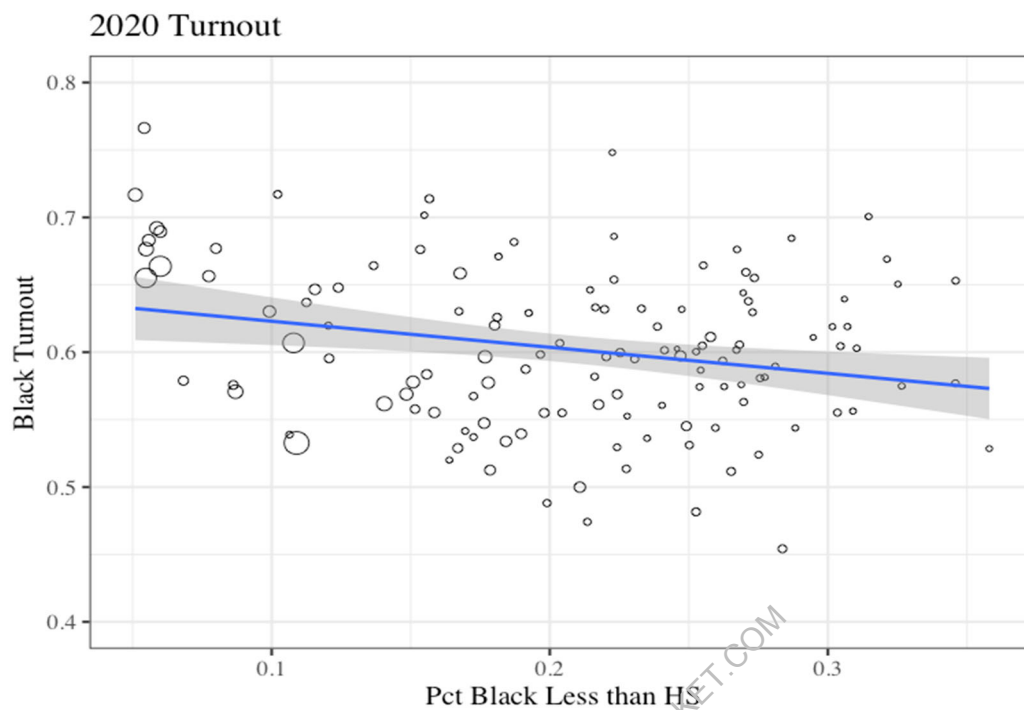


Figure 22. Association between Black less than high school education and 2020 Black turnout (2015-2019 ACS).

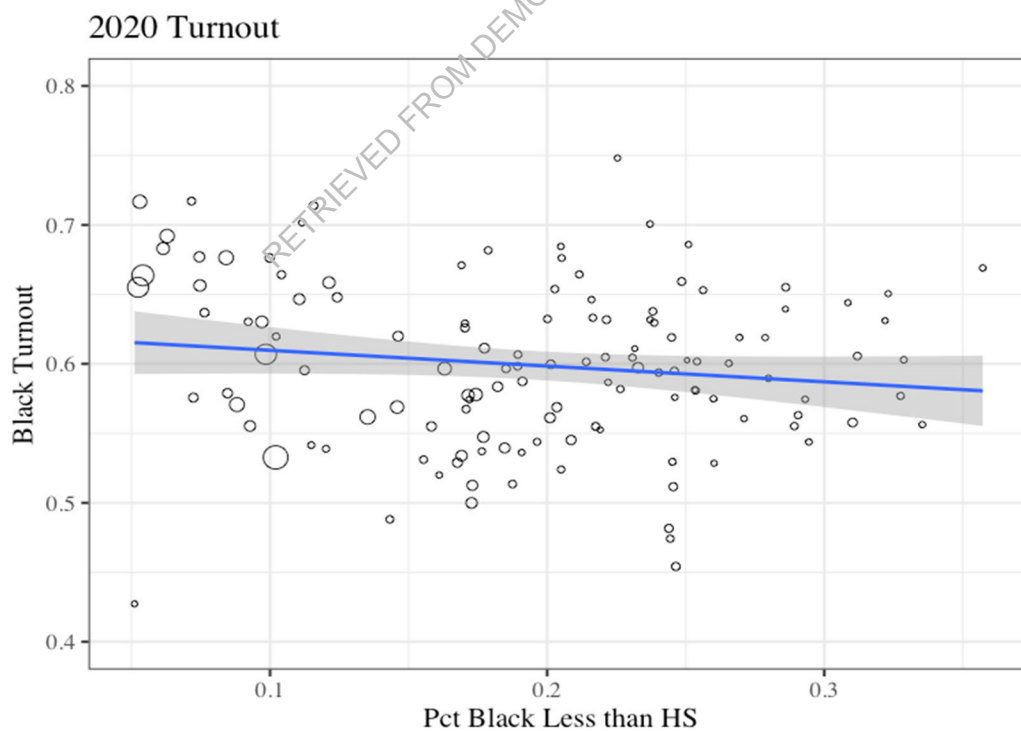


Figure 23. Association between Black less than high school education and 2020 Black turnout (2016-2020 ACS).

Figure 24 plots the relationship between the share of Blacks with a 4-year college degree and the share of Black registrants who voted by county. The relationship paints an inverse picture to the previous plot. As a county's Black education rises, so does the turnout rate. A bivariate regression reveals a statistically significant relationship ( $\beta = 0.23$ ,  $p < 0.001$ ), indicating that Black turnout rises 2.3 percentage points for each 10-percentage-point increase in percent Black 4-year degree, with a min-max effect size of 11.2 [6.9, 15.5] percentage points.

Figure 25 represents the same analysis using the 2016-2020 ACS. As shown, Black turnout increases by 2.1 percentage points for each 10-percentage-point increase in percent Black 4-year degree, with a min-max effect size of 11.8 [7.1, 16.6] percentage points. In both cases, I find statistically and substantively significant relationships between educational attainment and turnout, indicating that counties with lower levels of Black education are less likely than counties with higher levels of education to turnout.

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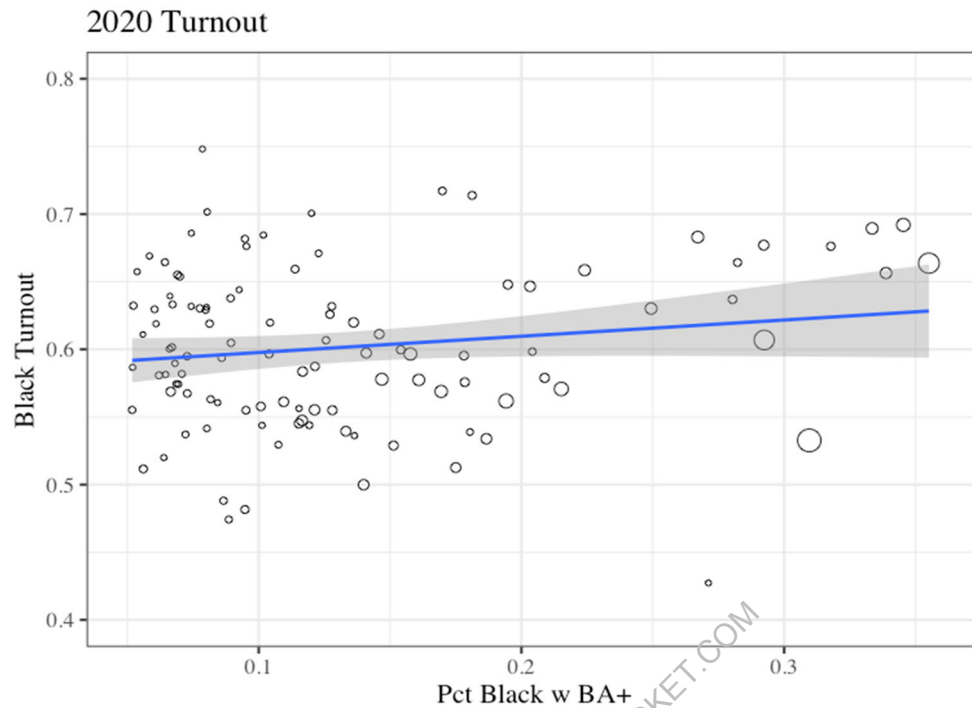


Figure 24. Association between Black 4-year degree and 2020 Black turnout (2015-2019 ACS).

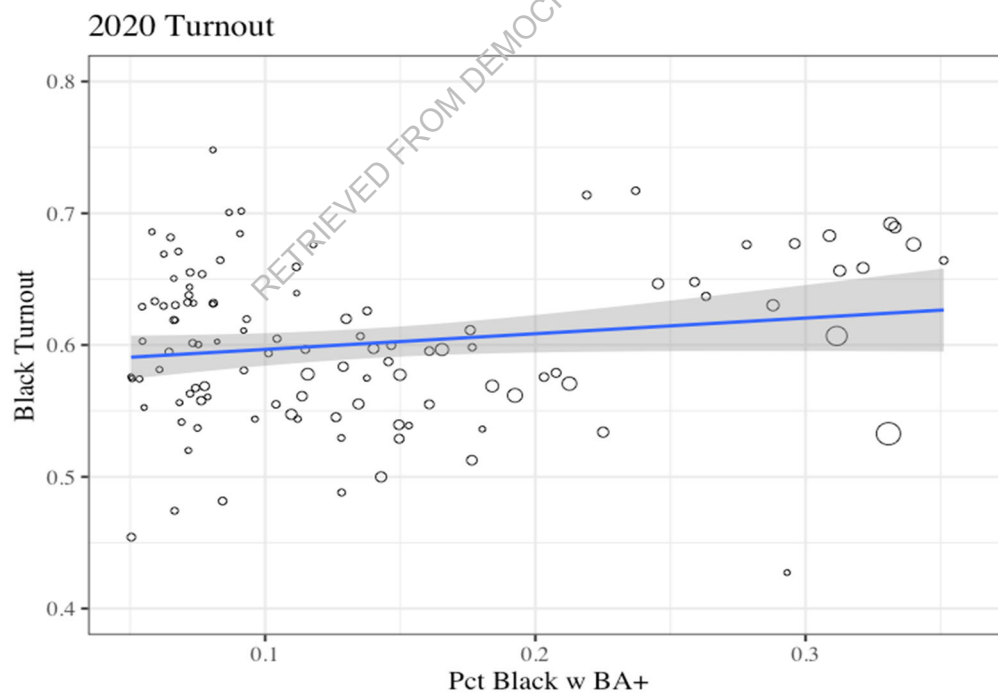


Figure 25. Association between Black 4-year degree and 2020 Black turnout (2016-2020 ACS).

Turning to income-related measures, Figure 26 plots out the relationship between the share of Blacks below the poverty line and the share of Black registrants who voted by county. As a county's Black poverty rises, the turnout rate declines. A bivariate regression reveals a statistically significant relationship ( $\beta = -0.49$ ,  $p < 0.001$ ), indicating that Black turnout falls 4.9 percentage points for each 10-percentage-point increase in percent Black below the poverty line. The min-max effect size is a decline of 25.7 [20.4, 31.1] percentage points in turnout, which is a substantively large gap between counties with the lowest Black poverty levels and those with the highest Black poverty levels.

Figure 27 visually depicts the same associations using the 2016-2020 ACS data. A 10-percentage-point increase in percent Black below the poverty line corresponds to a statistically significant 5.0 percentage point ( $p < 0.001$ ) decline in turnout. The difference in turnout levels between counties with the highest and lowest poverty levels amounts to a 21.1 [16.6, 25.6] percentage point gap.

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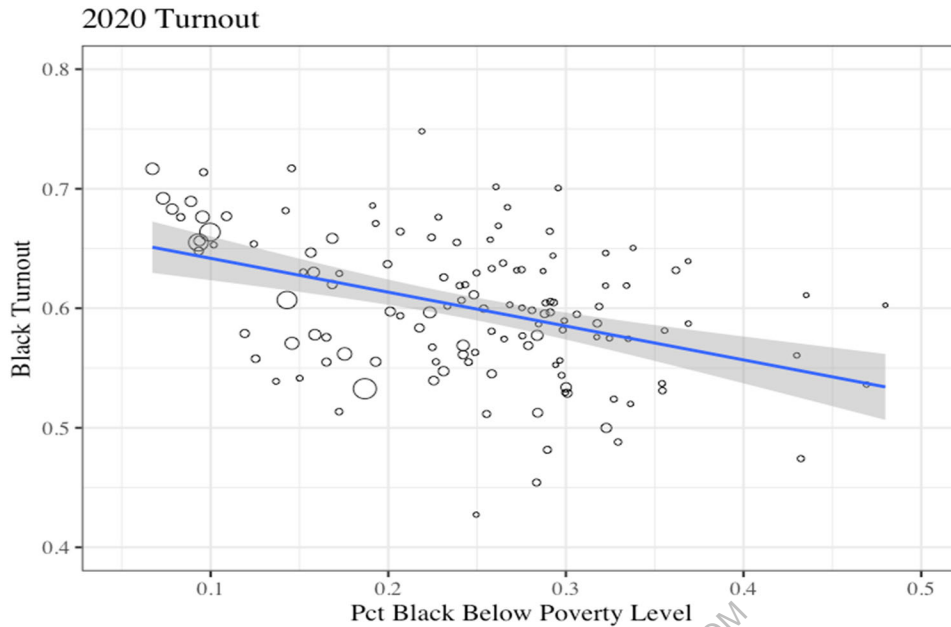


Figure 26. Association between Black poverty rates and 2020 Black turnout (2015-2019 ACS).

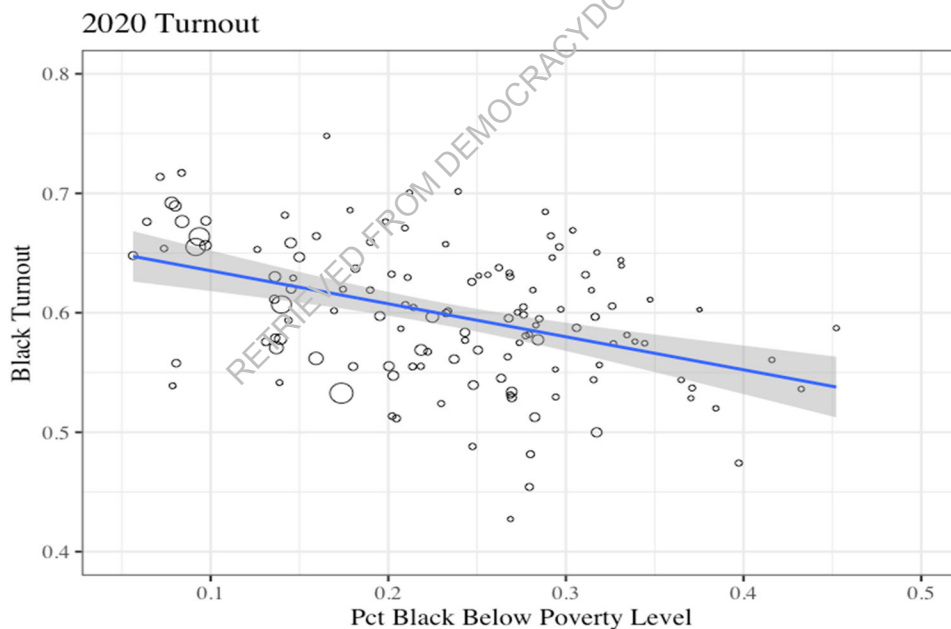


Figure 27. Association between Black poverty rates and 2020 Black turnout (2016-2020 ACS).

Lastly, Figures 28 and 29 plot the relationship between Black median household income and the share of Black registrants who voted by county. As a county's Black household income rises, the turnout rate rises. A bivariate regression with the 2015-2019 ACS data reveals a statistically significant relationship ( $\beta = 0.117$ ,  $p < 0.001$ ), and a min-max effect of 22.1 [17.5, 26.7] percentage points. The results are statistically and substantively similar using the 2016-2020 ACS: Counties with higher levels of Black median household income have a higher black turnout ( $\beta = 0.120$ ,

$p < 0.001$ ). The discrete difference between such counties amounts to a min-max effect size of 20.5 [16.4, 24.7] percentage points in turnout.

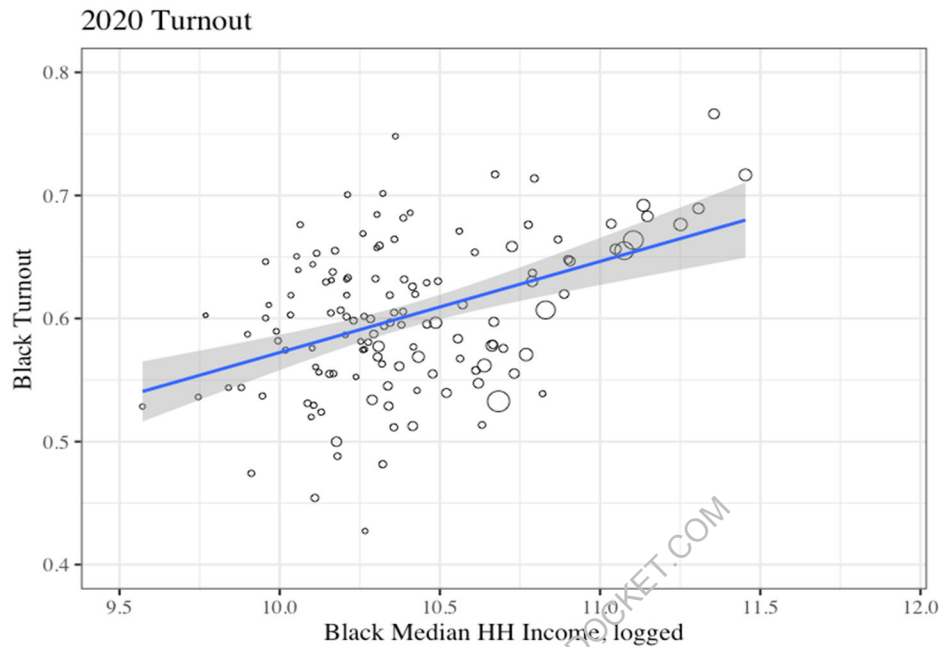


Figure 28. Association between Black median household income and 2020 Black turnout (2015-2019 ACS).

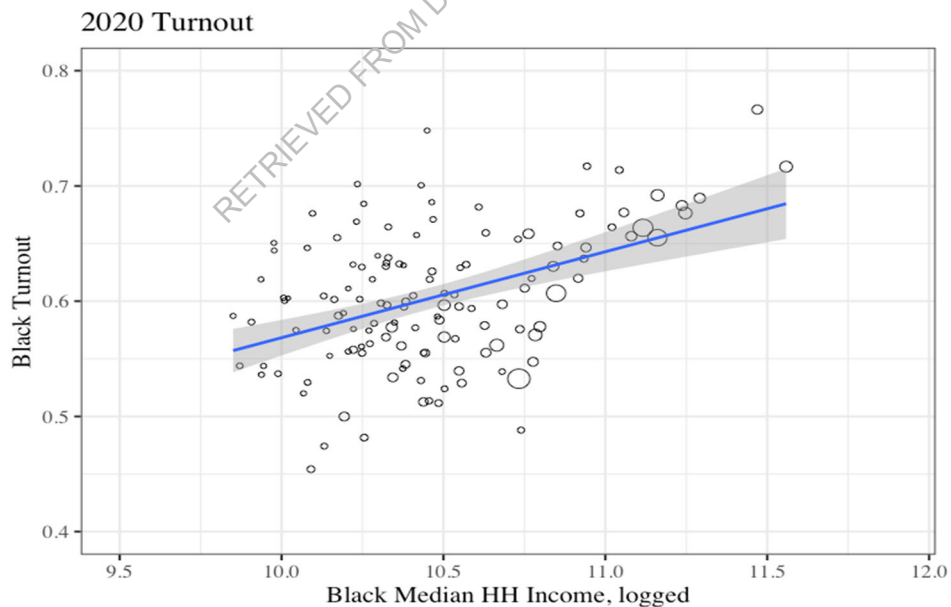


Figure 29. Association between Black median household income and 2020 Black turnout (2016-2020 ACS).

**g. Replication of the Relationship Between Turnout and Socioeconomic Disparities Using 2022 General Election Data**

This section replicates the analysis of Black turnout and socioeconomic disparities, as measured with the 2016-2020 ACS, using the 2022 general election data. This analysis shows that all the four socioeconomic indicators are once again statistically associated with Black turnout levels.

Starting with education, Figures 30 and 31 show that both measures of educational attainments are associated with Black turnout (at  $p < 0.001$ ). The discrete difference between counties with the highest percentage of Black population with less than a high school degree compared to counties with the lowest percentage of Black population with less than a high school degree amount to a 12.5 [8.2, 16.7] percentage point decline in Black turnout. When comparing counties with the highest share of bachelor's degrees to those with the lowest share of a bachelor's degrees, I find a discrete difference of 13.3 [9.3, 17.3] percentage points in turnout. This means that counties with lower levels of Black education attainment have significantly lower levels of Black turnout.

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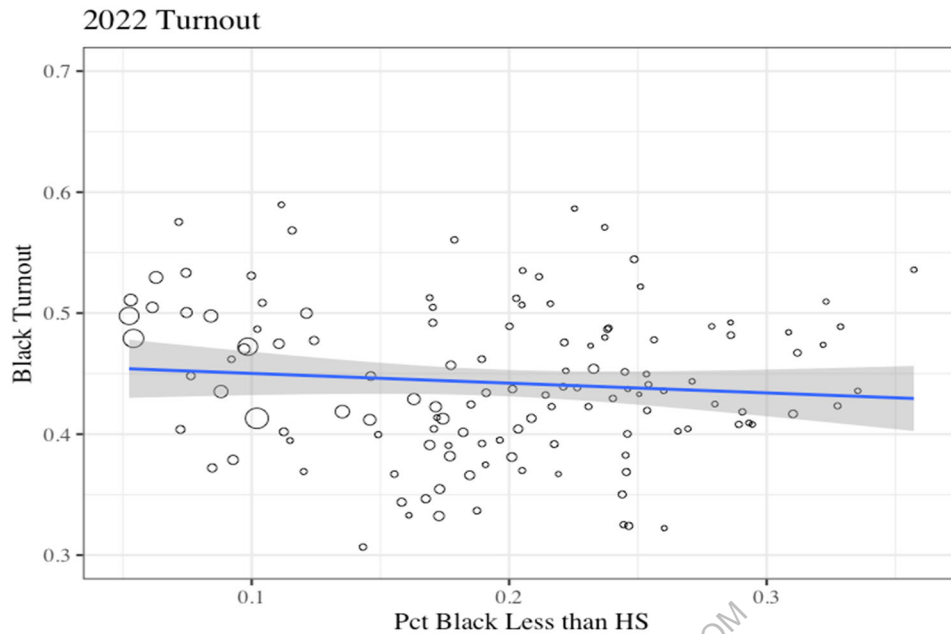


Figure 30. Association between Black less than high school education and 2022 Black turnout (2016-2020 ACS).

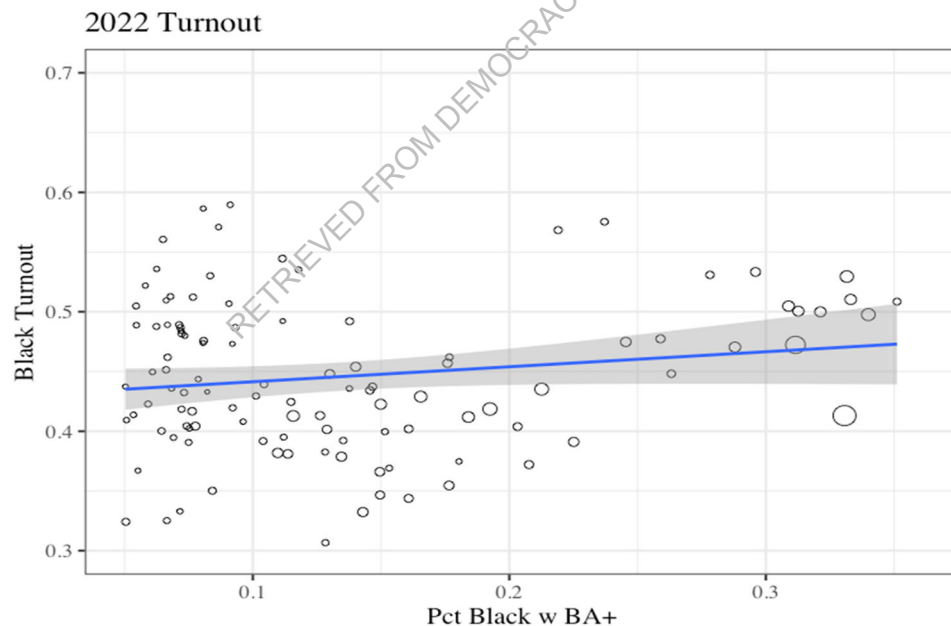


Figure 31. Association between Black 4-year degree and 2022 Black turnout (2016-2020 ACS).

Moving on to indicators of economic disparities, I find that as the percentage of counties with Blacks below the poverty line rises, Black turnout declines (see Figure 32). This relationship is statistically significant (at  $p < 0.001$ ). Substantively, counties with the highest levels of Black poverty have a 20.4 [16.5, 24.2] percentage point *lower* Black turnout than counties with the lowest levels of Black poverty. Replacing poverty levels with median household income leads to the same

conclusion. As Figure 33 shows, logged household income is statistically associated with Black turnout. Specifically, counties with the highest Black median household income report 19.0 [15.4, 22.6] percentage point higher Black turnout than counties with the lowest median household income. In sum, this replication analysis using the 2022 general election data further underscores how socioeconomic disparities are linked to turnout levels.

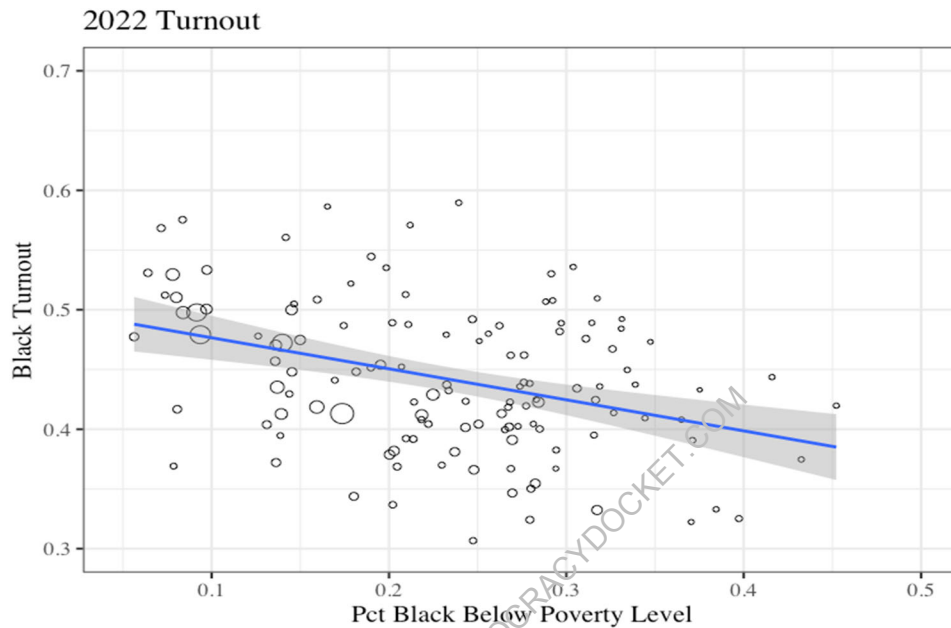


Figure 32. Association between Black poverty rates and 2022 Black turnout (2016-2020 ACS).

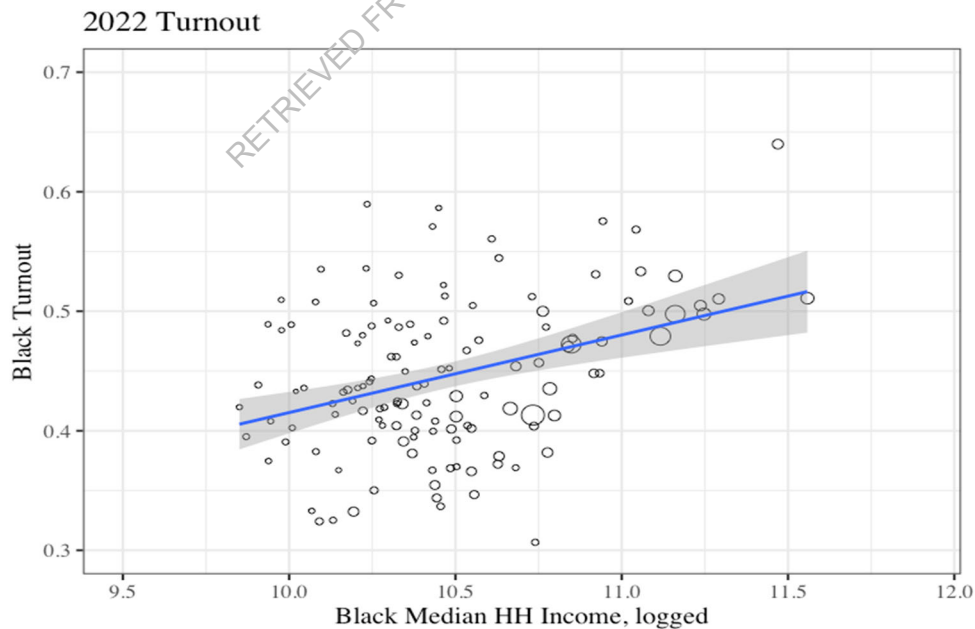


Figure 33. Association between Black median household income and 2022 Black turnout (2016-2020 ACS).

### 3. Other Forms of Voter Participation

This next section examines disparities between Blacks and whites among other modes of voter participation. I downloaded the 2020 Cooperative Election Study (CES) common form post-election survey.<sup>9</sup> The CES is a widely used publicly available survey dataset political scientists use to write academic papers and inform our scientific knowledge of the American voter. The full dataset contains 61,000 interviews. I subset the data to Georgia respondents, of which there are 2,002. To compare white vs. Black political participation, I further subset the data to only non-Hispanic white and Black respondents. This yields a dataset of  $n=1,753$ . Finally, 339 individuals whom CES initially interviewed in the pre-election survey did not take the post-election survey; thus, the final dataset is  $n=1,414$ . All tabulations presented below include survey weights to ensure that the analysis is representative of the target audience.<sup>10</sup>

The survey asks a battery of political participation questions where respondents indicate they have (1) or have not (0) participated in such an act.

1. Attend local political meetings (such as school board or city council)
2. Put up a political sign (such as a lawn sign or bumper sticker)
3. Work for a candidate or campaign
4. Attend a political protest, march or demonstration
5. Contact a public official
6. Donate money to a candidate, campaign, or political organization

I also analyze two other yes (1) / no (0) questions related to political participation:

1. Did a candidate or political campaign organization contact you during the 2020 election?
2. Have you ever run for elective office at any level of government (local, state or federal)?

Below I present cross-tabulations between each item and race (white/Black), along with a chi-square statistical test. The cross-tabulation shows, for instance, the share of whites that participate in a particular activity vs. the share of whites that do not participate in such activity. The analysis is designed to assess whether Blacks and whites engage in political participation at different rates. If the chi-square p-value is .10, then we can say that we have 90% confidence that this relationship has not occurred by chance. In short, the lower the p-value, the more statistical confidence we have that whites and Blacks behave differently politically.

Overall, the results strongly point to relative Black disparity in political participation. In five of the eight survey items, a statistically significant relationship exists between race and political

<sup>9</sup> Available at: <https://cces.gov.harvard.edu>.

<sup>10</sup> Weighting data here has the effect of growing the sample size of the dataset to  $n=1,557$  respondents.

participation (at either  $p < .10$  or  $p < .05$ ). That is, whites are more likely to say they engaged in the political activity than are Blacks.

For instance, 5.9% of whites say they attended a political meeting, whereas 3.5% of Blacks said they did ( $p < 0.05$ ). On political signs, 17.9% of whites put one up vs. 6.5% of Blacks ( $p < 0.001$ ). Whites are also more likely to report having worked for a candidate or campaign (3.6% vs. 1.8%,  $p < 0.05$ ). One of the larger differences emerges on the question regarding contacting a public official. Twenty-one percent (21%) of whites say they contacted an official, whereas 8.8% of Blacks report doing so ( $p < 0.001$ ). Differences emerge across donation behavior too: 24.4% vs. 13.6% ( $p < 0.001$ ).

There are three questions where significant statistical differences do not emerge, although whites nonetheless engage in the political activity to a greater degree than do Blacks: political protest (whites at 6.2% vs. Blacks at 4.4%,  $p = 0.142$ ); being contacted by a political campaign organization (61.3% vs. 61.3%,  $p = 0.995$ ), and running for office (1.7% vs. 0.7%,  $p = 0.12$ ).

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**Attend local political meetings (such as school board or city council)?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	954	94.08%	60	5.92%
Black	523	96.49%	19	3.51%
<i>Chi-2 = 4.262 DF = 1 P-Value = 0.039</i>				

*Table 4. Political attendance.***Put up a political sign (such as a lawn sign or bumper sticker)?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	832	82.05%	182	17.95%
Black	507	93.54%	35	6.46%
<i>Chi-2 = 38.863 DF = 1 P-Value = 0</i>				

*Table 5. Political signs.***Work for a candidate or campaign?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	978	96.35%	37	3.65%
Black	533	98.16%	10	1.84%
<i>Chi-2 = 3.934 DF = 1 P-Value = 0.0473</i>				

*Table 6. Campaign work.***Attend a political protest, march, or demonstration?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	951	93.79%	63	6.21%
Black	519	95.58%	24	4.42%
<i>Chi-2 = 2.155 DF = 1 P-Value = 0.1421</i>				

*Table 7. Political protest.*

**Contact a public official?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	801	78.99%	213	21.01%
Black	495	91.16%	48	8.84%
<i>Chi-2 = 37.513 DF = 1 P-Value = 0</i>				

*Table 8. Contacting officials.***Donate money to a candidate, campaign, or political organization?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	767	75.64%	247	24.36%
Black	469	86.37%	74	13.63%
<i>Chi-2 = 24.882 DF = 1 P-Value = 0</i>				

*Table 9. Political donations.***Did a candidate or political campaign organization contact you during the 2020 election?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	392	38.66%	622	61.34%
Black	210	38.67%	333	61.33%
<i>Chi-2 = 0 DF = 1 P-Value = 0.9953</i>				

*Table 10. Campaign contacts.*

**Have you ever run for elective office at any level of government (local, state or federal)?**

<i>Race</i>	<i>No</i>	<i>Pct. No</i>	<i>Yes</i>	<i>Pct. Yes</i>
White	986	98.31%	17	1.69%
Black	539	99.26%	4	0.74%
<i>Chi-2 = 2.414 DF = 1 P-Value = 0.1202</i>				

*Table 11. Running for office.*

All told, the results are compelling: White Georgians engage in a wide range of political activity at higher rates than Black Georgians, including activities like donating to campaigns, contacting public officials, and posting political signs. And as the academic literature discussed earlier in this report shows, these differences are directly attributable to socioeconomic disparities in health, education, and income.

**Conclusion**

The picture these data paint is straightforward: Black Georgians experience significant disparities in income, education, and health compared to non-Hispanic white Georgians. And these disparities cause Black Georgians to be less likely to participate effectively in the political process as measured by voter turnout and other forms of voter participation like making political donations, engaging elected officials, and even running for office. These trends are in accord with overwhelming academic literature showing that Blacks suffer socioeconomic disparities and so are therefore less likely than whites to participate in the political process. These findings therefore provide strong evidence for the presence of Senate Factor 5 in the state of Georgia.

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M.A., Political Science, University of Washington, 2009  
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Minor: Political Science  
Honors: *Cum Laude*, NCAA Scholar-Athlete in soccer

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## Research Fields

American Politics, Political Behavior, Methods, Race and Ethnic Politics, Immigration

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## Books

2. **Collingwood, Loren.** *Campaigning in a Racially Diversifying America: When and How Cross-Racial Electoral Mobilization Works.* 2020. Oxford University Press.

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25. **Collingwood, Loren** and Benjamin Gonzalez. 2019. "Covert Cross-Racial Mobilization, Black Activism, and Political Participation Pre-Voting Rights Act." *Florida Historical Quarterly* 97(4) Spring.
24. Gonzalez O'Brien, Ben, Elizabeth Hurst, Justin Reedy, and **Loren Collingwood**. 2019. "Framing Refuge: Media, Framing, and Sanctuary Cities." *Mass Communication and Society*. 22(6), 756-778.
23. DeMora, Stephanie, **Loren Collingwood**, and Adriana Ninci. 2019. "The Role of Super Interest Groups in Public Policy Diffusion." *Policy and Politics*. 47(4): 513-541.
22. **Collingwood, Loren**, Stephen Omar El-Khatib, Ben Gonzalez O'Brien. 2019. "Sustained Organizational Influence: American Legislative Exchange Council and the Diffusion of Anti-Sanctuary Policy." *Policy Studies Journal*. 47(3): 735-773.
21. **Collingwood, Loren** and Benjamin Gonzalez O'Brien. 2019. "Public Opposition to Sanctuary Cities in Texas: Criminal Threat or Immigration Threat?" *Social Science Quarterly*. 100(4): 1182-1196.
20. Reny, Tyler, **Loren Collingwood**, and Ali Valenzuela. 2019. "Vote Switching in the 2016 Election: Racial and Immigration Attitudes, Not Economics, Explains Shifts in White Voting." *Public Opinion Quarterly*. 83(1): 91-113.

Featured in VOX; The Week; The Economist; New York Times; The Economist

19. Gonzalez-O'Brien, Benjamin, **Loren Collingwood**, and Stephen Omar El-Khatib. 2019. "The Politics of Refuge: Sanctuary Cities, Crime, and Undocumented Immigration." *Urban Affairs Review*. 55(1): 3-40.

Featured in WaPo Monkey Cage I; and Monkey Cage II; WaPo Fact Check; InsideHigherEd; PolitiFact; The Hill; Christian Science Monitor; Pacific Standard; NBC News; Huffington Post; Seattle Times; The Denver Post; San Jose Mercury News; Chicago Tribune; San Diego Union Tribune; VOX

18. Oskooii, Kassra, Sarah Dreier, and **Loren Collingwood**. 2018. "Partisan Attitudes Toward Sanctuary Cities: The Asymmetrical Effects of Political Knowledge." *Politics and Policy* 46(6): 951-984.
17. **Collingwood, Loren**, Jason Morín, and Stephen Omar El-Khatib. 2018. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." *Race and Social Problems*. 10(4): 275-292.  
  
Featured in CityLab; The Guardian; Mother Jones; NPR
16. **Collingwood, Loren**, Benjamin Gonzalez O'Brien, and Sarah K. Dreier. 2018. "Evaluating Public Support for Legalized Marijuana: The Case of Washington." *International Journal of Drug Policy*. 56: 6-20.
15. **Collingwood, Loren**, McGuire, Will, Gonzalez O'Brien, Ben, Baird, Katie, and Hampson, Sarah. 2018. "Do Dropboxes Improve Voter Turnout? Evidence from King County, Washington." *Election Law Journal*. 17:1.  
  
Featured in Seattle Times; CBS News
14. **Collingwood, Loren**, Nazita Lajevardi, and Kassra Oskooii. 2018. "A Change of Heart? How Demonstrations Shifted Individual-Level Public Opinion on Trump's Muslim Ban." *Political Behavior*. 40(4): 1035-1072.  
  
Featured in VOX; ThinkProgress; LSE Blog; Al Jazeera; San Francisco Chronicle; NPR; Business Insider; Washington Post
13. **Collingwood, Loren**, Ashley Jochim, and Kassra Oskooii. 2018. "The Politics of Choice Reconsidered: Partisanship and Minority Politics in Washington's Charter School Initiative." *State Politics & Policy Quarterly* 18(1): 61-92.
12. Newman, Ben, Sono Shah, and **Loren Collingwood**. 2018. "Race, Place, and Building a Base: Ethnic Change, Perceived Threat, and the Nascent Trump Campaign for President." *Public Opinion Quarterly*. 82(1): 122-134.  
  
Featured in Pacific Standard; LSE Blog; Newsweek
11. Skulley, Carrie, Andrea Silva, Marcus J. Long, **Loren Collingwood**, and Ben Bishin, "Majority Rule vs. Minority Rights: Immigrant Representation Despite Public Opposition on the 1986 Immigration Reform and Control Act." 2018. *Politics of Groups and Identities*. 6(4): 593-611.
10. Alamillo, Rudy and **Loren Collingwood**. 2017. "Chameleon Politics: Social Identity and Racial Cross-Over Appeals." *Politics of Groups and Identities*. 5(4): 533-650.  
  
Featured in WaPo's Monkey Cage; NBC News; Los Angeles Times
9. **Collingwood, Loren**, Kassra Oskooii, Sergio Garcia-Rios, and Matt Barreto. 2016. "eiCompare: Comparing ecological inference estimates across EI and EI:RxC." *The R Journal*. 8(2): 92-101.  
  
Featured in Investigate West
8. Barreto, Matt, **Loren Collingwood**, Christopher Parker, and Francisco Pedraza. 2015. "Racial Attitudes and Race of Interviewer Item Non-Response." *Survey Practice*. 8:5.

7. Barreto, Matt and **Loren Collingwood**. 2015. "Group-based Appeals and the Latino Vote in 2012: How Immigration Became a Mobilizing Issue." *Electoral Studies*. 40:490-499.

Featured in Latino Decisions blog

6. **Collingwood, Loren**, Matt Barreto, and Sergio Garcia-Rios. 2014. "Revisiting Latino Voting: Cross-Racial Mobilization in the 2012 Election." *Political Research Quarterly*. 67(3): 632-645.

Featured in LSE Blog

5. Jurka, Tim, **Loren Collingwood**, Amber Boydston, Emiliano Grossman, and Wouter van Atteveldt. 2013. "RTextTools: A Supervised Learning Package for Text Classification in R" *The R Journal*. 5(1).
4. **Collingwood, Loren**. 2012. "Education Levels and Support for Direct Democracy." *American Politics Research*, 40(4): 571-602.
3. **Collingwood, Loren** and John Wilkerson. 2012. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods." *Journal of Information Technology and Politics*, 9(3).
2. **Collingwood, Loren**, Matt Barreto and Todd Donovan. 2012. "Early Primaries, Viability, and Changing Preferences for Presidential Candidates." *Presidential Studies Quarterly*, 42(2).
1. Barreto, Matt, **Loren Collingwood**, and Sylvia Manzano. 2010. "A New Measure of Group Influence in Presidential Elections: Assessing Latino Influence in 2008." *Political Research Quarterly*. 63(4).

Featured in Latino Decisions blog

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## Book Chapters

11. **Collingwood, Loren**, Stephanie DeMora , and Sean Long. "Demographic Change, White Decline, and the Changing Nature of Racial Politics in Election Campaigns." In *Cambridge Handbook in Political Psychology*. Edited by Danny Osborne and Chris Sibley. [Forthcoming].
10. Morín, Jason L. and **Loren Collingwood**. "Contractor Politics: How Political Events Influence Private Prison Company Stock Shares in the Pre and Post Trump Era." In *Anti-immigrant Rhetoric, Actions, and Policies during the Trump Era (2017-2019)*. [Forthcoming]
9. Parker, Christopher S., Christopher C. Towler, **Loren Collingwood**, and Kassra Oskooii. 2020. "Race and Racism in Campaigns." In *Oxford Encyclopedia of Persuasion in Political Campaigns*. Edited by Elizabeth Suhay, Bernard Grofman, and Alexander H. Trechsel. DOI: 10.1093/oxfordhb/9780190860806.013.38
8. **Collingwood, Loren**, and DeMora, Stephanie. 2019. "Latinos and Obama." In Jessica Lavariega Monforti (ed.) *Latinos in the American Political System: An Encyclopedia of Latinos as Voters, Candidates, and Office Holders*.
7. DeMora, Stephanie, and **Collingwood, Loren**. 2019. "George P. Bush." In Jessica Lavariega Monforti (ed.) *Latinos in the American Political System: An Encyclopedia of Latinos as Voters, Candidates, and Office Holders*.

6. El-Khatib, Stephen Omar, and **Collingwood, Loren**. 2019. "Ted Cruz." In Jessica Lavariega Monforti (ed.) *Latinos in the American Political System: An Encyclopedia of Latinos as Voters, Candidates, and Office Holders*.
  5. **Collingwood, Loren**, Sylvia Manzano and Ali Valenzuela. 2014. "November 2008: The Latino vote in Obama's general election landslide." In *Latino America: How America's Most Dynamic Population Is Poised to Transform the Politics of the Nation*. By Matt Barreto and Gary Segura. New York: Public Affairs Press. (co-authored chapter with Matt Barreto and Gary Segura)
  4. **Collingwood, Loren**, Justin Gross and Francisco Pedraza. 2014. "A 'decisive voting bloc' in 2012." In *Latino America: How America's Most Dynamic Population Is Poised to Transform the Politics of the Nation*. By Matt Barreto and Gary Segura. New York: Public Affairs Press. (co-authored chapter with Matt Barreto and Gary Segura)
  3. Barreto, Matt, **Loren Collingwood**, Ben Gonzalez, and Chris Parker. 2011. "Tea Party Politics in a Blue State: Dino Rossi and the 2010 Washington Senate Election." In William Miller and Jeremy Walling (eds.) *Stuck in the Middle to Lose: Tea Party Effects on 2010 U.S. Senate Elections*. Rowan and Littlefield Publishing Group.
  2. **Collingwood, Loren** and Justin Reedy. "Criticisms of Deliberative Democracy." In Nabatchi, Tina, Michael Weiksner, John Gastil, and Matt Leighninger, eds., *Democracy in motion: Evaluating the practice and impact of deliberative civic engagement*. New York: Oxford University Press, 2010.
  1. **Collingwood, Loren**. "Initiatives." In Haider-Markel, Donald P., and Michael A. Card. *Political Encyclopedia of U.S. States and Regions*. Washington, DC: CQ Press, 2009.
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## Software

R package: **RTextTools**. This package uses supervised learning methods to automate text classification. Coauthors include Jurka, Boydston, Grossman, and van Atteveldt. Available on CRAN.

R package: **eiCompare**. This package compares outcomes between ecological inference (EI) estimates and EI:Rows by Columns (RxC) estimates. Primary purpose is employed in racially polarized voting analysis. Development Version available here: [eiCompare](#) or on CRAN. Coauthors include Barreto, Oskooii, Garcia-Rios, Burke, Decter-Frain, Murayama, Sachdeva, Henderson, Wood, and Gross.

R package: **Rvoterdistance**. Calculates distance between voters and multiple polling locations and/or ballot drop boxes. Ports C++ code for high speed efficiency. Available on CRAN.

R package: **Rweights**. Creates survey weights via iterative variable raking. Survey design object and weights vector are produced for use with R, Stata, and other programs. Currently in alpha form with unix tarball available here: [Rweights](#).

R package: **Rmturkcheck**. Functions for cleaning and analyzing two-wave MTurk (or other) panel studies. Available: [Rmturkcheck](#)

R package: **RCopyFind**. Functions for extracting data frames then plotting results from WCopyFind plagiarism text program. Co-authored with and Maintained by Steph DeMora. Available: [RCopyFind](#)

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## Under Review / Working Papers

Barreto, Matt, Michael Cohen, **Loren Collingwood**, Chad Dunn, and Sonni Waknin. "Using Bayesian Improved Surname Geocoding (BISG) to Assess Racially Polarized Voting in Voting Rights Act Challenges." [Revise & Resubmit]

Decter-Frain, Ari, Pratik Sachdeva, **Loren Collingwood**, Juandalyn Burke, Hikari Murayama, Matt Barreto, Scott Henderson, Spencer Wood, and Joshua Zingher. "Comparing BISG to CVAP Estimates in Racially Polarized Voting Analyses." [Revise & Resubmit]

Hickel Jr., Flavio R., Kassra A.R. Oskooii, and **Loren Collingwood**. "Social Mobility Through Immigrant Resentment: Explaining Latinx Support for Restrictive Immigration Policies and Anti-Immigrant Candidates." [Revise & Resubmit]

**Collingwood, Loren**, Jason Morín, and Edward Vargas. "Protesting Detention: How Protests Activated Group Empathy and Party ID to Shift Attitudes on Child Detention." [Working Paper]

Paarlberg, Michael A. and **Loren Collingwood**. "Fact or Fiction: Testing the link between local immigration policy and the MS-13 'Threat'." [Working Paper]

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## Awards, Grants, and Fellowships

Matt Barreto and Loren Collingwood. Detection of Vote Dilution: New tools and methods for protecting voting rights. Data Science for Social Good project selection, University of Washington. 2020

Loren Collingwood. Measuring Cross-Racial Voter Preferences. UCR Faculty Senate. \$3,500. 2019.

Francisco Pedraza and Loren Collingwood. Evaluating AltaMed's 2018 GOTV Efforts in Los Angeles. \$12,000. 2018-2019.

Allan Colbern, Loren Collingwood, Marcel Roman. A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement. Center for American Progress. \$7,100. 2018.

Karthick Ramakrishnan, Mindy Romero, Loren Collingwood, Francisco Pedraza, Evaluating California's Voter's Choice Act. Irvine Foundation. \$150,000, 2018-2019.

William McGuire, Loren Collingwood, Ben Gonzalez O'Brien, and Katie Baird, "Evaluating the Impact of Drop Boxes and Get-Out-The-Vote Advertising on Voter Turnout in Pierce County, WA." MIT Election Data and Science Lab, \$16,365, 2017

Justin Freebourn and Loren Collingwood, Blum Initiative \$4,000, 2017

Hellman Fellowship Grant, UC Riverside, \$30,000, 2014-2015

Best Dissertation Award, 2013 Western Political Science Association

UC Riverside Harrison & Ethel Silver Fund, \$2,000, 2013

Best Graduate Student Paper Award State Politics section, 2012 American Political Science Association

Texas A&M Experimental Methods Winter Institute, \$800, January, 2011

UseR! 2011 Conference travel grant, \$1000, August, 2011

Center for Statistics and the Social Sciences travel grant, \$870, January, 2011

David J. Olson Research Grant, University of Washington Political Science, \$2,000, January, 2011

Warren Miller Scholarship Award, Inter-University Consortium for Political and Social Research, Summer 2009

Matthews Fellowship, University of Washington, Winter 2008 - Spring 2009

Brennan Center for Justice, New York University [with Matt Barreto]

Indiana Voter Identification Study, \$40,000 – Oct. 2007, 6 months

## Teaching Experience

POSC 10 (American Politics); POSC 146 (Mass Media & Public Opinion); POSC 171 (State Politics); POSC 104S (Race and Ethnic Politics Special Topics); POSC 108 (Race and Ethnic Politics)

POLS 300: Immigration Politics with Focus on Latino Politics

POLS 300: The Voting Rights Act: Causes and Effects

POSC 202A: Introduction to Quantitative Methods (Graduate)

POSC 207: Statistical Programming and Data Science for the Social Sciences (Graduate)

POSC 207: Quantitative Text Analysis (Graduate)

POSC 220: Graduate Seminar in Race and Ethnic Politics in the U.S.

POSC 256: Graduate Seminar in Public Opinion

POSC 253: Graduate Seminar in Electoral Politics

Text Classification with R using the `RTextTools` package, UNC-Chapel Hill Workshop

Text Analysis with Political Data, Claremont Graduate School, 2019

CSSS Intermediate R Workshop 2011, Instructor (Summer)

POLS 501: Advanced Research Design and Analysis, Teaching Assistant (2 quarters)

ICPSR Summer Course: Methodological Issues in Quantitative Research on Race and Ethnicity, Teaching Assistant

POLS 202: Introduction to American Politics, Teaching Assistant

CSSS Math Camp 2011, Teaching Assistant

POLS 499D: Center for American Politics and Public Policy Undergraduate Honors Seminar (2 quarters)

## Professional Service

Co-editor, *Politics of Groups and Identities*, 2020-2021

Reviewer, Political Behavior, Journal of Information Technology and Politics, American Politics Research, Social Sciences Quarterly, Journal of Politics, Politics of Groups and Identities, American Journal of Political Science, Political Research Quarterly, State Politics and Public Policy, American Political Science Review, British Journal of Political Science, Journal of Race and Ethnic Politics, Urban Studies, Urban Affairs Review; many other journals

## Conference Papers and Presentations

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk California Lutheran University. (October 2020).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk California State University, Chico. (March 2020).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk Humboldt State University. (March 2020).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk Oregon State University. (February 2020).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of San Diego. (November 2019).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk University of Massachusetts. (January 2020).

Collingwood, Loren. "Campaigning in a Racially Diversifying America: Whether and How Cross-Racial Electoral Mobilization Works." Invited Talk University of New Mexico. (December 2019).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk California State University, Northridge, Los Angeles. (November 2019).

Collingwood, Loren and Benjamin Gonzalez O'Brien. "Sanctuary Cities: The Politics of Refuge." Invited Talk Occidental College, Los Angeles. (November 2019).

Collingwood, Loren (with Sean Long). "Can States Promote Minority Representation? Assessing the Effects of the California Voting Rights Act." UC Irvine Critical Observations on Race and Ethnicity Conference. (November 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Geneva, Switzerland. (November 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Bern, Switzerland. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk ETH Zurich, Switzerland. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk London School of Economics, U.K. (October 2019).

Collingwood, Loren. "Sanctuary Cities: The Politics of Refuge." Invited Talk University of Leeds, U.K. (October 2019).

Valenzuela, Ali, Kassra Oskooi, and Loren Collingwood. "Threat or Reassurance? Framing Midterms Results among Latinos and Whites." American Political Science Association, Washington, DC. (August 2019).

Paarlberg, Michael A. and Loren Collingwood. "Much Ado about Nothing: Local Immigration Policy and the MS-13 'Threat' ." American Political Science Association, Washington, DC. (August 2019).

Collingwood, Loren. "A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement." International Center for Local Democracy (ICLD) Conference on Local Democracy. Umea, Sweden (June 2019).

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk University of California, Irvine (May 2019).

Collingwood, Loren. "Text Analysis with R." Invited talk and presentation. Claremont Graduate University (May 2019)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." PRIEC UC Davis (May 2019).

Collingwood, Loren. "Data Analysis with R." Invited presentation and training Cal Poly Pomona (May 2019)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk Northern Arizona University (May 2019)

Collingwood, Loren (with Jason Morin). "Contractor Politics: How Political Events Influence Private Prison Company Stock Shares in the Pre and Post Trump Era." Invited Talk Universidad Nacional Autonoma de Mexico, Distrito Federal, Mexico (February 2019).

Roman, Marcel, Allan Colbern, and Loren Collingwood. "A Mess in Texas: The Deleterious Effects of SB4 on Public Trust in Law Enforcement." PRIEC Consortium. University of Houston (December 2018)

Collingwood, Loren. "The #FamiliesBelongTogether Outcry: How Protests Shifted Attitudes on Immigrant Family Separation and Child Detention." Invited Talk University of Illinois Chicago (November 2018)

Collingwood, Loren. "Ongoing Research in Sanctuary Cities and Immigration Politics." Invited Talk University of Pennsylvania Perry World House (November 2018)

Collingwood, Loren. "Unfair Detention: How Protests Activated Racial Group Empathy to Shift Attitudes on Child Detention." Invited Talk Rutgers University (October 2018)

Collingwood, Loren. "Unfair Detention: How Protests Activated Racial Group Empathy to Shift Attitudes on Child Detention." UCR Alumni Research Presentation Washington and Philadelphia (October 2018)

Collingwood, Loren, Jason Morin. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." Invited Talk UCLA (October 2018).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "Opinion Shift and Stability: Enduring Opposition to Trump's "Muslim Ban". APSA (September 2018).

Collingwood, Loren, Jason Morin, and Stephen Omar El-Khatib. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." American Political Science Association Conference (August 2018).

Collingwood, Loren, Sergio Garcia-Rios, and Hannah Walker. "The Impact of Exposure to Police Brutality on Political Attitudes Among Black and White Americans." Cooperative Comparative Post-Election Survey (CMPS) Conference. (August, 2018).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "Opinion Shift and Stability: Enduring Opposition to Trump's "Muslim Ban". Politics of Race Immigration and Ethnicity Consortium (August 2018).

Collingwood, Loren, Jason Morin, and Stephen Omar El-Khatib. "Expanding Carceral Markets: Detention Facilities, ICE Contracts, and the Financial Interests of Punitive Immigration Policy." Politics of Race Immigration and Ethnicity Consortium, Michigan State University (April 2018)

Collingwood, Loren, Benjamin Gonzalez O'Brien, and Joe Tafoya. "Partisan Learning or Racial Learning: Opinion Change on Sanctuary City Policy Preferences in California and Texas." Midwest Political Science Association Conference (April 2018).

El-Khatib, Stephen Omar and Loren Collingwood. "State Policy Responses to Sanctuary Cities: Explaining the Rise of Sanctuary City Legislative Proposals." Midwest Political Science Association Conference (April 2018).

Hannah Walker, Loren Collingwood, and Tehama Lopez Bunyasi. "Under the Gun: Black Responsiveness and White Ambivalence to Racialized Black Death." Midwest Political Science Association Conference (April 2018).

Hannah Walker, Loren Collingwood, and Tehama Lopez Bunyasi. "Under the Gun: Black Responsiveness and White Ambivalence to Racialized Black Death." Western Political Science Association Conference (April 2018).

DeMora, Stephanie, Adriana Ninci, and Loren Collingwood. "Shoot First in ALEC's Castle: The Diffusion of Stand Your Ground Laws." Politics of Race Immigration and Ethnicity Consortium, ASU (February 2018).

El-Khatib, Stephen Omar and Loren Collingwood. "State Policy Responses to Sanctuary Cities: Explaining the Rise of Sanctuary City Legislative Proposals." Politics of Race Immigration and Ethnicity Consortium, UCR (September 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." APSA (September 2017).

Collingwood, Loren, McGuire, Will, Gonzalez O'Brien Ben, Hampson, Sarah, and Baird, Katie. "Do Dropboxes Improve Voter Turnout? Evidence from King County, Washington." APSA (September 2017).

Collingwood, Loren, Reny, Tyler, Valenzuela, Ali. "Flipping for Trump: In 2016, Immigration and Not Economic Anxiety Explains White Working Class Vote Switching." UCLA (May 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." UCLA (May 2017).

Collingwood, Loren, Nazita Lajevardi, and Kassra Oskooii. "A Change of Heart? How Protests Shifted Individual-Level Public Opinion on Trump's Muslim Ban." Politics of Race Immigration and Ethnicity Consortium, UCSB (May 2017).

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." Vancouver, Western Political Science Association Conference (April. 2017).

Collingwood, Loren, McGuire, Will, Gonzalez-O'Brien Ben, Hampson, Sarah, and Baird, Katie. "Do Dropboxes Improve Voter Turnout? Evidence from King County, Washington." WPSA (April 2017).

Gonzalez-O'Brien, Benjamin, Loren Collingwood, and Stephen El-Khatib. "Gimme Shelter: The Myth and Reality of the American Sanctuary City". Vancouver, Western Political Science Association Conference WPSA (April 2017).

Rush, Tye, Pedraza, Francisco, Collingwood, Loren. "Relieving the Conscience: White Guilt and Candidate Evaluation." Politics of Race Immigration and Ethnicity Consortium, UCI (March 2017).

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." Philadelphia, American Political Science Association Conference (Sept. 2016)

Barreto, Matt, Loren Collingwood, Sergio Garcia-Rios, and Kassra Oskooii. "Estimating Candidate Support: Comparing EI & EI-RxC." Chicago, Midwest Political Science Association Conference (April 2016)

Bishin, Benjamin, Loren Collingwood, and Erinn Lauterbach. "Cross-Racial Mobilization in a Rapidly Diversifying Polity: Latino Candidates and Anglo Voters" Chicago, Midwest Political Science Association Conference (April 2016)

Gonzalez-O'Brien, Benjamin, Loren Collingwood, and Stephen El-Khatib. "Gimme Shelter: The Myth and Reality of the American Sanctuary City". San Diego, Western Political Science Association Conference (April 2016)

Collingwood, Loren and Antoine Yoshinaka. The new carpetbaggers? Analyzing the effects of migration on Southern politics. The Citadel Conference on Southern Politics, Charleston, SC (Mar 2016)

Alamillo, Rudy and Loren Collingwood. Chameleon Politics: Social Identity and Racial Cross-Over Appeals. American Political Science Association Conference, San Francisco (Sept 2015)

Reny, Tyler, Ali Valenzuela, and Loren Collingwood. "Public Reactions to Anti-Latino Appeals in the Age of Obama: Race, Illegality and Changing Norms." San Francisco, American Political Science Association Conference (Sept 2015)

Alamillo, Rudy and Loren Collingwood. Chameleon Politics: Social Identity and Racial Cross-Over Appeals. Western Political Science Association Conference, Las Vegas (April 2015)

Barreto, Matt and Loren Collingwood. Confirming Electoral Change: The 2012 U.S. Presidential Election OSU Conference (October, 2013). "Earning and Learning the Latino Vote in 2008 and 2012: How the Obama Campaign Tried, Refined, Learned, and Made Big Steps in Cross-Racial Mobilization to Latinos.

Collingwood, Loren and Ashley Jochim. 2012 Midwest Political Science Association Annual Conference (April) Chicago, IL. "Electoral Competition and Latino Representation: The Partisan Politics of Immigration Policy in the 104th Congress."

Collingwood, Loren. 2012 Western Political Science Association Annual Conference (March) Portland, OR. "The Development and Use of Cross-Racial Mobilization as Campaign Strategy in U.S. Elections: The Case of Texas 1948-2010."

Collingwood, Loren. 2012 Institute for Pragmatic Practice Annual Conference (March) Seattle, WA. "Changing Demographics, Rural Electorates, and the Future of American Politics."

Collingwood, Loren. 2012 Politics of Race, Immigration, and Ethnicity Consortium (January) Riverside, CA. "The Development of Cross-Racial Mobilization: The Case of Texas 1948-2010."

Collingwood, Loren. 2011 American Political Science Association Annual Conference (September) Seattle, WA. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization."

Forman, Adam and Loren Collingwood. 2011 American Political Science Association Annual Conference (September) Seattle, WA. "Measuring Power via Presidential Phone Records." (Poster)

Collingwood, Loren with (Tim Jurka, Wouter Van Atteveldt, Amber Boydston, and Emiliano Grossman). UseR! 2011 Conference. (August) Coventry, United Kingdom. "RTextTools: A Supervised Learning Package for Text Classification in R."

Jurka, Tim, Loren Collingwood, Wouter Van Atteveldt, Amber Boydston, and Emiliano Grossman. 2011 Comparative Agendas Project Conference. (June) Catania, Italy. "RTextTools: A Supervised Learning Package for Text Classification in R."

Collingwood, Loren and John Wilkerson. 2011 Journal of Information Technology & Politics Conference. (May) Seattle, WA. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren. 2011 Politics of Race, Immigration, and Ethnicity Consortium (May) Davis, CA. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization"

Collingwood, Loren. 2011 Western Political Science Conference (April) San Antonio, TX. "Race-Matching as Targeted Mobilization."

Collingwood, Loren. 2011 Western Political Science Conference (April) San Antonio, TX. "The Pursuit of Victory and Incorporation: Elite Strategy, Group Pressure, and Cross Racial Mobilization"

Collingwood, Loren (with John Wilkerson). Invited Talk: Texas A&M University. (April, 2011) "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren (with John Wilkerson). Invited Talk: Rice University. (April, 2011) "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren. 2011 Midwest Political Science Association Annual Conference (April) Chicago, IL. "Race-Matching as Targeted Mobilization."

Collingwood, Loren and John Wilkerson. 2011 Text as Data Conference. (March) Evanston, IL. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."



Collingwood, Loren and John Wilkerson. 2011 Southern Political Science Conference. (January) New Orleans, LA. "Tradeoffs in Accuracy and Efficiency in Supervised Learning Methods."

Collingwood, Loren (with Ben Gonzalez). 2010 American Political Science Association Annual Conference. (September) Washington, DC. "The Political Process in Florida: Modeling African American Registration Rates Post *Smith v. Allwright*, 1944-1964."

Wilkerson, John, Steve Purpura, and Loren Collingwood. 2010 NSF Funded Tools for Text Workshop. (June) Seattle, WA. "Rtexttools: A Supervised Machine Learning Package in an R-Wrapper."

Collingwood, Loren and Marcela Garcia-Castanon. 2010 Western Political Science Association Annual Conference. (April) San Francisco, CA. "Negativity as a Tool: candidate poll standing and attack politics."

Collingwood, Loren. 2010 Politics of Race, Immigration, and Ethnicity Consortium. (January) Riverside, CA. "White Outreach: A spatial approach to modeling black incorporation in Florida post *Smith v. Allwright*, 1944-1965."

Collingwood, Loren. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Levels of Education, Political Knowledge and Support for Direct Democracy."

Collingwood, Loren. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "The Negativity Effect: Psychological underpinnings of advertising recall in modern political campaigns."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Negativity as a Tool: predicting negative responses and their effectiveness in the 2008 campaign season."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Western Political Science Association Annual Conference. (March) Vancouver, BC. "Switching codes: analyzing Obama's strategy for addressing Latinos in the 2008 presidential campaign."

Collingwood, Loren, (with Matt Barreto and Sylvia Manzano) 2009 Shambaugh Conference. (March) University of Iowa, IA. "More than one way to shuck a tamale: Latino influence in the 2008 general election."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Switching codes: analyzing Obama's strategy for addressing Latinos in the 2008 presidential campaign."

Collingwood, Loren and Marcela Garcia-Castanon. 2009 Pacific Northwest Political Science Conference. (October) Victoria, BC. "Negativity as a Tool: predicting negative responses and their effectiveness in the 2008 campaign season."

Collingwood, Loren and Francisco Pedraza (with Matt Barreto and Chris Parker). 2009 Center for Statistics and the Social Sciences 10th Anniversary Conference. (May) Seattle, WA. "Race of interviewer effects: perceived versus actual."

Collingwood, Loren (with Matt Barreto, Chris Parker, and Francisco Pedraza). 2009 Pacific Northwest Political Science Conference. (October) Victoria, BC. "Race of interviewer effects: perceived versus actual."

Barreto, Matt, Loren Collingwood and Todd Donovan. 2008 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Early Presidential Primaries, Viability, and Vote Switching in 2008."



Collingwood, Loren. 2008 Midwest Political Science Association Annual Conference. (April) Chicago, IL. "Levels of Education and Support for Direct Democracy: A Survey Experiment."

Collingwood, Loren. 2008 American Political Science Association Annual Conference. (September) Boston, MA. "Levels of Education and Support for Direct Democracy: A Survey Experiment." (Poster)

Collingwood, Loren. 2008 American Political Science Association Annual Conference. (September) Boston, MA. "Response Effects in Multi-Candidate Primary Vote Questions." (Poster)

## Computer Skills

R, Stata, Python, WinBugs/JAGS, L<sup>A</sup>T<sub>E</sub>X, SPSS, MySQL, Access, ArcGIS, Some C++ when interacting with R.

## Reports

Collingwood, Loren. (2008). *The Washington Poll: pre-election analysis*. [www.washingtonpoll.org](http://www.washingtonpoll.org).

Collingwood, Loren. (2008). *Democratic underperformance in the 2004 gubernatorial election: explaining 2004 voting patterns with an eye towards 2008*. [www.washingtonpoll.org](http://www.washingtonpoll.org).

Barreto, Matt, Loren Collingwood, Francisco Pedraza, and Barry Pump. (2009). *Online voter registration in Washington State and Arizona*. Commissioned by Pew Research Center.

Collingwood, Loren, Todd Donovan, and Matt Barreto. (2009). *An assessment of ranked choice voting in Pierce County, WA*.

Collingwood, Loren. (2009). *An assessment of the fiscal impact of ranked choice voting in Pierce County, WA*. Commissioned by the League of Women Voters.

Barreto, Matt, and Loren Collingwood. (2009). *Latino candidates and racial block voting in primary and judicial elections: An analysis of voting in Los Angeles County board districts*. Commissioned by the Los Angeles County Chicano Employees Association.

Barreto, Matt, and Loren Collingwood. (2011). *A Review of Racially Polarized Voting For and Against Latino Candidates in Los Angeles County 1994-2010*. Commissioned by Los Angeles County Supervisor Gloria Molina. August 4.

Collingwood, Loren. (2012). *Recent Political History of Washington State: A Political Map*. Commissioned by the Korean Consulate.

Collingwood, Loren. (2012). *Analysis of Polling on Marijuana Initiatives*. Commissioned by Greenberg Quinlan Rosner.

Collingwood, Loren, Sean Long, and Francisco Pedraza. (2019). *Evaluating AltaMed Voter Mobilization in Southern California, November 2018*. Commissioned by AltaMed.

## Relevant Work Experience

### *Collingwood Research, LLC*

Statistical Consulting and Analysis

January 2008 - Present

Conducted over 200 projects involving political research, polling, statistical modeling, redistricting analysis and mapping, data analysis, micro-targeting, and R software development for political and non-profit clients. Clients include: Greenberg Quinlan Rosner, Latino Decisions, Pacific Market Research, Beck Research, Squier Knapp Dunn Communications, Anzalone-Lizst Research, League of Women Voters, Shelia Smoot for Congress, pollster.com, Comparative Agendas Project, Amplified Strategies, Gerstein Bocian & Agne, Strategies 360, the Korean Consulate, the California Redistricting Commission, Monterey County Redistricting Commission, ClearPath Strategies, Los Angeles County Council, Demchak & Baller Legal, Arnold & Porter LLP, JPM Strategic Solutions, National Democratic Institute (NDI) – on site in Iraq, Latham & Watkins, New York ACLU, United States Department of Justice (Demography), Inland Empire Funder's Alliance (Demography), Perkins & Coie, Elias Law Group; Campaign Legal Center; Santa Clara County (RPV Analysis); Native American Rights Fund (NARF); West Contra Costa Unified School District (Demography); Lawyers' Committee for Civil Rights Under Law; LatinoJustice PRLDEF, Voces de Frontera; Roswell, NM Independent School District

## Expert Witness Work

Expert Witness: *LOWER BRULE SIOUX TRIBE v. LYMAN COUNTY*, 2022

Expert Witness: *Walen and Henderson v. Burgum and Jaeger No 1:22-cv-00031-PDW-CRH*, 2022

Expert Witness: *Faith Rivera, et al. v. Scott Schwab and Michael Abbott No. 2022-CV-000089*, 2022

Expert Witness: *LULAC Texas et al. v. John Scott et al (1:21-cv-0786-XR)*, 2022

Expert Witness: *Pendergrass v. Raffensperger (N.D. Ga. 2021)*,

Expert Witness: *Johnson, et al., v. WEC, et al., No. 2021AP1450-OA*, 2021

Expert Witness: *East St. Louis Branch NAACP vs. Illinois State Board of Elections*, 2021

Expert Witness: *LULAC of Iowa vs. Pate*, 2021-2022

Expert Witness: *United States Department of Justice vs. City of Hesperia*, 2021-2022

Expert Witness: *NAACP vs. East Ramapo Central School District*, New York, 2018-2019

Riverside County, Corona and Eastvale, 2015

Los Angeles County Redistricting Commission, 2011

Racially Polarized Voting analysis of Latino and Asian candidates in San Mateo County and alternative map creation, 2010-2011

State of California, Citizens Redistricting Commission, including Blythe, CA, in Riverside County, 2011

Monterey County, CA Redistricting, alternative map creation, 2011

Loren Collingwood

17

*Greenberg Quinlan Rosner*

Assistant Analyst, Anna Greenberg

June 2005 - May 2007

Assisted in the development of questionnaires, focus group guidelines, memos, and survey reports for political, non-profit, and corporate clients. Moderated in-depth interviews and focus groups.

*Greenberg Quinlan Rosner*

Field Associate

December 2003 - June 2005

Managed qualitative and quantitative data collection process in the U.S. and internationally. Provided methodological advice, including sample stratification, sampling Latino populations, and modal sampling strategies.

*Congressman Adam Schiff*

Database Manager

March 2003 - June 2003

Managed constituent mail and survey databases; updated and maintained Member's Congressional voting record.

*Strategic Consulting Group*

Field Organizer, Carol Roberts for Congress

July 2002 - November 2002

Recruited and coordinated over 100 volunteers for mailings, canvassing, phone banking, and GOTV operations. Developed internship program and managed 15 interns from local colleges and high schools.

*Institute for Policy Studies*

Intern, John Cavanagh

May 2001 - August 2001

Provided research assistance for projects advocating reform of the WTO, World Bank, and IMF. Worked on reports and op-ed pieces on global economic issues advocating fair trade.

# EXHIBIT C

RETRIEVED FROM DEMOCRACYDOCKET.COM

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

Page 1

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA  
3 ATLANTA DIVISION  
4

5 COAKLEY PENDERGRASS, ET AL., )  
6 PLAINTIFFS, ) CIVIL ACTION NO.  
7 v. ) 1:21-CV-05339-SCJ  
8 BRAD RAFFENSPERGER, ET AL., )  
9 DEFENDANTS. )  
-----

10  
11  
12  
13 DEPOSITION OF WILLIAM S. COOPER  
14 (TAKEN by DEFENDANTS)  
15 ATTENDING VIA ZOOM IN BRISTOL, VIRGINIA  
16 FEBRUARY 14, 2023  
17  
18  
19

20 REPORTED BY: Meredith R. Schramek  
21 Registered Professional Reporter  
22 Notary Public  
23 (Via Zoom in Mecklenburg County,  
24 North Carolina)  
25

1 expert report submitted on December 5th; is that right?

2 A Yes.

3 Q When you were drawing both the illustrative  
4 plan for the preliminary injunction hearing and the  
5 illustrative plan in your 12/5 report, it would be fair  
6 to say your goal was to add a majority black  
7 congressional district above the number drawn by the  
8 General Assembly; is that right?

9 A No, that was not my goal. My goal was to  
10 determine whether it was possible while, at the same  
11 time, to include traditional redistricting principles.

12 Q Did you attempt to draw more than one  
13 additional congressional map? I mean -- I'm sorry.  
14 Let me start that over again.

15 Did you attempt to draw more than one  
16 additional majority black district as part of your  
17 analysis of Georgia's congressional plan?

18 MS. KHANNA: I'm going to object to the  
19 extent that this calls for discussion of any draft  
20 reports or draft maps which are protected under the  
21 federal rules.

22 So, Bill, I'll instruct you not to answer to  
23 the extent it would discuss any of the draft reports or  
24 draft maps, but you can answer otherwise if you can.

25 THE WITNESS: Okay. Well, I did not attempt

1 to draw two additional majority black districts.

2 Does that answer the question?

3 BY MR. TYSON:

4 Q Yes, that does. Thank you.

5 Now, in preparing -- or I should ask this:

6 Do you know what principles the Georgia Legislature  
7 used for the drawing of its congressional plans?

8 A Well, I've seen a -- there's a document  
9 that's posted on the General Assembly's website that  
10 identifies the factors to take into consideration. I  
11 submit for both House, Senate, and congressional plans.

12 Q Did you rely on that document about the  
13 principles for drawing plans when creating your  
14 illustrative plans in this case?

15 A Yes. That document is pretty straightforward  
16 and typical guidelines that any state would issue.

17 Q So it's typical guidelines and guidelines  
18 that you relied on when preparing your illustrative  
19 plans?

20 A I believe so.

21 Q All right. So, Mr. Cooper, I know we had a  
22 discussion about terminology last week, but I just want  
23 to for the purposes of this deposition also just kind  
24 of make sure we're all clear in our definitions.

25 Do you use the term "majority black district"

1 in your drawing processes and reports?

2 A I do.

3 Q And what is your definition of a majority  
4 black district?

5 A Typically, it would be majority black voting  
6 age. In some circumstances, it might be majority black  
7 citizen voting age according to the 2020 census for  
8 majority black voting age.

9 And then if you're looking at citizen voting  
10 age, it would vary over time as the American Community  
11 Surveys results are released on an annual basis. So  
12 over the course of a decade, that number would  
13 change -- citizenship number.

14 Q And then would you distinguish a majority  
15 black district from a majority minority district?

16 A Yes, I would. A majority black district  
17 would be a district that is over 50 percent majority  
18 any part black. And a majority minority district would  
19 be a district that is over 50 percent nonwhite or not  
20 non-Hispanic white.

21 Q So a majority minority district may include a  
22 variety of different minority groups, but the total of  
23 the various minority groups would be over 50 percent?

24 A Yes.

25 Q Have you used the term "majority opportunity



1 conclusion.

2 BY MR. TYSON:

3 Q You can answer --

4 MS. KHANNA: You can answer.

5 THE WITNESS: Well, I mean, if the goal is to  
6 draw the maximum number possible, then it would  
7 certainly be high priority. When I draw plans, I'm  
8 always trying to balance traditional redistricting  
9 principles. So I would never have that as a goal  
10 unless it was just some sort of hypothetical example to  
11 show what could be drawn, perhaps even showing that  
12 well, it could be drawn, but it would violate  
13 traditional redistricting principles.

14 BY MR. TYSON:

15 Q So it's fair to say when you're drawing a  
16 map, you're taking into account a variety of different  
17 considerations at any given point; right?

18 A Absolutely. Yes.

19 Q Do you know, Mr. Cooper, currently how many  
20 black members of Congress are elected from Georgia?

21 A I believe that currently there are five.

22 Q All right. Well, let's turn to your report.  
23 Do you have a copy there in front of you? Or would it  
24 help you if I shared it on the screen?

25 A I do have a copy of my report. You may wish

1 you offering any other opinions in this case that are  
2 not contained in your report or do you plan to offer  
3 any opinions in this case that are not contained in  
4 your report?

5 A I do not plan to.

6 Q And to be clear, all the opinions you're  
7 offering in this case are contained in your  
8 December 5th report, Exhibit 1; right?

9 A As best I understand. I suppose I have  
10 the -- would have the option of filing some other  
11 declaration or something in response to something, but  
12 that's not my plan.

13 Q Thank you. So backtracking just a hair to  
14 paragraph Number 8, you were asked to determine whether  
15 the African-American population in Georgia was  
16 sufficiently large and geographically compact to allow  
17 for the creation of an additional majority black  
18 congressional district in the Atlanta metropolitan  
19 area; right?

20 A Correct.

21 Q And you determined the answer to that  
22 question was yes?

23 A Unquestionably, yes.

24 Q So can you just generally describe for me the  
25 methodology that you used to determine whether Gingles

1 Prong 1 is met on the congressional plan?

2 A Well, I rely on software called Maptitude for  
3 Redistricting which allows you look at a jurisdiction,  
4 whether it be a city or a state, and analyze the  
5 underlying demographics at the county level and then at  
6 the subcounty level.

7 And so I used the census data and my previous  
8 knowledge from the preliminary injunction hearing and  
9 the 2018 White v Kemp case and other local work I've  
10 been doing in Georgia, and that helped me know at the  
11 outset that there was a pretty good chance that one  
12 could draw an additional majority black district.

13 Of course, from the preliminary injunction --  
14 going into this latest declaration, I argue that to be  
15 a fact. Now I just made some minor changes. But other  
16 than that, it's similar to the plan I produced for the  
17 preliminary injunction.

18 Q So kind of breaking down that process, I know  
19 you said you have a lot of background knowledge about  
20 Georgia. And that includes racial demographics and  
21 where people live in Georgia; is that right?

22 A Yes. I've worked on a lot of local plans  
23 over the years and seen the population change over the  
24 years. So I don't live in Georgia, but it's not a  
25 foreign territory.

1 Q Okay. But on the illustrative plan that  
2 you've presented in this case, you've changed 8 of the  
3 14 districts from the enacted plan; right?

4 A Yes.

5 Q And looking at the districts that you did not  
6 change, Congressional District 2 currently elects a  
7 black democratic member of Congress; right?

8 A Correct.

9 Q And Congressional District 5 currently elects  
10 a black democratic member of Congress; right?

11 A Correct.

12 Q And Congressional District 7 currently elects  
13 a black democratic member of Congress; right?

14 A Correct.

15 Q And I believe we covered this a little  
16 earlier, but there are some changes between the plan in  
17 your 12/5 report and the report that you offered in the  
18 preliminary injunction hearing; right?

19 A Correct.

20 Q So let's look next to the demographic profile  
21 portion of your report. And maybe to make this a  
22 little bit easier, Mr. Cooper, did you present the same  
23 census information in this report, really from  
24 paragraph 13 through paragraph 37, that you presented  
25 in the Alpha Phi Alpha report minus the non-Metro

1           A     Yes. It didn't go to trial. I think I did  
2     file -- or filed a declaration and maybe it was -- I  
3     was deposed by you, I thought, at least.

4                     (Exhibit 3 Marked for Identification.)

5     BY MR. TYSON:

6           Q     And so I don't know if you have Exhibit 3 in  
7     front of you, but I can share my screen if not.

8                     Do you have your report in the Dwight case  
9     handy?

10          A     I do not.

11          Q     Okay. I'll just share my screen then, if  
12     that works.

13                     All right. Mr. Cooper, are you able to see  
14     my screen here?

15          A     Yes.

16          Q     And so just going down to page 2, we'll mark  
17     this as Exhibit 3, this will be the report from Dwight  
18     versus Kemp, and it's the declaration of William S.  
19     Cooper.

20                     Do you see that?

21          A     Yes.

22          Q     And do you recall offering the expert report  
23     in the Dwight case?

24          A     I do.

25          Q     Okay. And do you recall what area of the

1 state you analyzed in the Dwight case?

2 A Well, it was the -- this is the congressional  
3 plan. So I was looking at the whole state.

4 Q Okay. And so turning to Figure 8 -- I know  
5 this is a little difficult to see, but Figure 8 is  
6 titled "2010 Percent Black by County - 71-County Area  
7 Bounded by Green Lines."

8 Do you see that?

9 A Yes.

10 Q And do you see the 71-county area that starts  
11 roughly north of Augusta in Lincoln and Wilkes County,  
12 runs down to Macon, down south to Thomas and Brooks  
13 Counties, and then over along the coast and back up to  
14 the South Carolina border?

15 A Yes.

16 Q And that's the area you evaluated in the  
17 Dwight case; is that right?

18 A Correct.

19 Q And then turning to page 27 of that report,  
20 you created a majority black District 12 that joined  
21 African-American communities in Macon, Augusta, and  
22 Savannah in the Dwight case; right?

23 A Yes.

24 Q And in the Dwight case, you didn't look at  
25 Metro Atlanta. You looked at this 71-county area in

1 South Georgia; right?

2 A That is my recollection, that that litigation  
3 and that district was focused on that area.

4 Q And in this case, you didn't consider any  
5 other areas of the state for an additional majority  
6 black district besides Metro Atlanta as indicated in  
7 your report; right?

8 A Well, that's true. Remember, in the Dwight  
9 case, I was relying on 2010 census data. So even  
10 though I was aware that there had been significant  
11 black population growth based on census estimates in  
12 2018, I was still stuck using the 2010 data for Metro  
13 Atlanta.

14 Q And do you recall -- well, I guess do you  
15 recall reviewing the growth in black population in  
16 Metro Atlanta as part of the Dwight case? And I know  
17 that was a long time ago so that may not be something  
18 you remember.

19 MS. KHANNA: I'm also going to object to the  
20 extent that this calls for any draft analyses in that  
21 case.

22 I know we're going even farther back in your  
23 memory, but you can answer if you can. But be careful  
24 about disclosing anything about your draft reports or  
25 draft analyses.

1 10 minutes?

2 MS. KHANNA: Works for me.

3 (Off the record 11:44 a.m. to 11:52 a.m.)

4 (Exhibit 2 Marked for Identification.)

5 BY MR. TYSON:

6 Q All right. So, Mr. Cooper, as we get into  
7 your analysis of the 2021 plan, I did want to clarify  
8 one point. We're going to mark your preliminary  
9 injunction report as Exhibit 2 and the Dwight report as  
10 Exhibit 3 just so we're clear on kind of which exhibits  
11 go where in your deposition.

12 But what I want to do next is turn to the  
13 2021 plan analysis as part of Exhibit 1, your report in  
14 this case. And you point out in paragraph 40 that "The  
15 2021 plan reduces CD 6's BVAP from 14.6 percent under  
16 the 2012 benchmark plan."

17 Do you see that?

18 A Yes.

19 Q And you'd agree that Congressional District 6  
20 was electing a black candidate to Congress at that  
21 14.6 percent black voting age population number; right?

22 A Yes.

23 Q And then the 2021 plan, you say in that  
24 paragraph 40, lowered the black voting age population  
25 by not quite 5 points to 9.9 percent; is that right?



1       you've made Douglas County whole; is that right?

2           A       Yes.

3           Q       You've introduced a new split of Cobb by  
4       bringing District 3 into Cobb County on the 12/5 plan;  
5       right?

6           A       That is correct.

7           Q       It looks like you took part of East Cobb and  
8       put it into the 11th district on the 12/5 plan as  
9       compared to the PI plan; is that right?

10          A       Well, yes. Yes. I included a little bit  
11       less of Cobb County in the 12/5 plan or the  
12       illustrative plan attached to my December 2022  
13       declaration.

14                So I did not take the district as far north  
15       as Acworth, for example, which I did do in the  
16       preliminary injunction report. I know you had concerns  
17       about that so I took your concerns into account as I  
18       was drawing the illustrative plan in my December 2022  
19       declaration.

20          Q       And you also altered the split in Fayette  
21       County, it looks like, from Fayetteville over to the  
22       western side of the county; is that correct?

23          A       That is correct. To -- to meet one person,  
24       one vote, I had to include part of Fayette County in  
25       District 6 to meet one person, one vote in District 13

1 districts; right?

2 A Right. When I determine whether a plan  
3 complies with one person, one vote, you have to rely on  
4 total population.

5 Q And you'd agree that the highest AP black  
6 percentage of any district on the illustrative plan is  
7 53.59 percent in District 4; right?

8 A It looks like that is the case.

9 Q And not to get too far off track, but over on  
10 page 29, you have a Figure 14 that shows the voting age  
11 and black citizen voting age population numbers for the  
12 illustrative plan and the 2021 plan; right?

13 A Yes.

14 Q And as you've configured it, District 6 on  
15 the illustrative plan, if you were to use the  
16 non-Hispanic citizen voting age population is  
17 50.18 percent BCVAP; is that right?

18 A Non-Hispanic black. But it would be a little  
19 bit higher if you used the non-Hispanic DOJ for blacks  
20 in that figure.

21 Q And you'd agree that the illustrative plan  
22 District 13, the non-Hispanic black CVAP is actually  
23 below 50 percent -- I see it's above it on the DOJ  
24 number; is that right?

25 A That's correct.

1 Q And the illustrative plan as compared to the  
2 enacted plan lowers the black voting age population in  
3 District 14 by almost 10 points; right?

4 A In District 14?

5 Q Mm-hmm.

6 A Well, it's 9 points.

7 Q Okay. 9-point drop?

8 A Yes.

9 Q And District 10 is a little bit more than an  
10 8-point drop in the black voting age population from  
11 2021 to illustrative; right?

12 A A little bit more than what? Eight points?

13 Q Eight points.

14 A Yes.

15 Q Okay. So what I want to do next, Mr. Cooper,  
16 you have some exhibits, and I can either put them on  
17 the screen here, or if you have them handy. But I want  
18 to turn to Exhibit H-2, which is page 73 of the PDF and  
19 I'm happy to share the screen if that's easier for you,  
20 whatever you prefer.

21 A Do that. I think I have it, but I did not  
22 get -- I was unable to connect to a Dropbox account.

23 So bring it on up. Yeah.

24 Q So here, just for reference, this is Exhibit  
25 H-2 to Exhibit 1.

1 Do you see that?

2 A Yes.

3 Q And this is the illustrative plan that you've  
4 submitted for the 12/5 report; right?

5 A Yes.

6 Q And so just looking at a few of the districts  
7 that you changed at different points, you'd agree that  
8 District 11 as it's configured connects Bartow County  
9 here with North Fulton County; is that right?

10 A That is correct.

11 Q And is Bartow generally a rural county in  
12 Georgia?

13 A It is exurban. And if you get up further  
14 north near the Gordon County line, it's probably fairly  
15 rural.

16 Q How about the portion of North Fulton in  
17 District 11? Would you consider that a rural area in  
18 the state?

19 A It's more urban.

20 Q And so District 11 unites some rural areas in  
21 Bartow County with more urban areas in North Fulton  
22 County? Is that fair?

23 A That's fair. But one could draw it  
24 differently and put more of Bartow County in  
25 District 14 and shift District 11 into Cherokee

1 perhaps.

2 Q But you haven't drawn that for this  
3 illustrative plan; right?

4 A This is just an example. And so there would  
5 be other ways to configure it, for sure.

6 Q And you'd agree, we looked earlier, there's a  
7 small split geographically into Cobb County in  
8 District 3; is that right?

9 A Yes.

10 Q And District 3 also includes Columbus,  
11 Georgia, and Muscogee County, doesn't it?

12 A It does.

13 Q And it includes rural areas around Pike,  
14 Lamar, Upson, and Meriwether Counties?

15 A Yes.

16 Q So can you identify for me in your  
17 illustrative District 3 what community of interest  
18 unites Columbus, Georgia, with part of Metro Atlanta  
19 and West Cobb County?

20 A I want to look on a map here. You split --  
21 the General Assembly split Cobb County into four  
22 pieces, and I'm just trying to refresh my memory as to  
23 whether -- here, it's apparent that the same general  
24 area where I included part of Congressional District 3  
25 is placed in even more, a larger area, is placed in

1 into Columbus?

2 A Well, the 2021 plan goes as far north as the  
3 Douglas County line. And then when you get to Paulding  
4 County, it becomes part of District 14. So Paulding is  
5 exurban, part of Metro Atlanta. And so I have included  
6 Paulding County and a bit of Cobb County, which is a  
7 good fit because Paulding is clearly a growing county  
8 that is closely linked with the Metro Atlanta area, and  
9 it may not be as closely related to Columbus. But at  
10 some point, one does have to join areas that are not  
11 necessarily next-door neighbors just to find 765,000  
12 people.

13 I don't think it would in any way be an issue  
14 overall.

15 Q So am I hearing you correctly, then, that you  
16 can't identify a specific community beyond the  
17 connection between Paulding and Cobb Counties but that  
18 at some point, one person, one vote means you have to  
19 reach the right number of people? Is that right?

20 A Well, that is a factor, but I don't think  
21 that Columbus is so different that it is problematic to  
22 include that part of western Georgia with Metro  
23 Atlanta, western part, along Paulding and Carroll  
24 County lines there.

25 Q Do you think that's also true of the enacted

1 District 14, which combines West Cobb and Paulding with  
2 areas running north?

3 A It's less of a problem, I think. Because  
4 really, once you -- once you include South Cobb County  
5 into District 14, you're in effect adding in Cobb  
6 County -- you're placing Cobb County not only into a  
7 district that includes the suburbs of Chattanooga, but  
8 also into a district that is part of Appalachia. And  
9 so it's quite different.

10 I think the distinction there is probably  
11 greater than would be the distinction between Cobb  
12 County and the Columbus area. Although Cobb County  
13 does have a high mountain; right? Kennesaw Mountain is  
14 a thousand feet or something like that. I'm only being  
15 halfway facetious. It's not quite as mountainous as  
16 some parts of existing District 14.

17 Q So just so I understand, existing District 14  
18 takes in part of western Cobb County in the south part  
19 of the county. Illustrative District 3 takes in part  
20 of western Cobb County not quite as far south. Both  
21 unite that western part of Cobb County with more rural  
22 areas and other metropolitan areas.

23 What is the distinction between those two  
24 decisions of how to split Cobb County that you see?

25 A Well, I sort of tried to make that

1 explanation, that there is a closer tie to Metro  
2 Atlanta and the counties that are just outside of Metro  
3 Atlanta, like Harris and Troup than would be the case  
4 of, say, Union and Fannin in the far north.

5 Q And what is -- how are you assessing the  
6 connection with Fannin and Union towards metro with  
7 Heard and Troup and I'm assuming down to Columbus with  
8 Metro Atlanta?

9 A Well, that's how I've drawn this plan. There  
10 may be other ways to do it, but I was trying to keep  
11 District 2 intact and not change it. So this was the  
12 result.

13 And if it is a problem, then one could split  
14 Douglas County as the existing plan does, I believe,  
15 and then eliminate the need to put any part of  
16 District 3 in Cobb County. There would be other ways  
17 to draw it if that's truly a big issue.

18 Q So I guess I just want to make sure I  
19 understand.

20 For the community of interest in illustrative  
21 District 3, the community of interest that you identify  
22 is that there is a closer connection between the  
23 portion of West Cobb and Paulding that is included in  
24 District 3 in the illustrative plan and Heard and Troup  
25 Counties versus counties in North Georgia.



1 Do I have that right?

2 A The lay of the land is closer, yeah.

3 Q Okay. Are there any other communities of  
4 interest you can identify connecting that portion of  
5 western Cobb County to Columbus and Pike, Upson, and  
6 Lamar Counties?

7 A It's a part of Metro Atlanta. So Paulding is  
8 suburban, exurban. Obviously, that part of Cobb County  
9 is largely suburban. And the counties to the south are  
10 certainly part of Metro Atlanta. So I'm not sure what  
11 the issue is.

12 But if there is an issue, there would be  
13 work-arounds by just keeping District 6 roughly as it  
14 is and maybe changing District 11. I mean, they're  
15 just -- as I've drawn it in the illustrative plan. So  
16 there would be other options.

17 Q Okay. But to be clear, you haven't drawn  
18 those other options; you just believe they could be  
19 drawn?

20 A I mean, there's no question they could be  
21 drawn. You could just change District 11 which, in  
22 turn, would change District 3 in some fashion. So  
23 there is a ripple effect. But one could do that.

24 I believe, I could be mistaken, but I think  
25 the total population that would be affected by this

1 Hancock and other counties, Taliaferro in eastern  
2 Georgia being part of a new majority black state senate  
3 district that you created in one of the other cases;  
4 right?

5 A We have discussed that in the other case.

6 Q So can you tell me what the community of  
7 interest is between majority black Hancock County and  
8 the Appalachian Mountains and Rabun and Towns County on  
9 the North Carolina border?

10 A Well, again, the connection is not very  
11 strong, but one has to balance out the populations so  
12 that you have 14 districts that are roughly 765,000  
13 people. So, again, there would be other ways to draw  
14 it.

15 Q So, Mr. Cooper, when you talked about, in  
16 paragraph 48, the illustrative plan adhering to  
17 traditional principles and you listed the various  
18 principles, it sounds like what you're saying is  
19 population equality is really the most important  
20 principle even more so than being able to explain where  
21 there's communities of interest between different parts  
22 of districts.

23 Do I have that right?

24 A Well, actually I think you do. It's a  
25 nonstarter. If it doesn't meet population equality or

1 something very close to plus or minus one, then it's a  
2 nonstarter. Right?

3 Q And so then after population equality, what  
4 other traditional redistricting principles explain the  
5 configuration of District 10 on the illustrative plan?

6 A I was following county boundaries. I think  
7 there's a split of Wilkes County. And I believe  
8 Lumpkin County, but there are no other county splits I  
9 believe, unless -- maybe Hall County is split.

10 But I was attempting to draw a plan that was  
11 reasonably compact, reasonably shaped that -- I had the  
12 information about the incumbents, I think, at maybe the  
13 latter stage of drawing the plan. So I was probably  
14 attempting to avoid placing a couple of incumbents who  
15 live very close to one another in the Jackson County  
16 area, I think. I was attempting to put them, maybe, in  
17 different districts even though I understand they don't  
18 have to be, I believe. I'm not looking at the  
19 incumbents right now and haven't done so since  
20 December.

21 Q So, Mr. Cooper, in paragraph 48, I didn't see  
22 where you listed incumbents as a traditional principle  
23 as part of the illustrative plan, and thought that we  
24 had talked about earlier that incumbency wasn't as  
25 important.

1 Did you use incumbency data in the drawing of  
2 the illustrative plan?

3 A I was sort of aware of where I thought the  
4 incumbents lived. It's always in the background. So  
5 that was in the background.

6 Q So beyond incumbency and keeping counties  
7 whole minus Hall, Lumpkin, and Wilkes Counties, and  
8 population equality, are there any other traditional  
9 redistricting principles that went into the districting  
10 of District 10?

11 A Well, I had to make the plan reasonably  
12 compact. I tried to follow county boundaries. The  
13 district's contiguous. It looks as compact as the  
14 districts that have been drawn in the enacted plan.  
15 But it could be drawn differently.

16 Q But you'd agree that there's not a community  
17 of interest between majority black Hancock County and  
18 Rabun County in extreme northwest Georgia, wouldn't  
19 you?

20 A They are different. They are different. And  
21 so I am open to other suggestions for how one might  
22 draw District 10.

23 Q And I understand they're different. My  
24 question was: You'd agree there's not a community of  
25 interest between Hancock and Rabun counties; right?

1           A     Well, not entirely. Because most counties  
2     are quite poor. And in Rabun County, you'd be talking  
3     about poor whites. And in Hancock County, a fairly  
4     significant black population that is not experiencing  
5     prosperity. So there are connections there. There are  
6     connections in that regard.

7           Q     So you believe a community of interest in  
8     illustrative District 10 would be poor white voters in  
9     the Rabun and similar socioeconomic status black voters  
10    in Hancock County?

11          A     Could be. Could be. On certain  
12    socioeconomic issues.

13          Q     Was that the community of interest you  
14    considered when you drew illustrative District 10?

15          A     When I was drawing District 10, I was mainly  
16    trying to avoid splitting counties and meet one person,  
17    one vote requirements. And I was aware that there are  
18    different areas in the sense that Rabun County is  
19    Appalachian and that parts of the southern end of  
20    District 10 are in the historic black belt.

21          Q     And you'd agree that Athens and Clark County  
22    is included in District 10 on the illustrative plan;  
23    right?

24          A     That's right. There's a university there.

25          Q     And --

1           A       So the district is a somewhat diverse  
2       congressional district as I've drawn it.

3           Q       You'd agree that Athens and Clark County  
4       doesn't share the same socioeconomic conditions as  
5       Hancock and Rabun Counties; right?

6           A       Generally speaking, the population in Clark  
7       County is better off socioeconomically than Rabun and  
8       Hancock.

9                   And one can say the same thing about the  
10       population in Cobb County versus the population in  
11       parts of North Georgia.

12          Q       I'm not sure I follow you. I'm sorry.

13          A       Well, there's -- there are probably areas  
14       along the Tennessee line that are quite challenged  
15       economically and very different, once you get away from  
16       the suburbs of Chattanooga, than the southwest part of  
17       Cobb County, which is exurban, suburban, and,  
18       relatively speaking, prosperous.

19          Q       Did you review any socioeconomic data about  
20       counties along the Tennessee border in the drafting of  
21       your illustrative District 14?

22          A       I did not. Part of that is the  
23       North Carolina border. But I almost don't need to do.  
24       I'm familiar with Appalachia.

25          Q       Looking at District 13, are you aware that

1 District 13 in Clayton County begins near the Atlanta  
2 airport as you've drawn it?

3 A Yes.

4 Q And you'd agree that Butts and Jasper  
5 Counties on the eastern side of District 13 as drawn  
6 are rural counties; right?

7 A They are rural, but still part of Metro  
8 Atlanta. In other words, the Census Bureau has  
9 determined that there's a 29-county area where there  
10 are commuting and transportation ties that are  
11 significant enough to put those counties into Metro  
12 Atlanta.

13 Q But you agree that District 13 as drawn  
14 connects urban areas in Clayton County with rural areas  
15 in Fayette, Spalding, Butts, and Jasper Counties;  
16 right?

17 A Yes.

18 Q Are you aware that the only majority black  
19 portions of any county in District 13 as drawn is the  
20 portions in Clayton and Newton Counties?

21 A Well, there's obviously black population and  
22 significant black population in some of the other  
23 counties. Henry County is almost majority black. It's  
24 50/50. And the black population is growing. Fayette  
25 County has a significant black population that is

1 for a minute. Let me turn to -- this is part of  
2 Exhibit I-3, and this is District 6, the zoom on the  
3 illustrative plan.

4 Do I have that right?

5 A Yes.

6 Q And so just to clarify the boundaries as  
7 drawn, in Cobb County, we have a portion of Cobb in  
8 District 6, all of Douglas, a portion of Fulton south  
9 of District 5, and a little bit of Fayette County;  
10 right?

11 A Right.

12 Q Okay.

13 A Again, as I said earlier, that's because I  
14 needed to get the population in District 13 to plus or  
15 minus one person.

16 Q And let me turn back to the plan components  
17 report for just district -- this district. This is,  
18 again, part of Exhibit I-3, and this begins with  
19 District 6 at the bottom of page 8.

20 Do you see that?

21 A Yes.

22 Q And you'd agree the portion of Cobb County  
23 that is located in illustrative District 6 is  
24 37.4 percent black; right?

25 A VAP, yes.



1 Q VAP, yes. Voting age population.

2 And Douglas is, like Henry, majority in total  
3 population but below majority on voting age population  
4 as a whole; right?

5 A As a whole. Barely below.

6 Q Yes. And the Fayette portion that's included  
7 in illustrative District 6 is a total of 4,143 people;  
8 is that right?

9 A Correct.

10 Q And it's only 21.73 percent black VAP?

11 A Correct.

12 Q So the only portion of a county in  
13 illustrative District 6 that is majority black voting  
14 age population is the Fulton County portion at  
15 88.29 percent; is that right?

16 A Yes. But as I referenced, Douglas County is  
17 almost 50 percent. And so is Henry County.

18 Q Based on looking at this --

19 A I'm sorry. I was referencing District 13,  
20 not District 6. Excuse me.

21 Q Looking at this report for District 6, you'd  
22 agree that making District 6 a majority black district  
23 on voting age population requires the population in  
24 Fulton County; right?

25 A It would -- it does include a significant

1 piece of Fulton County.

2 Q And my question was a little different, which  
3 is --

4 A That's already in majority black districts,  
5 but I did shift it from District 13 into District 6.

6 Q And you shifted the portion of Fulton from  
7 District 13 into District 6. And without that portion  
8 of Fulton, the district would not be majority black  
9 from the remaining components of the district,  
10 including Cobb County; right?

11 A As drawn, that's true.

12 Q Let's return back to your main report.

13 MR. TYSON: Is everybody still good? We've  
14 been going about an hour. Do we want to take one more  
15 quick break? I've got a little ways to go but not much  
16 more.

17 (Discussion off the record.)

18 BY MR. TYSON:

19 Q So, Mr. Cooper, let's move to page 26 of your  
20 report that focuses on the communities of interest that  
21 you reference here.

22 Are you with me on that?

23 A Page 26. Okay.

24 Q So in paragraph 65, you reference the three  
25 Cobb County splits or three pieces of Cobb County in

1 have 765,000 people. So it's not just in Georgia, it's  
2 in any state you're going to sometimes have to include  
3 urban and rural voters in a congressional plan no  
4 matter whether you like doing so or not.

5 Q And you'd agree illustrative District 10  
6 mixes Appalachian North Georgia with parts of the black  
7 belt in Eastern Georgia; right?

8 A It does. It does.

9 Q And you reference Douglas, Fulton, and  
10 Fayette Counties being core Metro Atlanta counties in  
11 the Atlanta Regional Commission in paragraph 68.

12 Do you see that?

13 A Yeah.

14 Q And is Coweta County also a core Metro  
15 Atlanta county under the Atlanta Regional Commission?

16 A I'm not sure. There are 11 counties and I'm  
17 not sure Coweta is part of it.

18 Q Are you aware that Coweta County touches  
19 Douglas, Fulton, and Fayette Counties?

20 A Yes.

21 Q And you put Coweta County in a district with  
22 Columbus, Georgia, on the illustrative plan; right?

23 A I did, yes. Is that bad?

24 Q I guess what I'm trying to understand is  
25 you're criticizing the enacted plan for mixing

1 right?

2 A Right. I had to go into the town of Tyrone  
3 to get population into District 6. And I did it in a  
4 reasonable fashion. But I did put part of Tyrone in  
5 District 6.

6 But to reiterate, there would be other ways  
7 to accomplish the same objective. As you know, if you  
8 go back and look at the illustrative plan that was done  
9 for the preliminary injunction, I went into the middle  
10 part of Fayette County to get the population and  
11 actually get to plus or minus one person for  
12 District 13.

13 Q Let's go back to your report and then to the  
14 chart on Figure 15, page 30 of the report.

15 So can you just walk me through what  
16 Figure 15 shows?

17 A Well, it shows that under the 2021 plan,  
18 about half of the black population, black voting age  
19 population is in a majority black district, and over  
20 80 percent, 82.5 percent of the white population is in  
21 a majority white district.

22 In drawing the illustrative plan, I was able  
23 to narrow the gap somewhat so that now, under the  
24 illustrative plan, over 57 percent of the black voting  
25 age population would be in a majority black district;

1       whereas, there would be a reduction for the  
2       non-Hispanic white VAP in the majority white districts  
3       from 82 percent to three quarters, 75 percent.

4               So the end result is that more of the black  
5       voting age population would have an opportunity to  
6       elect the candidate of choice. And I'm just using that  
7       generically. I'm not a statistician -- under the  
8       illustrative plan than under the 2021 plan.

9               Q       And did you do any analysis of how much of  
10       these changes are due solely to the black population in  
11       Cobb County being placed into the illustrative  
12       District 6?

13              A       No.

14              Q       So you can't say for certain where this  
15       little more than seven-point movement happened, just  
16       that it happened in the state as a whole between the  
17       two plans?

18              A       Well, in the state as a whole. But clearly  
19       it would involve a significant black population in Cobb  
20       County.

21              Q       So the --

22              A       Because that's where a large part of  
23       District 6 is located.

24              Q       So the change of black residents in Cobb  
25       County in District 6 would have a large portion of

1 this, but you can't identify specifically how much of  
2 this is due to particular district changes; is that  
3 right?

4 A That's true. It's a statewide analysis.

5 Q Looking down to paragraph 78, you say that  
6 the compactness scores "are about the same" and "within  
7 the norm in Georgia and elsewhere."

8 Do you see that?

9 A Yes.

10 Q And so I think we talked about earlier,  
11 there's not an objectively noncompact compactness  
12 score; is that right?

13 A That is correct.

14 Q Okay. And so when you say the "norm," you're  
15 just referring to general ranges based on other states'  
16 compactness scores in their districts; is that right?

17 A Well, based on my experience and there was  
18 this study that was produced in 2012 by the software  
19 firm -- software company "Osovakia" -- I don't know if  
20 I'm saying that right -- that looked at congressional  
21 districts nationwide, and there are some very low  
22 scores, of course, in that report; and, thus, the  
23 illustrative plan and the 2021 plan for that matter are  
24 significantly better than many congressional districts  
25 in the country --

# EXHIBIT D

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Grant, Annie Lois, et al.v. Raffensperger, Brad, E

Page 1

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA  
3 ATLANTA DIVISION

4 ANNIE LOIS GRANT, et al.,

5 Plaintiffs,

6 v.

CIVIL ACTION FILE  
NO. 1:22-CV-00122-SCJ

7 BRAD RAFFENSPERGER, in his  
8 official capacity as the  
9 Georgia Secretary of  
10 State, et al.,

11 Defendants.

12 COAKLEY PENDERGRASS, et al.,

13 Plaintiffs,

14 v.

CIVIL ACTION FILE  
NO. 1:21-CV-05339-SCJ

15 BRAD RAFFENSPERGER, et al.,  
16 Defendants.

17 VIDEOTAPED ZOOM DEPOSITION OF  
18 MAXWELL PALMER, Ph.D.

19 February 22, 2023

20 9:28 A.M.

21 Lee Ann Barnes, CCR-1852B, RPR, CRR, CRC  
22  
23  
24  
25



1 question, for the record.

2 BY MR. JACOUTOT:

3 Q. So let me ask you this: What is your  
4 standard for determining racial polarization?

5 A. So determining racial polarization, to me,  
6 comes in three parts.

7 First, I have to see if -- and just to  
8 simplify, just for black and white voters as I'm  
9 looking for here. If black voters vote  
10 cohesively -- that is, do they -- do the large  
11 majority of the black voters support the same  
12 candidate -- then do white voters vote cohesively,  
13 do a large majority of white voters support the same  
14 candidate, and then are they different candidates or  
15 not. So you first have to have a candidate of  
16 choice for each group and then those have to be  
17 different candidates.

18 Q. Okay. And how do you -- how do you define  
19 cohesively as used in that standard?

20 A. I don't have a bright-line test. Here the  
21 results are unambiguous regardless of any cutoff you  
22 might want to use.

23 Q. And you didn't examine any primary data in  
24 your analysis; right? It was strictly limited to  
25 general elections and runoffs, I believe.

1 A. That's correct.

2 Q. Okay. Do you know if there's a -- and  
3 this is just for how you operate personally in this  
4 area.

5 But do you know if there is a cutoff, like  
6 or a threshold level of support that you need to  
7 achieve in order to find -- in order for you to find  
8 that a -- a group voted cohesively in a given  
9 election?

10 A. I don't have a bright-line cutoff.

11 Q. If a group voted 55 percent for the same  
12 candidate, would you -- would you find that to be  
13 cohesive voting of that group?

14 A. Generally weakly cohesive or not cohesive.

15 Q. Okay. And if there's weak cohesion --

16 A. Sorry. I -- I would say that's not  
17 cohesive.

18 Q. Okay. What about 60 percent?

19 Have you ever seen a -- examined an  
20 election contest where an indiv- -- a group that you  
21 were analyzing voted 60 percent for a candidate -- a  
22 given candidate, would you -- have you ever said  
23 that that was sufficiently cohesive, in your  
24 opinion, for your -- for purposes of your racial  
25 polarization analysis?

# EXHIBIT E

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2/23/2023

Coakley Pendergrass, et. al., v. Brad Raffensperger, et. al.

Dr. John Alford

Page 1

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

---

COAKLEY PENDERGRASS, et al.,

Plaintiffs,

vs.

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

Defendants.

---

ANNIE LOIS GRANT, et al.,

Plaintiffs,

vs.

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

Defendants.

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Civil Action No.

2:21-CV-05449-SCJ

Civil Action No.

1:22-CV-00122-SCJ

Videotaped deposition of DR. JOHN ALFORD, taken  
remotely in the above-captioned cause, before  
Rachel F. Gard, CSR, RPR, CRR, commencing at  
the hour of 11:00 a.m. Eastern on Thursday,  
February 23, 2023.

---

DIGITAL EVIDENCE GROUP  
1730 M Street, NW, Suite 812  
Washington, D.C. 20036  
(202) 232-0646

2/23/2023

Coakley Pendergrass, et. al., v. Brad Raffensperger, et. al.

Dr. John Alford

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1 Dr. Palmer's expert report?

2 A It certainly -- I think it certainly goes  
3 to some part of my discussion of Dr. Palmer's  
4 report, but I would say it is primarily as a sort  
5 of adjunct to the discussion of primaries in  
6 Dr. Handley's report.

7 Q Okay. So in terms of your analysis of  
8 Dr. Palmer's findings and conclusions, you  
9 primarily relied on the analysis and data that he  
10 himself provided in his report; Is that fair?

11 A So that's correct. But I'm also making  
12 the point that because he has no primary analysis,  
13 we really don't have anything other than the  
14 general election setting to look at. And so I  
15 think that's important to understand what we know  
16 in that setting, although it's not in his report,  
17 we can get that from, you know, sort of  
18 comparable -- for time frame that's comparable  
19 from Dr. Handley's report and my analysis of the  
20 Republican primary, but it's not analysis that's  
21 in my report as sort of checking his analysis,  
22 something like that, because it's not analysis

2/23/2023

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Dr. John Alford

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1 I think one of the ways that you can recognize the  
2 limited nature of the general election fact  
3 pattern from what we care about in this case is to  
4 look at some elections where that party signal is  
5 not going to be such as a strong driver, and  
6 Dr. Handley does that looking at primaries. She  
7 looks only at Democratic primaries and, as she  
8 points out, I think correctly, that can tell you  
9 maybe quite a bit about black voting behavior but  
10 maybe not so much generally about white voting  
11 behavior since most black voters in Georgia are in  
12 the -- if they vote in the primary, vote in the  
13 Democratic primary.

14 When you expand that out and say what does  
15 that Democratic primary tell us about black voter  
16 behavior in Georgia, it tells you quite a bit. On  
17 the other hand, most whites in Georgia, if they  
18 voted in a primary, vote in the Republican  
19 primary. So the behavior of white voters in the  
20 Democratic primary doesn't necessarily translate  
21 out more broadly.

22 Absent any evidence from a Republican

2/23/2023

Coakley Pendergrass, et. al., v. Brad Raffensperger, et. al.

Dr. John Alford

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1 primary, you might conclude that the white voters  
2 in the Democratic primary are sort of unusual and  
3 that the white voters in the Republican primary  
4 would not support a black candidate.

5 And the evidence here suggests that white  
6 voters in the Republican primary did support black  
7 candidates. Herschel Walker, I'm not even sure  
8 you need an EI analysis to tell you this since  
9 Herschel Walker essentially carried every county  
10 in Georgia, hard to see how he could have done  
11 that without having the majority of the white or  
12 at least a plurality of the white vote. I think  
13 he had only two counties where he didn't have an  
14 outright majority. He had a plurality in every  
15 county.

16 I think clearly that's not the result of a  
17 large turnout of black voters in that Republican  
18 primary. So again, if Republicans are voting in  
19 the general election for Republicans and are  
20 voting that way because someone is a Republican  
21 versus because someone is white, this provides  
22 some -- another piece of evidence, right. You

# EXHIBIT F

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Grant, Annie Lois, et al.v. Raffensperger, Brad, E

Page 1

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

ANNIE LOIS GRANT, et al.,

Plaintiffs,

vs.

CIVIL ACTION FILE

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

NO. 1:22-CV-00122-SCJ

Defendants.

COAKLEY PENDERGRASS, et  
al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:21-CV-05339-SCJ

BRAD RAFFENSPERGER, et  
al.,

Defendants.

REMOTE VIDEO DEPOSITION OF  
ORVILLE VERNON BURTON, PH.D.

February 17, 2023

1:24 p.m.

Suite 200

1600 Parkwood Circle

Atlanta, Georgia

Tracy A. Williams, B-2168, RPR

Jesse Wiggins, Videographer

1 other people, and it might lead me to it.

2 Q. Okay. And then you read everything you  
3 could and that -- and then summarized that  
4 information. Would that be fair to say?

5 A. Yes, and analyzed it and put it together  
6 so that it's not just one source, but all evidence  
7 that sort of points in a direction.

8 Q. Okay. I'm going to refer back to your  
9 report. I may need to just leave it up for a while,  
10 but -- sorry about that.

11 We are going to go to Page 3, and the  
12 second paragraph there on Page 3 of your report  
13 indicating that "For the next 40 years, Georgia  
14 failed to go to a redistricting cycle without  
15 objection from the Department of Justice."

16 Do you see that statement there?

17 A. Yes.

18 Q. Okay. And you would agree that the  
19 redistricting plans drawn in 1971, 1981, '91, and  
20 2001 were drawn by Democratic legislatures, correct?

21 A. Yes.

22 Q. And you would agree that the  
23 Republican-drawn maps in 2011 were precleared by the  
24 Department of Justice on the first attempt, correct?

25 A. Yes.

1 the 2010 census."

2 A. Yes.

3 Q. Okay. And were the maps that you refer to  
4 that packed black voters, were they challenged by  
5 anyone?

6 A. I know that in 2010, they were being  
7 challenged. I cannot remember if that went to court  
8 or if they were approved by the Justice Department  
9 before they got the court case together. But I know  
10 that Stacey Abrams and Jason Carter, Jimmy Carter's  
11 grandson, were working to challenge it. But I don't  
12 remember what -- I think the Justice Department  
13 approved the plan is my memory. But it may be wrong.

14 Q. Okay. So were the maps ever found to be  
15 illegal, to your knowledge? Again, I know you're  
16 not --

17 A. No, no. I don't think they were, not to my  
18 knowledge.

19 Q. Okay. And then you reference in the next  
20 paragraph and talk about 2015 mid-decade  
21 redistricting in 2015. And you would agree that that  
22 case was dismissed after the Democrats won their  
23 seats, correct?

24 A. Yes. I thought I said that in the report.

25 Q. Okay. And you'd agree that the 2015 maps

1 were never found to be illegal by any court, correct?

2 A. That's right. Correct. Yes.

3 Q. Okay. And then regarding redistricting,  
4 again in 2010, the Georgia legislature created a  
5 record number of majority districts. Does that sound  
6 correct to you?

7 A. Yes. Well, excuse me. Would you state the  
8 question again?

9 Q. Sure. In -- regarding redistricting in  
10 2010, the Georgia legislature created a record number  
11 of majority districts. I believe you say that in  
12 your report.

13 A. You mean majority black districts? I think  
14 you said "majority districts," and I think I said  
15 "majority black districts."

16 Q. You did. I apologize. I misspoke.

17 A. But you meant majority black districts?

18 Q. Yes, sir.

19 A. Yes.

20 Q. Okay. Thank you. And that was the plan  
21 drawn by the Republican legislature that was  
22 precleared by the Department of Justice, correct?

23 A. Yes.

24 Q. And then let's look at Page 47. Actually,  
25 what I would like to do is, we'll look at Page 47.

1 robocall?

2 A. I did not. But as I noted here, someone  
3 said that racist appeals didn't hurt the candidates  
4 making them in Georgia. Throughout the South, it  
5 actually helped them.

6 Q. Are any of the racial appeals that you  
7 discuss in your report, Dr. Burton, in Georgia from a  
8 State House race in recent elections?

9 A. I don't remember without going back, you  
10 know, into the report and see. I think I was just  
11 looking at the level, explaining how these work in  
12 Georgia. I'm not sure I paid attention to whether  
13 they were in the State House or just in the general  
14 elections where we had someone like a black candidate  
15 like Warnock.

16 Q. Okay. Did your research show any racial  
17 appeals in any state legislative races in the state  
18 of Georgia in the last ten years?

19 A. I don't remember if I did or not. I  
20 discussed different candidates or different people  
21 using these appeals, but I don't know if it was in  
22 the legislature or just at the state level.

23 Q. Okay. Do you recall specifically looking  
24 at examples of racial appeals in a State Senate race  
25 here in Georgia?

1 A. The same answer, I do not.

2 Q. Okay. On Page 70, you refer to when  
3 Governor Kemp faced a primary challenge from former  
4 Senator David Perdue. You would agree that Perdue  
5 lost the primary overwhelmingly, correct?

6 A. I don't remember overwhelmingly, but he  
7 lost.

8 Q. Okay. And on page --

9 A. Yes, against Kemp, yes.

10 Q. Okay. And on Page 73, you talk about  
11 Donald Trump. But you would agree that Donald Trump  
12 lost the election in Georgia in 2020, correct?

13 A. Yes. By how many votes, did he remind us?

14 Q. On Page 74, the first full paragraph, you  
15 refer to Jody Hice. Do you see that?

16 A. Yes.

17 Q. And Jody Hice lost the primary, correct?

18 A. Yes.

19 Q. Also, you refer to Butch Miller --

20 A. Yes.

21 Q. -- and Butch Miller also lost the primary  
22 election, correct?

23 A. Yes.

24 Q. On Page 76 --

25 A. Okay.

# EXHIBIT G

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Grant, Annie Lois, et al.v. Raffensperger, Brad, E

Page 1

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

ANNIE LOIS GRANT, et al., )  
)  
Plaintiffs, )  
) CIVIL ACTION  
vs. ) FILE NO.:  
) 1:22-CV-00122-SCJ  
BRAD RAFFENSPERGER, in his )  
)  
official capacity as the )  
)  
Georgia Secretary of State, )  
)  
et al., )  
)  
Defendants. )

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COAKLEY PENDERGRASS, et al. )  
)  
Plaintiffs, )  
) CIVIL ACTION  
vs. ) FILE NO.  
) 1:21-CV-05339-SCJ  
BRAD RAFFENSPERGER, et al., )  
)  
Defendants. )

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THE VIDEOTAPED DEPOSITION OF:

Loren Collingwood, Ph.D.

Tuesday, February 28th, 2023

10 a.m.

via Zoom videoconference

\*\*\*\*\*

Amanda A. Bilbrey, CCR



1 of way that's typically done in court cases. I mean,  
2 I know people look at certain things, but it's  
3 pretty -- it's pretty tough to do in the context of,  
4 say, NVRA cases, I would say.

5 Q So if you see a pattern of racially  
6 polarized voting, based on your analysis of the data,  
7 you don't believe there's a way to determine if that's  
8 caused just by partisan political preference rather  
9 than by race?

10 A Well, typically when I look at polarized  
11 voting, specifically look to ask -- to look at the  
12 bivariate relationship between racial identification  
13 in a group and vote preference. And so party is not  
14 usually considered as a matter.

15 Q Okay. And you weren't asked to look in  
16 these two cases at the role of partisanship in voting  
17 patterns, were you?

18 A No, I was not.

19 Q This webpage, Exhibit 9, also talks about  
20 Collingwood Research's work with redistricting. It  
21 says: We develop electoral districts designed to  
22 ensure fair elections, equitable representation, and  
23 electoral outcomes that comply with the standards  
24 outlined by federal and state voting rights laws.

25 Is that an accurate description of what

1 tell the story. So I didn't really feel the need to  
2 keep going.

3 Q Would you agree there are places in Georgia  
4 where the black median household income is higher than  
5 the white median household income?

6 A I'm trying to think on my analysis, looking  
7 at some of the areas, I did see there's a few spots  
8 where, say, quarter turnout was higher. There's  
9 certainly going to be some -- probably some areas in  
10 Georgia, in and around Atlanta, that probably has a  
11 higher -- black folks there are doing better than,  
12 say, white folks in other parts of the state. But I  
13 was looking mainly at, you know, kind of overall  
14 averages and things.

15 Q But do you know of any -- do you know of any  
16 locality, you know, whether it's a county or a city or  
17 a neighborhood where the measured black median income  
18 is higher than the measured white median income in the  
19 same locality?

20 A Yeah. I'm -- I would have to go and look at  
21 the data more closely on that. It's probably the case  
22 somewhere, but I just can't think off the top of my  
23 head, you know, exactly where that would be.

24 Q Going to part C, page 7, effect on political  
25 participation. You say in the first sentence of that

1 section: Socioeconomic disparities like these  
2 unquestionably affect political participation.

3 Do you agree with that sentence?

4 A Yes.

5 Q And is that true -- is that sentence true  
6 for voters regardless of their race?

7 A It is.

8 Q Tell me -- at the end of that paragraph, you  
9 have a reference to a hookworm eradication program.  
10 Why is that relevant?

11 A Well, No. 1, I don't get a lot of chances to  
12 write about hookworms. No. 2, it's a very interesting  
13 study, because it -- it uses this program from, like,  
14 the '30s that applied a randomization process to the  
15 counties that got an eradication program. And then  
16 the idea is those counties then -- the health of the  
17 people there were better, and that later on they had  
18 people, like, many decades later had higher levels of  
19 education and also higher levels of political  
20 participation in voter turnout. And so it's a unique  
21 way to get at something that just is done in a kind of  
22 unique fashion that we don't normally see.

23 Q How did you come across this, if you came  
24 across this Henderson paper or book where Henderson  
25 talks about it?

1 Q And you've got Sub-A statewide analysis, and  
2 you found that generally in the years that you've  
3 looked at white turnout was higher than black turnout,  
4 with the exception for the 2012 being the narrowest  
5 gap of the years you've looked at there, right, in  
6 Table 3?

7 A Yeah. That's correct.

8 Q And 2012 was the year President Obama ran  
9 for reelection; correct?

10 A Correct.

11 Q Is it your opinion that higher motivation of  
12 black voters in that particular election may have  
13 affected the turnout gap?

14 A That is a pretty plausible hypothesis.

15 Q So motivation -- voter motivation is a  
16 factor that goes into turnout of voters for both black  
17 and white voters; correct?

18 A Certainly individual level or group-based  
19 motivation, you know, can, you know, effect turnout.  
20 Yeah.

21 Q So based on 2012, would you agree that black  
22 voters are able to turn out in nearly the same  
23 percentages as white voters if they choose to do so in  
24 Georgia?

25 A There is certainly that possibility, yes.

1 me what you were doing there. You talk about 2014 to  
2 2018 elections.

3 A So this is effectively the same thing that  
4 we did above. It just then walks through each -- the  
5 same set of results, but for each election.

6 Q Right. Okay. So 5, 6, and 7, you're  
7 saying --

8 A So I guess the same general -- yeah.

9 Q Right. So 5 is 2018 --

10 A Yeah.

11 Q I apologize. I'm talking over you.

12 A No worries.

13 Q And Figure 6 is 2016 and Figure 7 is 2014;  
14 correct?

15 A Correct.

16 Q Let's go back to Figure 5. Are you aware in  
17 2018 Stacey Abrams, who is African-American, was  
18 running for governor as a Democrat?

19 A Yes.

20 Q Okay. Did you consider whether that may  
21 have affected black voter motivation and therefore  
22 black voter turnout in 2018?

23 A I mean, I, you know, as a -- I didn't  
24 particularly write about specific types of candidates  
25 in different elections. But, you know, I'm very --

1 I'm pretty familiar with that. You know, as someone  
2 who doesn't live in Georgia and read the news in  
3 Georgia, I'm pretty familiar with -- that election got  
4 a lot of attention, like, through the New York Times,  
5 Washington Post, kind of nationally. So I'm familiar  
6 with that -- that election. So it makes sense that  
7 that's why you see that. Yeah.

8 Q Because if you -- I mean, if you look in  
9 Figure 5 and you see -- I'm counting at least five  
10 counties above the blue line. It looks like maybe six  
11 or seven are right on the blue line in Figure 5.

12 Would you agree with that?

13 A Yeah. It's -- that -- it's hard to say  
14 exactly. But it's definitely, you know, a little  
15 different than the -- than the other ones.

16 Q Yeah.

17 A Yeah.

18 Q But then if we go back up to Figures 1 and  
19 2, the white/black differential based on registrants,  
20 there aren't as many dots above the blue line in  
21 Figures 1 and 2 for the 2022 and 2020 elections as in  
22 2018; right?

23 A Yeah. I mean, without doing a, you know,  
24 detailed kind of -- you know, had to spreadsheet them  
25 all out and count them all up, but that certainly

1 high school education or college education; correct?

2 A Yeah. Yeah.

3 Q And by showing that for black voters, for  
4 example, on Figure 22, as the higher percentage -- as  
5 the percentage of black voters with less than a high  
6 school education goes up, turnout goes down, you don't  
7 know whether that's also true for white voters?

8 A I don't.

9 Q On a footnote on 24, on Footnote 7, you said  
10 you excluded counties with a thousand registered black  
11 voters or fewer.

12 Why did you use that cutoff?

13 A It's -- it's just kind of an even thousand.  
14 There's not very many counties that fit that bill,  
15 and, you know, it's just -- that's not a lot of people  
16 for a county to have that few of registered black  
17 voters. So, you know, in social science we have to  
18 kind of set cutoffs. I try to set those cutoffs not  
19 at all based on correlations with how the results  
20 might change as an a priori design. I tend to try to  
21 choose sensible numbers based on experiences with  
22 these types of data. Sometimes I used 10, 25, 50,  
23 100. In this case, 1,000 made sense.

24 Q What is the -- the gray shading on Figure 22  
25 around the blue line? What's that showing?

1 race in Georgia is a barrier to voting?

2 A Well, yeah. I would say that just based on  
3 the data that I look at, all else equal, if you're  
4 black versus white -- this is a very important, all  
5 else equal -- your probability of turning out to vote  
6 is going to be lower.

7 Q But as far as external factors preventing a  
8 black voter from exercising the right to vote, you're  
9 not commenting on any such external factors, are you?  
10 Preventing somebody from voting in a particular cycle?

11 A I guess could you give me an example of an  
12 external factor?

13 Q Well, I mean, like, you know, there used to  
14 be a law that -- there used to be a white primary, and  
15 if you weren't white you couldn't vote in it. I mean,  
16 you know, do you know of anything like that preventing  
17 a black voter today from voting?

18 A I don't know of any specific race-specific  
19 laws like what Georgia and many other southern states  
20 had previously, if that's what you mean. Yeah. I'm  
21 not commenting on that.

22 Q Are you -- have you concluded that racism in  
23 Georgia causes the lower levels of voting  
24 participation by black voters in Georgia compared to  
25 white voters in Georgia?



1           A     I don't have a specific measure of racism  
2     that's associated with voter turnout here. A social  
3     scientist would likely look at all of this and  
4     potentially say the reasons we're seeing this is -- is  
5     because of that. But those variables don't measure  
6     that specifically. So it would have to be taken under  
7     a more holistic analysis, which some people would make  
8     that case. I'm a little bit -- in this case, I just  
9     want to focus on the actual variables that I'm looking  
10    at.

11          Q     You're really -- you're just -- you're just  
12    analyzing the data?

13          A     That's right.

14          Q     You've used -- you've used the term "social  
15    scientist" a couple times in the last few minutes.  
16    Are you a social scientist?

17          A     Yeah.

18          Q     Do you have a degree in social science?

19          A     Well, political science is a social science  
20    field, so, yes.

21          Q     Do you have an opinion that Georgia's recent  
22    redistricting maps or prior redistricting maps, say  
23    since 2010, have caused the lower levels of black  
24    participation that you've found in your data analysis?

25          A     I can't speak to those directly. I haven't

1 looked at them directly for this report.

2 Q Turning to page 44 you have a Section 3,  
3 other forms of voter participation. And as you say  
4 there at the first sentence: The next section  
5 examines disparities between blacks and whites among  
6 other modes of voter participation.

7 And it says you used the 2020 Cooperative  
8 Election Study. Explain what that is in detail.

9 A So the data set that I briefly discussed  
10 earlier, it's a survey of voters or eligible voters, I  
11 believe, usually around four -- 30- to 60,000  
12 respondents across the United States at least 18-plus  
13 age. And it asks a bunch of questions. It's  
14 conducted by a couple of folks, I think, out of  
15 Harvard and a couple other places. A lot of political  
16 scientists contribute modules and questions to it.

17 So it's one of the top two or three data  
18 sources for people who do political behavior research  
19 and political science in American politics, and it's  
20 widely used, widely published off of. And so I was  
21 able to download that. That's what's known as a  
22 common content form, which is free. So you can  
23 download that and then subset just to the state here  
24 of Georgia. It still yields a pretty sizable sample  
25 size.

1 Q On Table 10, campaign contacts, you'd agree  
2 the responses there for whites and blacks are pretty  
3 similar, aren't they?

4 A They're statistically indistinguishable.

5 Q Table 11 is also pretty close, isn't it?

6 A Also statistically indistinguishable.

7 Q And it's your opinion that the differences  
8 that you see in these Tables 4 to 11 are due to  
9 socioeconomic differences between black and white  
10 voters?

11 A Well, this analysis, that's certainly one of  
12 the -- one of the differences, but it could also be  
13 long-running discrimination in Georgia. I -- this  
14 analysis doesn't allow me to say specifically why  
15 these differences are. I can just see that there are  
16 differences.

17 Q You then come to a conclusion on page 38 of  
18 your report. You say: These findings provide strong  
19 evidence for presence of Senate Factor 5 in the state  
20 of Georgia.

21 Could you elaborate on that at all?

22 A Well, just, I mean, across pretty much every  
23 seen analysis there's a difference between white and  
24 black political participation, which is related to  
25 socioeconomic barriers, which reduces black voter

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

COAKLEY PENDERGRASS, *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

**DEFENDANTS' RESPONSE TO PLAINTIFFS' STATEMENT OF  
UNDISPUTED MATERIAL FACTS**

Defendants Brad Raffensperger, in his official capacity as Secretary of State; and State Election Board Members William S. Duffey, Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, also in their official capacities (collectively, "Defendants") pursuant to Local Civil Rule 56.1(B)(2)(a), provides their Response to Plaintiffs' Statement of Undisputed Material Facts [Doc. 173-2], showing the Court the following:

**Plaintiffs' Statement No. 1.**

Between 2010 and 2020, Georgia's population grew by over 1 million people to 10.71 million, up 10.57% from 2010. Ex. 1 ("Cooper Report") ¶ 13, fig.1.1.1.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of population is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 2.**

Georgia's population growth since 2010 can be attributed entirely to gains in the overall minority population. Cooper Report ¶ 14, fig.1.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 3.**

Between 2010 and 2020, Georgia's Black population increased by 484,048 people, up almost 16% since 2010. Cooper Report ¶ 15, fig.1.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 4.**

Between 2010 and 2020, 47.26% of the state's population gain was attributable to Black population growth. Cooper Report fig.1.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of minority population is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 5.**

Georgia's Black population, as a share of the overall statewide population, increased between 2010 and 2020, from 31.53% in 2010 to 33.03% in 2020. Cooper Report ¶ 16, fig.1.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 6.**

As a matter of total population, any-part ("AP") Black Georgians comprise the largest minority population in the state, at 33.03%. Cooper Report fig.1.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 7.**

Between 2010 and 2020, Georgia's white population decreased by 51,764 people, or approximately 1%. Cooper Report ¶ 15, fig.1.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 8.**

Non-Hispanic white Georgians now comprise a majority of the state's population at 50.06%. Cooper Report ¶ 17.

**RESPONSE:** Objection. The evidence cited does not support the fact stated because the citation only refers to the percentage, not to the timeline for when Non-Hispanic white Georgians compromised a majority of the state's population.

**Plaintiffs' Statement No. 9.**

Georgia's Black population has increased in absolute and percentage terms since 1990, from about 27% in 1990 to 33% in 2020. Cooper Report ¶ 22, fig.3.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of Georgia's Black population is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 10.**

Over the same time period, the percentage of the population identifying as non-Hispanic white has dropped from about 70% to 50%. Cooper Report ¶ 22, fig.3.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 11.**

Since 1990, the Black population has more than doubled: from 1.75 million to 3.54 million, an increase that is the equivalent of the populations of more than two congressional districts. Cooper Report ¶ 23, fig.3.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 12.**

The non-Hispanic white population has also increased, but at a much slower rate: from 4.54 million to 5.36 million, amounting to an increase of about 18% over the three-decade period. Cooper Report ¶ 23, fig.3.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 13.**

Georgia has a total voting-age population of 8,220,274, of whom 2,607,986 (31.73%) are AP Black. Cooper Report ¶ 18, fig.2.



**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 14.**

The total estimated citizen voting-age population in Georgia in 2021 was 33.3% AP Black. Cooper Report ¶ 20, fig.2.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 15.**

As defined by the U.S. Office of Management and Budget, the Atlanta Metropolitan Statistical Area ("MSA") consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. Cooper Report ¶ 12 n.3.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 16.**

The Atlanta MSA has been the key driver of population growth in Georgia during this century, led in no small measure by a large increase in the region's Black population. Cooper Report ¶ 25, fig.4.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 17.**

The population gain in the Atlanta MSA between 2010 and 2020 amounted to 803,087 persons—greater than the population of one of the state's congressional districts—with about half of the gain coming from an increase in the region's Black population, which increased by 409,927 (or 23.07%). Cooper Report ¶ 30, fig.5.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 18.**

Under the 2000 census, the population in the 29-county Atlanta MSA was 29.29% AP Black, increasing to 33.61% in 2010 and then to 35.91% in 2020. Cooper Report ¶ 26, fig.4.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 19.**

The Black population in the Atlanta MSA has grown from 1,248,809 in 2000 to 2,186,815 in 2020—an increase of 938,006 people—accounting for

75.1% of the statewide Black population increase and 51.4% of the Atlanta MSA's total population increase. Cooper Report ¶ 26, fig.4.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case. Further, the evidence cited does not support the fact.

**Plaintiffs' Statement No. 20.**

According to the 2020 census, the 11 core counties comprising the Atlanta Regional Commission ("ARC") service area account for more than half (54.7%) of the statewide Black population. Cooper Report ¶ 28.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 21.**

After expanding the region to include the 29 counties in the Atlanta MSA (including the 11 ARC counties), the Atlanta metropolitan area encompasses 61.81% of the state's Black population. Cooper Report ¶ 28.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 22.**

Under the 2000 census, the population in the Atlanta MSA was 60.42% non-Hispanic white, decreasing to 50.78% in 2010 and then to 43.71% in 2020. Cooper Report ¶ 27, fig.4.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 23.**

Between 2010 and 2020, the non-Hispanic white population in the Atlanta MSA decreased by 22,736 persons. Cooper Report ¶ 30, fig.5.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 24.**

According to the 2020 census, the Atlanta MSA has a total voting-age population of 4,654,322 persons, of whom 1,622,469 (34.86%) are AP Black. Cooper Report ¶ 31, fig.6.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 25.**

The non-Hispanic white voting-age population in the Atlanta MSA is 2,156,625 (46.34%). Cooper Report ¶ 31, fig.6.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 26.**

Based on the 2020 census, the combined Black population in Cobb, Fulton, Douglas, and Fayette counties is 807,076 persons, more than would be sufficient to constitute an entire congressional district—or a majority in two congressional districts. Cooper Report ¶ 42, fig.8.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 27.**

More than half (53.27%) of the total population increase in these four counties since 2010 can be attributed to the increase in the Black population. Cooper Report ¶ 43.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the rate of growth of various populations is not relevant in a Section 2 case.

**Plaintiffs' Statement No. 28.**

The enacted congressional plan reduces Congressional District 6's AP Black voting-age population ("BVAP") from 14.6% under the prior congressional plan to 9.9%. Cooper Report ¶ 40.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the change in minority population from a prior district is not a factor to be considered in a Section 2 case.

**Plaintiffs' Statement No. 29.**

Under the enacted plan, Congressional District 13 has an AP BVAP of 66.75%. Cooper Report ¶ 41.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 30.**

Another district in the Atlanta MSA, Congressional District 4, also has an AP BVAP in the 60% range. Cooper Report ¶ 40.

**RESPONSE:** Disputed. Mr. Cooper's Exhibit K-1 shows the AP Black VAP percentage of Congressional District 4 as 54.52%.

**Plaintiffs' Statement No. 31.**

As Plaintiffs' mapping expert, William S. Cooper, concluded—and Defendants' mapping expert, John Morgan, does not dispute—the Black population in the Atlanta metropolitan area is sufficiently numerous to allow for the creation of an additional majority-Black congressional district. Cooper Report ¶ 10; Ex. 8 (“Morgan Dep.”) at 65:10–66:13 (not disputing this conclusion).

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 32.**

Mr. Cooper prepared an illustrative congressional plan with an additional majority-Black district anchored in the western Atlanta metropolitan area—Congressional District 6. Cooper Report ¶¶ 10, 86–87.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 33.**

Mr. Cooper’s illustrative congressional plan adds an additional majority-Black district without reducing the number of preexisting majority-Black districts in the enacted congressional plan. Cooper Report ¶ 73, fig.14; Morgan Dep. 65:10–66:13 (not disputing this conclusion).

**RESPONSE:** Undisputed when majority-Black is defined as using AP Black VAP; disputed if majority-Black is defined using Non-Hispanic Black CVAP. Report of William Cooper [Doc. 176-1] (“Cooper Report”) ¶ 73, fig.14.

**Plaintiffs’ Statement No. 34.**

Given the increase in the Atlanta metropolitan area’s Black population during this century, Mr. Cooper used this area as the focal point for his illustrative majority-Black district. Cooper Report ¶ 35.

**RESPONSE:** Undisputed that Mr. Cooper states this in his report.

**Plaintiffs' Statement No. 35.**

Mr. Cooper's illustrative Congressional District 6 encompasses all of Douglas and parts of Cobb, Fayette, and Fulton counties: Cooper Report ¶ 51, Ex. I-2.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 36.**

Mr. Cooper's illustrative Congressional District 6 has an AP Black population of 396,891 people, or 51.87% of the district's population. Cooper Report fig.11.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 37.**

Mr. Cooper's illustrative Congressional District 6 has an AP Black voting-age population of 50.23%. Cooper Report ¶ 73, fig.14; Ex. 6 ("Morgan Report") ¶ 12 (agreeing that Mr. Cooper's illustrative Congressional District 6 has "50.23% any-part Black voting age population").

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 38.**

Mr. Cooper's illustrative Congressional District 6 has a non-Hispanic Black citizen voting-age population of 50.18%. Cooper Report ¶ 73, fig.14.

**RESPONSE:** Undisputed.



**Plaintiffs' Statement No. 39.**

Mr. Cooper's illustrative Congressional District 6 has a non-Hispanic Department of Justice ("DOJ") Black citizen voting-age population of 50.98% Cooper Report ¶ 73, fig.14. FOOTNOTE 2: The non-Hispanic DOJ Black citizen voting-age population includes voting-age citizens who are either non-Hispanic single-race Black or non-Hispanic Black and white. Cooper Report ¶ 57 n.10.

**RESPONSE:** Objection. The fact and its footnote do not comply with LR 56.1(B)(1) because they are not separately numbered.

**Plaintiffs' Statement No. 40.**

Plaintiffs' racially polarized voting expert, Dr. Maxwell Palmer, analyzed the performance of Black-preferred candidates in Mr. Cooper's illustrative Congressional District 6. Ex. 2 ("Palmer Report") ¶ 23.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 41.**

In each of the 31 statewide races from 2012 through 2021, the Black-preferred candidate won a larger share of the vote in Mr. Cooper's illustrative Congressional District 6, with an average of 66.1%. Palmer Report ¶¶ 9, 23, 25, fig.5, tbl.8.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 42.**

In the 31 statewide races from 2012 through 2021, the Black-preferred candidate also won a larger share of the vote in Mr. Cooper's illustrative Congressional District 13 (the only district from which Mr. Cooper's illustrative Congressional District 6 was drawn that previously performed for Black-preferred candidates), with an average of 62.3%. Palmer Report ¶ 26.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 43.**

As Mr. Cooper, concluded—and Mr. Morgan does not dispute—the Black population in the Atlanta metropolitan area is sufficiently geographically compact to allow for the creation of an additional majority-Black congressional district consistent with traditional redistricting principles. Cooper Report ¶ 10; Morgan Dep. 65:10–66:13 (not disputing this conclusion).

**RESPONSE:** Objection. The evidence cited does not support the fact stated in that Mr. Morgan did not agree with that statement and Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Deposition of William Cooper [Doc. 167] (“Cooper Dep.”) 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7.

**Plaintiffs' Statement No. 44.**

In drafting his illustrative plan, Mr. Cooper sought to minimize changes to the enacted congressional plan while abiding by traditional redistricting principles: population equality, compactness, contiguity, respect for political subdivision boundaries, respect for communities of interest, and the non-dilution of minority voting strength. Cooper Report ¶¶ 48, 50.

**RESPONSE:** Disputed. This fact is refuted by the fact that Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Cooper Dep. 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7.

**Plaintiffs' Statement No. 45.**

Mr. Cooper balanced these considerations, and no one factor predominated. Cooper Report ¶ 50.

**RESPONSE:** Disputed. This fact is refuted by the fact that Mr. Cooper could not explain how he sought to abide by traditional redistricting principles when creating his illustrative plan. Cooper Dep. 28:1-29:2, 29:8-30:18, 31:18-32:22, 33:23-34:9, 34:10-35:14, 68:15-71:20, 73:13-74:7. Further, Mr. Cooper agreed that population equality was the “most important principle” in priority. Cooper Dep. 68:15-69:2.

**Plaintiffs' Statement No. 46.**

The guidelines for drafting congressional plans adopted by the redistricting committees of the Georgia State Senate and Georgia House of Representatives during the 2021 cycle included the following: population equality (“plus or minus one person from the ideal district size”), contiguity, compactness, consideration of the boundaries of counties and precincts, and consideration of communities of interest. Exs. 10–11.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 47.**

Mr. Cooper's illustrative Congressional District 6 has a total population of 765,137 people. Cooper Report fig.11.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 48.**

As in the enacted congressional plan, population deviations in Mr. Cooper's illustrative plan are limited to plus-or-minus one person from the ideal district population of 765,136. Cooper Report ¶ 53, fig.11; Morgan Dep. 62:4–7 (not disputing that Mr. Cooper's illustrative congressional plan achieves population equality).

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 49.**

The districts in Mr. Cooper's illustrative congressional plan are contiguous. Cooper Report ¶ 52; Morgan Dep. 62:14–17 (not disputing that districts in Mr. Cooper's illustrative congressional plan are contiguous).

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 50.**

The average and low compactness scores of Mr. Cooper's illustrative congressional plan are similar or identical to the corresponding scores for the enacted congressional plan and Georgia's prior congressional plan, and within the norm for plans nationwide. Cooper Report ¶ 78 & n.12, fig.13; Morgan Report ¶ 22 (agreeing that "Cooper [] congressional plan has similar mean compactness scores to the 2021 enacted plan"); Morgan Dep. 55:18–57:5 (agreeing that Mr. Cooper's illustrative congressional plan has similar mean compactness scores to enacted congressional plan and same mean Polsby-Popper score as enacted congressional plan).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact as to the low compactness scores because there is no definition of the term "similar."

**Plaintiffs' Statement No. 51.**

The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. Cooper Report ¶ 79 n.13.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 52.**

The Polsby-Popper test computes the ratio of each district area to the area of a circle with the same perimeter. The measure is always between 0 and 1, with 1 being the most compact. Cooper Report ¶ 79 n.14.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 53.**

The following table compares the compactness scores for Mr. Cooper's illustrative congressional plan, the enacted congressional plan, and the state's prior congressional plan adopted in 2012:

Reock	Polsby-Popper
Mean Low	Mean Low

Illustrative Plan	.43	.28	.27	.18
Enacted Plan	.44	.31	.27	.16
Prior Plan	.45	.33	.26	.16

Cooper Report ¶ 79, fig.13.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 54.**

The Reock score for Mr. Cooper's illustrative Congressional District 6 is 0.45, which is more compact than the average Reock score of the enacted congressional plan (0.44) and the Reock score of the enacted Congressional District 6 (0.42). Cooper Report Exs. L-1 & L-3; Morgan Dep. 57:15–59:6 (agreeing that Mr. Cooper's illustrative Congressional District 6 scores 0.03 higher on Reock scale than enacted Congressional District 6).

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 55.**

The Polsby-Popper score for Mr. Cooper's illustrative Congressional District 6 is 0.27, which is as compact as the average Polsby-Popper score of the enacted congressional plan (0.27) and more compact than the Polsby-Popper score of the enacted Congressional District 6 (0.20). Cooper Report Exs. L-1 & L-3; Morgan Dep. 59:7–60:2 (agreeing that Mr. Cooper's

illustrative Congressional District 6 scores 0.07 higher on Polsby-Popper scale than enacted Congressional District 6).

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 56.**

Mr. Cooper drew his illustrative plan to follow, to the extent possible, county boundaries. Cooper Report ¶ 49.

**RESPONSE:** Disputed. This fact is refuted by the fact that Mr. Cooper introduced a new split of Cobb County on his current illustrative plan from his prior plan and did not follow city boundaries when he split counties as he claimed he did. Cooper Dep. 51:3-19, 52:20-53:12, 87:25-90:12.

**Plaintiffs' Statement No. 57.**

Where Mr. Cooper split counties to comply with one-person, one-vote requirements, he generally used whole 2020 census voting districts ("VTDs") as sub-county components; where VTDs were split, he followed census-block boundaries that are aligned with roads, natural features, municipal boundaries, census-block groups, and post-2020-census county commission districts. Cooper Report ¶ 49.

**RESPONSE:** Disputed. This fact is refuted by the fact that Mr. Cooper did not follow city boundaries when he split counties as he claimed he did. Cooper Dep. 87:25-90:12.



**Plaintiffs’ Statement No. 58.**

Mr. Cooper’s illustrative congressional plan is comparable to—if not better than—the enacted congressional plan and prior congressional plan in terms of split counties and municipalities and county, municipality, and VTD splits. Cooper Report ¶ 81, fig.14.

**RESPONSE:** Objection. The evidence cited does not support the fact stated because it offers no opinion about how comparable to or better than the various plans are in the number of split jurisdictions. Further, the fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact by making judgments about which plan is “better” than other plans on certain metrics.

**Plaintiffs’ Statement No. 59.**

The following table compares political subdivision splits (excluding unpopulated areas) for Mr. Cooper’s illustrative congressional plan, the enacted congressional plan, and the prior congressional plan:

Split Counties	County Splits		Split Cities/Towns		City/Town Splits
VTD					
Splits					
Illustrative Plan	15	18	37	78	43
Enacted Plan	15	21	43	91	46

Prior Plan 16 22 40 85 43

Cooper Report ¶ 81, fig.14.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 60.**

Although both Mr. Cooper’s illustrative congressional plan and the enacted congressional plan split 15 counties, the illustrative plan scores better across the other four categories: county splits (i.e., unique county/district combinations), split municipalities, municipality splits (i.e., unique municipality/district combinations), and VTD splits. Cooper Report ¶ 82, fig.14; Morgan Report ¶ 20 (agreeing that “[t]he Cooper [] congressional plan splits the same number of counties as the 2021 adopted congressional plan at 15”); Morgan Dep. 44:6–46:16, 54:7–11, 54:18–55:6 (not disputing numbers of split counties, county splits, split cities/towns, city/town splits, and VTD splits reported by Mr. Cooper).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact by making judgments about which plan is “better” than other plans on certain metrics.

**Plaintiffs' Statement No. 61.**

Mr. Cooper's illustrative plan splits majority-non-white Cobb County among three congressional districts, whereas the enacted congressional plan divides the county among four, including three majority-white districts—Congressional Districts 6, 11, and 14.

Cooper Report ¶¶ 60, 65, 73, fig.14, Exs. G & H-1.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 62.**

Under the enacted congressional plan, southwest Cobb County is in Congressional District 14, which stretches to the suburbs of Chattanooga in northwest Georgia:

Cooper Report ¶ 60, Ex. G.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 63.**

Mr. Cooper's illustrative Congressional District 6 unites Atlanta-area urban, suburban, and exurban voters, whereas the enacted congressional plan combines Appalachian north Georgia with the Atlanta suburbs. Cooper Report ¶ 68.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he included in Illustrative District 6, is rural. Cooper Dep. 54:6-20.

**Plaintiffs' Statement No. 64.**

Mr. Cooper's illustrative congressional plan combines voters in the western Atlanta metropolitan area: Illustrative Congressional District 6 unites all or part of Cobb, Douglas, Fulton, and Fayette counties, all of which are core counties under the ARC. Cooper Report ¶ 68.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he included in Illustrative District 6, is rural. Cooper Dep. 54:6-20.

**Plaintiffs' Statement No. 65.**

Douglas County is contained entirely in Mr. Cooper's illustrative Congressional District 6, whereas the enacted congressional plan divides the county between Congressional Districts 6 and 11, splitting Douglasville (population 34,650). Cooper Report ¶ 70.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 66.**

In Cobb County, Mr. Cooper's illustrative congressional plan assigns all but noncontiguous zero-population areas of Marietta (population 60,972) to Congressional District 6, whereas the enacted congressional plan divides populated areas of Marietta between Congressional Districts 6 and 11. Cooper Report ¶ 69.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 67.**

The enacted congressional plan also divides populated areas of Smyrna (population 55,663) between Congressional Districts 11 and 13, whereas Smyrna is not split in Mr. Cooper's illustrative plan. Cooper Report ¶ 69, Ex. M-4.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because neither reference addresses Smyrna in relation to Mr. Cooper's illustrative plan.

**Plaintiffs' Statement No. 68.**

Mr. Cooper's illustrative plan leaves six of the 14 districts in the enacted plan unchanged: Congressional Districts 1, 2, 5, 7, 8, and 12. Cooper

Report ¶¶ 11, 51; Morgan Report ¶ 18 (agreeing that “[i]n the Cooper [] congressional plan, six districts are the same as the enacted plan (1, 2, 5, 7, 8 and 12)”).

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 69.**

Dr. Palmer conducted a racially polarized voting analysis of enacted Congressional Districts 3, 6, 11, 13, and 14, both as a region (the “focus area”) and individually. Palmer Report ¶ 10, fig.1.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 70.**

Dr. Palmer employed a statistical method called ecological inference (“EI”) to derive estimates of the percentages of Black and white voters in the focus area that voted for each candidate in 40 statewide elections between 2012 and 2022. Palmer Report ¶¶ 8, 11, 13–14; Ex. 9 (“Alford Dep.”) at 36:11–37:12 (agreeing that EI is best available method for estimating voting behavior by race and with Dr. Palmer’s methodology and results).

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 71.**

Dr. Palmer's EI analysis relied on precinct-level election results and voter turnout by race, as compiled by the State of Georgia. Palmer Report ¶ 11.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 72.**

Dr. Palmer's EI process proceeded as follows: First, he examined each racial group's support for each candidate to determine if members of the group voted cohesively in support of a single candidate in each election and, if a significant majority of the group supported a single candidate, then identified that candidate as the group's candidate of choice; and second, he compared the preferences of white voters to the preferences of Black voters. Palmer Report ¶ 14.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. This fact purports to explain how "Dr. Palmer's EI process proceeded," but in reality deals with the way Dr. Palmer interprets the results of his EI analysis.

**Plaintiffs' Statement No. 73.**

Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 16, figs.2

& 3, tbl.1; Ex. 3 (“Suppl. Palmer Report”) ¶ 5, fig.1, tbl.1; Ex. 7 (“Alford Report”) at 3 (“Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022. Nor does it vary in any meaningful degree from the top of the ballot elections for U.S. President to down-ballot contests like Public Service Commissioner.”); Alford Dep. 37:13–15 (agreeing with Dr. Palmer’s conclusion that Black Georgians are politically cohesive).

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 74.**

The following table presents the estimates of support for the Black-preferred candidates in the 40 elections Dr. Palmer examined; the solid dots correspond to an estimate in a particular election, and the gray vertical lines behind each dot (which might not be visible because they are relatively small) are the 95% confidence intervals for the estimate:

Palmer Report ¶ 15 & n.13, fig.2.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 75.**

On average, across the focus area, Black voters supported their candidates of choice with 98.4% of the vote in the 40 elections Dr. Palmer examined. Palmer Report ¶¶ 7, 16.



**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 76.**

Black voters are also extremely cohesive in each congressional district that comprises the focus area, with a clear candidate of choice in all 40 elections Dr. Palmer examined:

Palmer Report ¶ 19, fig.4, tbls.2, 3, 4, 5 & 6.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 77.**

On average, in the 40 elections Dr. Palmer examined, Black voters supported their candidates of choice with 97.2% of the vote in Congressional District 3, 93.3% in Congressional District 6, 96.1% in Congressional District 11, 99.0% in Congressional District 13, and 95.8% in Congressional District 14. Palmer Report ¶ 19.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 78.**

White voters in Georgia are highly cohesive in voting in opposition to the Black-preferred candidate in every election Dr. Palmer examined. Palmer Report ¶ 17, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 (noting that “estimated white voter opposition to the Black-preferred candidate is typically above 80 percent” and is “remarkably

stable”); Alford Dep. 38:20–39:8 (agreeing that white voters generally vote in opposition to Black voters, which can operate to defeat minority-preferred candidates).

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 79.**

On average, across the focus area, white voters supported Black-preferred candidates with only 12.4% of the vote, and in no election that Dr. Palmer examined did this estimate exceed 17%. Palmer Report ¶¶ 7, 17.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 80.**

White voters are also highly cohesive in voting in opposition to the Black-preferred candidate in each district that comprises the focus area. Palmer Report ¶ 20, fig.4, tbls.2, 3, 4, 5 & 6.

**RESPONSE:** Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider “highly cohesive voting” by white voters. Report of Maxwell Palmer [Doc. 174-3] (“Palmer Report”), tbl 3.

**Plaintiffs' Statement No. 81.**

On average, in the 40 elections Dr. Palmer examined, white voters supported Black-preferred candidates with 6.7% of the vote in Congressional District 3, 20.2% in Congressional District 6, 16.1% in Congressional District 11, 15.5% in Congressional District 13, and 10.3% in Congressional District 14. Palmer Report ¶ 20.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 82.**

Across the focus area, white-preferred candidates won the majority of the vote in all 40 elections Dr. Palmer examined. Palmer Report ¶¶ 8, 22, tbl.7.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. The focus area for Dr. Palmer's report includes CD 13, where the Black-preferred candidate uniformly won the majority of the vote in all 40 elections Dr. Palmer examined. Palmer Report, n. 1.

**Plaintiffs' Statement No. 83.**

The white-preferred candidate also received a larger share of the vote than the Black-preferred candidate in all 40 elections Dr. Palmer examined in Congressional Districts 3, 6, 11, and 14. Palmer Report ¶¶ 8, 22, tbl.7.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 84.**

Only in the majority-Black Congressional District 13 did the Black-preferred candidate win a larger share of the vote in the 40 elections Dr. Palmer examined. Cooper Report ¶ 73, fig.14; Palmer Report ¶¶ 8, 22, tbl.7.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 85.**

These findings were confirmed by the endogenous election results from the 2022 general election, in which Black-preferred candidates were defeated in Congressional Districts 3, 6, 11, and 14. Suppl. Palmer Report ¶ 4.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 86.**

Georgia has an extensive and well-documented history of discrimination against its Black citizens that has touched upon their right to register, vote, and otherwise participate in the political process; as Dr. Orville Vernon Burton explained, throughout the history of the state of Georgia, voting rights have followed a pattern where, after periods of increased nonwhite voter registration and turnout, the State has passed legislation, and often used extralegal means, to disenfranchise minority voters. Ex. 4 (“Burton Report”) at 10.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 87.**

Between 1867 and 1872, at least one-quarter of the state's Black legislators were jailed, threatened, bribed, beaten, or killed. Burton Report 14.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 88.**

This violence, often perpetrated by the Ku Klux Klan, enabled white Georgians to regain control of the levers of power in the state. Burton Report 14–17.

**RESPONSE:** Undisputed that Dr. Burton made statements concerning the violence of the Ku Klux Klan during the 1800s in his report.

**Plaintiffs' Statement No. 89.**

After seizing control of the state legislature through a campaign of violence and intimidation, white Democrats called a new constitutional convention chaired by the former Confederate secretary of state; that convention resulted in the Constitution of 1877, which effectively barred

Black Georgians from voting through the implementation of a cumulative poll tax. Burton Report 17.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to “seizing control” and “barred Black Georgian from voting.”

**Plaintiffs’ Statement No. 90.**

Violence, and the threat of it, was constant for many Black Georgians as white Democrats controlled the state in the late-19th and first part of the 20th centuries. Burton Report 23.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to “constant” violence and threat of violence.

**Plaintiffs’ Statement No. 91.**

In addition to mob violence, Black Georgians endured a form of state-sanctioned violence through debt peonage and the convict lease system, which effectively amounted to “slavery by another name.” Burton Report 24.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact as to “mob violence” and “amounted to ‘slavery by another name’.”

**Plaintiffs' Statement No. 92.**

Violence against Black Georgians surged after the First World War, with many white Georgians holding “a deep antipathy” toward Black veterans. Burton Report 25.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact as to “violence ... surged.”

**Plaintiffs' Statement No. 93.**

Between 1875 and 1930, there were 462 lynchings in Georgia; only Mississippi had more reported lynchings during that time. Burton Report 26.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 94.**

These lynchings “served as a reminder for Black Georgians who challenged the status quo, and in practice lynchings did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared to participate in the franchise.” Burton Report 26.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report concerning the lynchings in Georgia from 1875 through 1930.

**Plaintiffs' Statement No. 95.**

“While Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War.” Burton Report 10 (quoting Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* 2–3 (2003)).

**RESPONSE:** Undisputed that Dr. Burton included this quote in his report.

**Plaintiffs' Statement No. 96.**

Although Georgia's 1865 constitution abolished slavery, it limited the franchise to white citizens and barred Black Georgians from holding elected office. Burton Report 11.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 97.**

The federal government forced Georgia to extend the right to vote to Black males in 1867, but the State responded with a series of facially neutral policies that had the intent and effect of “render[ing] black participation in politics improbable.” Burton Report 12, 18.



**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact that “the State responded” with “intent and effect.”

**Plaintiffs’ Statement No. 98.**

Georgia’s 1877 constitution, for example, did not explicitly disenfranchise Black citizens but made it practically impossible for Black Georgians to vote by implementing a cumulative poll tax for elections, such that a potential voter had to pay all previous unpaid poll taxes before casting a ballot. Burton Report 17.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, it is duplicative, is stated as argument rather than as a statement of fact and includes facts that are not stated in Dr. Burton’s report.

**Plaintiffs’ Statement No. 99.**

Relatedly, Georgia prohibited Black voters from participating in Democratic Party primaries; because Georgia was a one-party Democratic state, the “white primary” effectively eliminated Black participation in the state’s politics. Burton Report 19.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as argument rather than as a

statement of fact, and is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs’ Statement No. 100.**

In 1908, Georgia enacted the Felder-Williams Bill, which broadly disenfranchised many Georgians but contained numerous exceptions that allowed most white citizens to vote, including owning 40 acres of land or 500 dollars’ worth of property; being able to write or to understand and explain any paragraph of the U.S. or Georgia constitution; and being “persons of good character who understand the duties and obligations of citizenship.” Burton Report 20 (quoting McDonald, *supra*, at 41).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs’ Statement No. 101.**

In conjunction with the Felder-Williams Bill, Georgia enacted a voter-registration law allowing any citizen to contest the right of registration of any person whose name appeared on the voter list. Burton Report 21.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion of the 1910 Code in his report.

**Plaintiffs' Statement No. 102.**

These laws “were devastatingly effective at eliminating both Black elected officials from seats of power and Black voters from the franchise”: At the time of the Felder-Williams Bill, there were 33,816 Black Georgians registered to vote, while two years later, only 7,847 Black voters were registered—a decrease of more than 75%. Burton Report 22.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 103.**

From 1920 to 1930, the combined Black vote total in Georgia never exceeded 2,700, and by 1940, the total Black registration in Georgia was still only approximately 20,000, around 2–3% of eligible Black voters. Burton Report 22.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 104.**

By contrast, less than 6% of white voters were disenfranchised by Georgia's new election laws. Burton Report 22.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion pertaining to the time period of 1920 to 1930 in his report.

**Plaintiffs' Statement No. 105.**

Congress enacted the Voting Rights Act of 1965 to address these discriminatory practices; among its provisions was the preclearance requirement that prohibited certain jurisdictions with well-documented practices of discrimination—including Georgia—from making changes to their voting laws without approval from the federal government. Burton Report 36.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it in part states a legal conclusion concerning the enactment of the Voting Rights Act that is not in Dr. Bruton's report at the cited page.

**Plaintiffs' Statement No. 106.**

The Voting Rights Act, however, did not translate into instant success for Black political participation in Georgia. Burton Report 36.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 107.**

Among states subject to preclearance in their entirety, Georgia ranked second only to Alabama in the disparity in voter registration between its Black and white citizens by 1976, and these disparities were directly

attributable to Georgia's continued efforts to enact policies designed to circumvent the Voting Rights Act's protections and suppress the rights of Black voters. Burton Report 36.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact stated.

**Plaintiffs' Statement No. 108.**

Between 1965 and 1980, nearly 30% of the U.S. Department of Justice's objections to voting-related changes under Section 5 were attributable to Georgia—more than any other state in the country. Burton Report 3, 39.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 109.**

When Congress reauthorized the Voting Rights Act in 1982, it specifically cited systemic abuses by Georgia officials intended to obstruct Black voting rights. Burton Report 3, 42.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 110.**

Throughout the first two decades of the 21st century, the State initiated investigations of Black candidates and organizations dedicated to protecting the franchise rights of Georgia's minority voters; investigations into alleged voter fraud in the predominantly Black City of Quitman and the efforts of the New Georgia Project and the Asian American Legal Advocacy Center ended without convictions or evidence of wrongdoing. Burton Report 45–46.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 111.**

After the U.S. Supreme Court effectively ended the Voting Rights Act's preclearance requirement in *Shelby County v. Holder*, 570 U.S. 529 (2013), Georgia was the only former preclearance state that proceeded to adopt “all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures.” Burton Report 48–49.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is factually incorrect because (1)

Georgia adopted photo ID before Shelby County, *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1346 (11th Cir. 2009) (noting 2005 adoption); (2) state officials are not responsible for polling place closures, *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at \*49 (N.D. Ga. Feb. 16, 2021); and (3) Georgia's list-maintenance procedures are not applied differently to any class of voters, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at \*62 (N.D. Ga. Mar. 31, 2021). Further, this statement relies on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

### **Plaintiffs' Statement No. 112.**

In 2015, for example, Georgia began closing polling places in primarily Black neighborhoods. Burton Report 49.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case and is factually incorrect because the state of Georgia is not responsible for closing polling places—county officials are. *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at \*49 (N.D. Ga. Feb. 16, 2021).

**Plaintiffs' Statement No. 113.**

By 2019, 18 counties in Georgia closed more than half of their polling places and several closed almost 90%, depressing turnout in affected areas and leading to substantially longer waiting times at the polls. Burton Report 50.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is immaterial to the claims and defenses in this case, and is factually incorrect because the state of Georgia is not responsible for closing polling places—county officials are. *Fair Fight Action Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at \*49 (N.D. Ga. Feb. 16, 2021). The statement also relies on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

Further, the evidence cited does not support the fact because the citation does not establish any connection between precinct closure in 18 Georgia counties and “longer waiting times at the polls” in two precincts.



**Plaintiffs' Statement No. 114.**

According to one study, in 2020, about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state's polling places. Burton Report 50.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

**Plaintiffs' Statement No. 115.**

Georgia also engaged in "systematic efforts to purge the voting rolls in ways that particularly disadvantaged minority voters and candidates" in the aftermath of Shelby County. Burton Report 50.

**RESPONSE:** Objection. The fact is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur.*

*Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”)

**Plaintiffs’ Statement No. 116.**

In the period from 2012 to 2018, Georgia removed 1.4 million voters from the eligible voter rolls—purges that disproportionately impacted Black voters. Burton Report 50–51.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and conflicts with the findings of this Court that the list-maintenance process was not applied differently to any class of voters. *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261571, at \*62 (N.D. Ga. Mar. 31, 2021).

**Plaintiffs’ Statement No. 117.**

Following significant increases in Black voter turnout, Georgia enacted Senate Bill (“SB”) 202 in the spring of 2021, which targeted methods of voting that Black voters used extensively in the 2020 general election; among other things, SB 202 (1) increases identification requirements for absentee voting, (2) bans state and local governments from sending unsolicited absentee-ballot applications, (3) limits the use of absentee-ballot drop boxes, (4) bans mobile polling places (except when the governor declares an emergency), and (5)

prohibits anyone who is not a poll worker from giving food or drink to voters in line to vote. Burton Report 53.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”). Defendants further state that the provisions of SB 202 are being challenged in separate litigation.

**Plaintiffs’ Statement No. 118.**

The growth of Georgia’s nonwhite population over the past 20 years and the corresponding increase in minority voting power has, as Dr. Burton explained, “provide[d] a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote.” Burton Report 60.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs’ Statement No. 119.**

Georgia’s legislative and congressional districts were grievously malapportioned in the years preceding the enactment of the Voting Rights Act. Burton Report 32.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact with respect to the use of the term “grievously malapportioned.”

**Plaintiffs’ Statement No. 120.**

In 1957, the Atlanta-based Congressional District 5 was the second-most populous congressional district in the United States, with an estimated population of 782,800—about twice the size of the average congressional district. Burton Report 32.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs' Statement No. 121.**

By 1960, Fulton County was the most underrepresented county in a state legislature of any county in the United States; DeKalb County was the third- most-underrepresented county. Burton Report 32.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs' Statement No. 122.**

Georgia's redistricting plans were subject to the Voting Rights Act's preclearance requirement, and in the 40 years following its enactment, Georgia did not complete a redistricting cycle without objection from the U.S. Department of Justice. Burton Report 40–44.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 123.**

The Atlanta metropolitan area was often the focal point of Georgia's efforts to suppress Black political influence through redistricting; for

example, the U.S. Department of Justice rejected Georgia's 1971 congressional plan, which cracked voters throughout Congressional Districts 4, 5, and 6 to give the Atlanta-based Congressional District 5 a substantial white majority. Burton Report 40; *Georgia v. United States*, 411 U.S. 526, 541 (1973) (affirming that Georgia's 1972 reapportionment plan violated Section 5 of Voting Rights Act).

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 124.**

The U.S. Department of Justice also rejected the congressional redistricting plan passed by Georgia following the 1980 census, which contained white majorities in nine of the state's 10 congressional districts, even though Georgia's population was nearly 30% Black. Burton Report 40; *Busbee v. Smith*, 549 F. Supp. 494, 517 (D.D.C. 1982) (three-judge court) (denying preclearance based on evidence that Georgia's redistricting plan was product of purposeful discrimination in violation of Voting Rights Act), *aff'd*, 459 U.S. 1166 (1983); Ex. 12 (1982 objection letter from U.S. Department of Justice asserting that "the proposed [congressional] plan divides an apparently cohesive black community of Fulton and DeKalb Counties").

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 125.**

During the 1990 redistricting cycle, the U.S. Department of Justice twice rejected Georgia's state reapportionment plan before finally approving the third submission. Burton Report 42; Ex. 13 (1992 objection letter from U.S. Department of Justice asserting that "the submitted [congressional] plan minimizes the electoral potential of large concentrations of black population in several areas of the state").

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 126.**

During the 2000 redistricting cycle, the U.S. District Court for the District of Columbia refused to preclear Georgia's State Senate redistricting plan, which decreased the Black voting-age population in the districts surrounding Chatham, Albany, Dougherty, Calhoun, Macon, and Bibb counties. Burton Report 43.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 127.**

In 2015, after Shelby County, the General Assembly engaged in mid-cycle redistricting, reducing the Black and Latino voting-age populations in House Districts 105 and 111, both of which had become increasingly diverse over the prior half-decade. Burton Report 40, 44.

**RESPONSE:** Objection. The act does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case because the referenced redistricting was not found to be unlawful.

**Plaintiffs' Statement No. 128.**

Dr. Palmer found strong evidence of racially polarized voting across the focus area he examined and in each of Congressional Districts 3, 6, 11, 13, and 14. Palmer Report ¶ 7; Suppl. Palmer Report ¶ 4; Alford Report 3 (“As evident in Dr. Palmer’s [reports], the pattern of polarization is quite striking.”); Alford Dep. 44:8–16, 45:10–12 (“This is clearly polarized voting, and the stability of it across time and across office and across geography is really pretty remarkable.”).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) to the extent the term “racial polarization” is a legal conclusion as distinct from



the mere observation using statistical analysis that two races are voting cohesively for different candidates in a given election.

**Plaintiffs’ Statement No. 129.**

Black voters in Georgia are extremely cohesive, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 16, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 (“Black voter support for their preferred candidate is typically in the 90 percent range and scarcely varies at all across the ten years examined from 2012 to 2022. Nor does it vary in any meaningful degree from the top of the ballot elections for U.S. President to down- ballot contests like Public Service Commissioner.”); Alford Dep. 37:13–15 (agreeing with Dr. Palmer’s conclusion that Black Georgians are politically cohesive).

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 130.**

On average, across the focus area, Black voters supported their candidates of choice with 98.4% of the vote in the 40 elections Dr. Palmer examined. Palmer Report ¶¶ 7, 16.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 131.**

Black voters are also extremely cohesive in each congressional district that comprises the focus area, with a clear candidate of choice in all 40 elections Dr. Palmer examined. Palmer Report ¶ 19, fig.4, tbls.2, 3, 4, 5 & 6.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 132.**

On average, in the 40 elections Dr. Palmer examined, Black voters supported their candidates of choice with 97.2% of the vote in Congressional District 3, 93.3% in Congressional District 6, 96.1% in Congressional District 11, 99.0% in Congressional District 13, and 95.8% in Congressional District 14. Palmer Report ¶ 19.

**RESPONSE:** Undisputed

**Plaintiffs' Statement No. 133.**

White voters in Georgia, by contrast, are highly cohesive in voting in opposition to the Black-preferred candidate in every election Dr. Palmer examined. Palmer Report ¶ 17, figs.2 & 3, tbl.1; Suppl. Palmer Report ¶ 5, fig.1, tbl.1; Alford Report 3 (noting that “estimated white voter opposition to the Black-preferred candidate is typically above 80 percent” and is “remarkably stable”); Alford Dep. 38:20–39:8 (agreeing that white voters

generally vote in opposition to Black voters, which can operate to defeat minority-preferred candidates).

**RESPONSE:** Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider “highly cohesive voting” by white voters. Palmer Report, tbl 3.

**Plaintiffs’ Statement No. 134.**

On average, across the focus area, white voters supported Black-preferred candidates with only 12.4% of the vote, and in no election that Dr. Palmer examined did this estimate exceed 17%. Palmer Report ¶¶ 7, 17.

**RESPONSE:** Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider “highly cohesive voting” by white voters. Palmer Report, tbl 3.

**Plaintiffs' Statement No. 135.**

White voters are also highly cohesive in voting in opposition to the Black-preferred candidate in each district that comprises the focus area. Palmer Report ¶ 20, fig.4, tbls.2, 3, 4, 5 & 6.

**RESPONSE:** Objection, the evidence cited does not support the fact stated as in some instances in CD 6, as many as 32% of white voters support the Black preferred candidate (as measured within the confidence intervals provided). Thus, just 68% of white voters are voting in opposition to the Black-preferred candidate. This is not what one would consider “highly cohesive voting” by white voters. Palmer Report, tbl 3.

**Plaintiffs' Statement No. 136.**

On average, in the 40 elections Dr. Palmer examined, white voters supported Black-preferred candidates with 6.7% of the vote in Congressional District 3, 20.2% in Congressional District 6, 16.1% in Congressional District 11, 15.5% in Congressional District 13, and 10.3% in Congressional District 14. Palmer Report ¶ 20.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 137.**

Dr. Burton explored the relationship between race and partisanship in Georgia politics. Burton Report 57–62.

**RESPONSE:** Undisputed that Dr. Burton gives opinions concerning race and partisanship in Georgia in his report opining that race and partisanship are inextricably intertwined and cannot be separated in Georgia. Report of Orville Burton [Doc. 174-5] (“Burton Report”), p. 4 and Deposition of Orville Burton [Doc. 185] (“Burton Dep.”) p. 64:10-17.

**Plaintiffs’ Statement No. 138.**

As Dr. Burton explained, “[s]ince Reconstruction, conservative whites in Georgia and other southern states have more or less successfully and continuously held onto power. While the second half of the twentieth century was generally marked by a slow transition from conservative white Democrats to conservative white Republicans holding political power, the reality of conservative white political dominance did not change.” Burton Report 57.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and because it is stated as argument rather than as a statement of fact.

**Plaintiffs’ Statement No. 139.**

Notably, the Democratic Party’s embrace of civil rights legislation—and the Republican Party’s opposition to it—was the catalyst of this political transformation, as the Democratic Party’s embrace of civil rights policies in

the mid- 20th century caused Black voters to leave the Republican Party (the “Party of Lincoln”) for the Democratic Party. Burton Report 57–58.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs’ Statement No. 140.**

In turn, the Democratic Party’s embrace of civil rights legislation sparked what Earl Black and Merle Black describe as the “Great White Switch,” in which white voters abandoned the Democratic Party for the Republican Party. Burton Report 58.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs’ Statement No. 141.**

The 1948 presidential election illustrated this phenomenon: South Carolina Governor J. Strom Thurmond mounted a third-party challenge to Democratic President Harry Truman in protest of Truman’s support for civil rights, including his integration of the armed forces. Thurmond ran on the ticket of the so- called Dixiecrat Party, which claimed the battle flag of the Confederacy as its symbol. Thurmond’s campaign ended Democratic dominance of Deep South states by winning South Carolina, Alabama, Mississippi, and Louisiana. Burton Report 58.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 142.**

This trend continued into the 1964 and 1968 elections. In 1964, the Republican nominee, Barry Goldwater, won only six states in a landslide defeat to President Lyndon B. Johnson: his home state of Arizona and all five states comprising the Deep South (South Carolina, Georgia, Alabama, Mississippi, and Louisiana). Goldwater was the first Republican presidential candidate to win Georgia's electoral votes. Burton Report 58.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 143.**

Goldwater told a group of Republicans from Southern states that it was better for the Republican Party to forgo the "Negro vote" and instead court white Southerners who opposed equal rights. Burton Report 59.

**RESPONSE:** Undisputed that Dr. Burton gives this opinion in his report.

**Plaintiffs' Statement No. 144.**

Four years later, Georgia's electoral votes were won by George Wallace, another third-party presidential candidate who ran on a platform of vociferous opposition to civil rights legislation. Burton Report 58.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 145.**

The effectiveness of what was called the "Southern strategy" during Richard Nixon's presidency had a profound impact on the development of the nearly-all-white modern Republican Party in the South. Burton Report 59.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and it is based on hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

**Plaintiffs' Statement No. 146.**

Matthew D. Lassiter, an historian of the Atlanta suburbs, observed that "the law-and-order platform at the center of Nixon's suburban strategy



tapped into Middle American resentment toward antiwar demonstrators and black militants but consciously employed a color-blind discourse that deflected charges of racial demagoguery.” Burton Report 60 (quoting Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* 234 (2006)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs’ Statement No. 147.**

As Dr. Burton concluded, “[w]hite southerners abandoned the Democratic Party for the Republican Party because the Republican Party identified itself with racial conservatism. Consistent with this strategy, Republicans today continue to use racialized politics and race-based appeals to attract racially conservative white voters.” Burton Report 59.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 148.**

Georgia is a flash point of this modern strategy: According to Dr. Peyton McCrary, an historian formerly with the U.S. Department of Justice, “[i]n Georgia politics since 2002, state government is dominated by the Republican Party, the party to which now most non-Hispanic white persons belong. The greatest electoral threat to the Republican Party and Georgia’s governing elected officials is the growing number of African American, Hispanic, and Asian citizens, who tend strongly to support Democratic candidates. The increase in minority population and the threat of increasing minority voting strength provides a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote. That is what has happened.” Burton Report 60 (quoting Expert Rep. of Dr. Peyton McCrary at 8, *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Apr. 24, 2020), ECF No. 339)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 149.**

Dr. Burton explained that racial bloc voting “is so strong, and race and partisanship so deeply intertwined, that statisticians refer to it as multicollinearity, meaning one cannot, as a scientific matter, separate partisanship from race in Georgia elections.” Burton Report 61.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and Defendants object to whether Dr. Burton is qualified to provide that opinion.

**Plaintiffs' Statement No. 150.**

Dr. Burton further noted that while “Republicans nominated a Black candidate—Herschel Walker, a former University of Georgia football legend—to challenge Senator Raphael Warnock in the 2022 general election for U.S. Senate,” “Walker’s nomination only underscores the extent to which race and partisanship remain intertwined. Republican leaders in Georgia admittedly supported Walker because they wanted to ‘peel[] off a handful of Black voters’ and ‘reassure white swing voters that the party was not racist.” Burton Report 61 (quoting Cleve R. Wootson Jr., Herschel Walker’s Struggles Show GOP’s Deeper Challenge in Georgia, Wash. Post, <https://www.washingtonpost.com/politics/2022/09/22/herschel-walker-georgia-black-voters> (Sept. 22, 2022)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs’ Statement No. 151.**

The significant impact of race on Georgia’s partisan divide can be further seen in the opposing positions taken by officeholders in the two major political parties on issues inextricably linked to race; for example, the Democratic and Republican members of Georgia’s congressional delegation consistently oppose one another on issues relating to civil rights, based on a report prepared by the NAACP. Burton Report 74–75.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 152.**

The Pew Research Center found a similar divergence on racial issues between Democratic and Republican voters nationwide. Burton Dec. 75–76.

**RESPONSE:** Objection. The fact relied on is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 153.**

In a poll of 3,291 likely Georgia voters conducted just before the 2020 election, among voters who believed that racism was the most important issue facing the country, 78% voted for Joe Biden and 20% voted for Donald Trump; among voters who believed that racism was “not too or not at all serious,” 9% voted for Biden and 90% voted for Trump; and among voters who believe that racism is a serious problem in policing, 65% voted for Biden and 33% voted for Trump. Burton Report 76.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 154.**

Georgia—from the end of the Civil War to the present day—has enacted a wide variety of discriminatory voting procedures that have burdened Black Georgians' right to vote, including unusually large election districts and majority- vote requirements. Burton Report 11–55.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and fails to give a specific page citation for this fact.

**Plaintiffs' Statement No. 155.**

Georgia deliberately malapportioned its legislative and congressional districts to dilute the votes of Black Georgians throughout the 20th century; in 1957, for example, Georgia's Congressional District 5—consisting of Fulton, DeKalb, and Rockdale counties—was the second-most-populous congressional district in the United States. Burton Report 31.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is not supported by the evidence cited as to the reference “deliberately” which is not used by Dr. Burton.

**Plaintiffs' Statement No. 156.**

By 1960, Fulton County was the most underrepresented county in its state legislature of any county in the United States; DeKalb County was the third- most-underrepresented county. Burton Report 31.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is duplicative, is not separately numbered and the evidence cited does not support the fact stated.

**Plaintiffs' Statement No. 157.**

After enactment of the Voting Rights Act, numerous Georgia counties with sizeable Black populations shifted from voting by district to at-large voting, ensuring that the white population could elect all representatives in the voting district at issue. Burton Report 32–33.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is a legal conclusion and stated as an argument and not fact to the extent that intent inferred by the use of the word “ensuring.” By way of further objection, the fact does not comply with LR 56.1(B)(1) because county decisions are immaterial to the claims and defenses in this case.

**Plaintiffs' Statement No. 158.**

Georgia also adopted a majority-vote requirement, “numbered-post voting,” and staggered voting in the 1960s and 1970s to limit Black voting strength. Burton Report 34.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 159.**

These efforts have persisted well into the 21st century: Georgia shuttered polling places in predominantly Black communities beginning in 2015, perpetrated extensive purges from the state’s voter-registration rolls that disproportionately affected Black voters from 2012 to 2018, and enacted SB 202 in the spring of 2021, which restricted methods of voting used by Black Georgians to vote in record numbers during the 2020 election. Burton Report 49–55.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is legally incorrect because the state of Georgia does not close polling places, which is the responsibility of county officials. *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-CV-5391-SCJ, 2021 U.S. Dist. LEXIS 261570, at \*49 (N.D. Ga. Feb. 16, 2021).



**Plaintiffs' Statement No. 160.**

Georgia has no history of candidate slating for congressional elections. ECF No. 97 at 211.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence.

**Plaintiffs' Statement No. 161.**

Dr. Loren Collingwood concluded that, “[o]n every metric, Black Georgians are disadvantaged socioeconomically relative to non-Hispanic White Georgians,” disparities that “have an adverse effect on the ability of Black Georgians to participate in the political process, as measured by voter turnout and other forms of political participation.” Ex. 5 (“Collingwood Report”) at 3.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 162.**

The data show a significant relationship between turnout and disparities in health, employment, and education; as health, education, and employment outcomes increase, so does voter turnout in a material way. Collingwood Report 3.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 163.**

The unemployment rate among Black Georgians (8.7%) is nearly double that of white Georgians (4.4%). Collingwood Report 4.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report, based on data in the 2015-2019 American Community Survey (ACS).

**Plaintiffs' Statement No. 164.**

White households are twice as likely as Black households to report an annual income above \$100,000. Collingwood Report 4.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report, based on data in the 2015-2019 American Community Survey (ACS).

**Plaintiffs' Statement No. 165.**

Black Georgians are more than twice as likely as white Georgians to live below the poverty line—and Black children more than three times as likely. Collingwood Report 4.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. Dr. Collingwood's opinion on page 4 of his Report is in error. The

figures included in Table 1 on page 5 of Dr. Collingwood's Report from the 2015-2019 ACS for children below the poverty line are 31.3% for Black children and 11.5% for white children, which is less than a three-fold difference.

**Plaintiffs' Statement No. 166.**

Black Georgians are nearly three times more likely than White Georgians to receive SNAP benefits. Collingwood Report 4.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 167.**

Black adults are more likely than white adults to lack a high school diploma—13.3% as compared to 9.4%. Collingwood Report 4.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. Dr. Collingwood's Report on page 4 qualifies the referenced opinion by limiting the adults to those over the age of 25.

**Plaintiffs' Statement No. 168.**

Thirty-five percent of white Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24% of Black Georgians over the age of 25. Collingwood Report 4.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 169.**

These racial disparities across economics, health, employment, and education hold across nearly every county in the state. Collingwood Report 4–6.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 170.**

The socioeconomic data provided by Mr. Cooper (based on the 5-Year 2015–2019 American Community Survey) further demonstrate that socioeconomic disparities by race exist at the county and municipal levels throughout Georgia, with non-Hispanic white Georgians consistently maintaining higher levels of socioeconomic wellbeing. Cooper Report ¶¶ 83–85.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. Mr. Cooper testified that he only reviewed county-level ACS data and not municipal-level data and offered no opinions about what those facts demonstrate. Cooper Dep. 97:25-99:1.

**Plaintiffs' Statement No. 171.**

Extensive literature in the field of political science demonstrates a strong and consistent link between socioeconomic status and voter turnout. Collingwood Report 7.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 172.**

In general, voters with higher income and education are disproportionately likely to vote and participate in American politics. Collingwood Report 7.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 173.**

In elections between 2010 and 2020, Black Georgians consistently turned out to vote at lower rates than white Georgians—a gap of at least 3.1 percentage points (during the 2012 general election) that reached its peak of 13.3 percentage points during the 2022 general election. Collingwood Report 7–8.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. The data cited on page 8 of Dr. Collingwood's Report show a gap in

turnout of 5.5% in 2010, 3.1% in 2012, 6.9% in 2014, 11.6% in 2016, 8.3% in 2018, 12.6% in 2020, and 13.3% in 2022. Thus, there is not a “consistent[]” trend in the data as implied by the allegation of a “peak” in Plaintiff’s SMF ¶ 173. Rather, the gap narrowed from 2010 to 2012, widened from 2012 to 2016, narrowed again from 2016 to 2018, and widened again from 2018 to 2022.

**Plaintiffs’ Statement No. 174.**

This trend can be seen at the local level as well: During each general election, white voters exceeded the turnout rates of Black voters in all but a handful of Georgia’s 159 counties, and of 1,957 precincts Dr. Collingwood analyzed, white voters had higher rates of turnout in 79.2% of precincts. Collingwood Report 8–15.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs’ Statement No. 175.**

Voter turnout in the Atlanta metropolitan area is consistent with the overall statewide trend. Collingwood Report 16–19.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. Defendants admit that Dr. Collingwood’s Report analyzes data from the Atlanta-Sandy Springs-Alpharetta Metropolitan Area and so opines on

pages 16-19 of his Report. But the report also deny the statement in part, because Dr. Collingwood's Report concedes on page 16 that Black turnout exceeded White turnout in Clayton, Henry, and Rockdale Counties.

**Plaintiffs' Statement No. 176.**

Each 10-percentage-point increase in the size of the Black population without a high school degree decreases Black turnout by 3.5 percentage points, and Black turnout rises 2.3 percentage points for each 10-percentage-point increase in the percentage of the Black population with a four-year degree. Collingwood Report 24–26.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 177.**

Black turnout falls 4.9 percentage points for each 10-percentage-point increase in the percentage of the Black population below the poverty line. Collingwood Report 28.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs' Statement No. 178.**

White Georgians are more likely than Black Georgians to participate in a range of political activities, including attending local meetings,

demonstrating political participation through lawn signs and bumper stickers, working on campaigns, attending protests and demonstrations, contacting public officials, and donating money to campaigns and political causes. Collingwood Report 34–38.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. Defendants admit Dr. Collingwood states in his Report at page 38 that “White Georgians engage in a wide range of political activity at higher rates than Black Georgians, including activities like donating to campaigns, contacting public officials, and posting political signs.” But Defendants deny the statement because Dr. Collingwood concluded on page 35 of his Report that “there are three [of the eight] questions where significant statistical differences do not emerge,” namely, political protest, being contacted by a political campaign, and running for office.

**Plaintiffs’ Statement No. 179.**

Although explicit racial appeals are no longer commonplace, implicit racial appeals remain common and contribute to Georgia’s racially polarized voting. Burton Report 62.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.



**Plaintiffs' Statement No. 180.**

In the words of Princeton University political scientist Tali Mendelberg, an implicit racial appeal “contains a recognizable—if subtle—racial reference, most easily through visual references.” Burton Report 63–64 (quoting Tali Mendelberg, *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality* 9, 11 (2001)).

**RESPONSE:** Objection. The fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 181.**

Ian Haney López, the Chief Justice Earl Warren Professor of Public Law at Berkeley Law, described an implicit racial appeal as a “coded racial appeal,” with “one core point of the code being to foster deniability” since the “explicit racial appeal of yesteryear now invites political suicide”; accordingly, one characteristic of implicit racial appeals is that they are usually most successful when their racial subtext goes undetected. Burton Report 63 (quoting Ian Haney López, *Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism and Wrecked the Middle Class* 4, 130 (2013)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 182.**

Implicit racial appeals use coded language to activate racial thinking and prime racial attitudes among voters; such racial cues include phrases like “welfare queen,” “lazy,” “criminal,” “taking advantage,” “corruption,” “fraud,” “voter fraud,” and “law and order.” Burton Report 63–64.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 183.**

Dr. Burton explained that “[r]acism, whether dog whistled or communicated directly, became a hallmark of” Georgia politics during the second half of the 20th century. Burton Report 66.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact.

**Plaintiffs' Statement No. 184.**

During his first successful campaign for Congress in 1978, future U.S. Speaker of the House Newt Gingrich ran against Virginia Shephard, a white Democrat; he distributed a flyer showing his opponent in a photo with Black Representative Julian Bond, which read: "If you like welfare cheaters, you'll love Virginia Shephard. In 1976, Virginia Shephard voted to table a bill to cut down on welfare cheaters. People like Mrs. Shephard, who was a welfare worker for five years, and Julian Bond fought together to kill the bill." Burton Report 65 (quoting Dana Milbank, *The Destructionists: The Twenty-Five Year Crack-up of the Republican Party* 66 (2022)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is stated as argument rather than as a statement of fact.

**Plaintiffs' Statement No. 185.**

One of Gingrich's campaign aides later said, "[W]e went after every rural southern prejudice we could think of." Burton Report 65 (quoting Milbank, *supra*, at 66).

**RESPONSE:** Objection. The fact is inadmissible because it is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802;

*Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998).

**Plaintiffs' Statement No. 186.**

In the 1990s, Republican Congressman Bob Barr addressed the Council of Conservative Citizens, a descendant of the Jim Crow-era white citizens councils. Burton Report 66.

**RESPONSE:** Undisputed that Dr. Burton cites this incident in his report.

**Plaintiffs' Statement No. 187.**

North Georgia Congresswoman Marjorie Taylor Greene has recorded videos stating, among other things, that Black people's progress is hindered by Black gang activity, drugs, lack of education, Planned Parenthood, and abortions. Burton Report 69.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because the evidence relied upon is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.")

**Plaintiffs' Statement No. 188.**

Georgia's more recent campaigns were rife with racial appeals; for example, during the 2018 gubernatorial election, now-Governor Brian Kemp circulated a photograph of members of the New Black Panther Party attending a rally for his opponent, Stacey Abrams, with the accompanying message: "The New Black Panther Party is a virulently racist and antisemitic organization whose leaders have encouraged violence against whites, Jews, and police officers. SHARE if you agree that Abrams and the Black Panthers are TOO EXTREME for Georgia!" Burton Report 67.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence relied upon is hearsay, which cannot be considered at summary judgment. Fed. R. Evid. 802; *Macuba v. DeBoer*, 193 F.3d 1316, 1322 (11th Cir. 1999); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) ("Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.").

**Plaintiffs' Statement No. 189.**

During that same election, a robocall created by a fringe right-wing group circulated in the Atlanta suburbs before the election, with a speaker imitating Oprah Winfrey and stating, "This is the magical Negro, Oprah

Winfrey, asking you to make my fellow Negro, Stacey Abrams, governor of Georgia.” Burton Report 68.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact. Further, the fact is also objectionable because it is immaterial to the claims and defenses in this case because Dr. Burton did not analyze the impact of the call on any election in Georgia or did not research how widely the call was distributed in Georgia. Burton Dep. 125:7-126:5.

**Plaintiffs’ Statement No. 190.**

Ultimately, as one commentator noted following the 2018 election, the use of racial appeals in Georgia and elsewhere helped candidates during that election cycle. Burton Report 68 (citing Jarvis DeBerry, The Dirty South: Racist Appeals Didn’t Hurt White Candidates; Did They Help Them Win?, NOLA.com (Nov. 17, 2018), [https://www.nola.com/opinions/article\\_2affbc92-aaf4-5c6c-88d6-9fe1db466492.html](https://www.nola.com/opinions/article_2affbc92-aaf4-5c6c-88d6-9fe1db466492.html)).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence does not support the fact because the citation misstates the page of Dr. Burton’s report. Further, the evidence on which the statement relies is inadmissible because it is hearsay. *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-

92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”)

**Plaintiffs’ Statement No. 191.**

The 2020 election for the U.S. Senate also saw use of racial appeals, with attacks on now-Senator Raphael Warnock and the Ebenezer Baptist Church, where Senator Warnock preaches. Burton Report 68–69.

**RESPONSE:** Undisputed that Dr. Burton includes this statement in his report.

**Plaintiffs’ Statement No. 192.**

During that election, Warnock’s opponent, former Senator Kelly Loeffler, was photographed with Chester Doles, a former “Grand Klaliff” of the Ku Klux Klan in North Georgia and a member of the neo-Nazi National Alliance, and did an interview on the One America News Channel with Jack Posobiec, “a TV pundit associated with white supremacy and Nazism.” Burton Report 69 (quoting Leon Stafford, Campaign Check: Warnock Tests Loeffler’s View That She’s Not Racist, Atlanta J.-Const. (Dec. 22, 2020), <https://www.ajc.com/politics/senate-watch/campaign-check-warnock-tests-loefflers-view-that-shes-not-racist/SOWX3GL3ARDJNBFDWWZYQ75BVM>).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the

statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs’ Statement No. 193.**

During the 2022 gubernatorial election—a rematch between Governor Kemp and Stacey Abrams—Governor Kemp’s campaign deliberately darkened images of Abrams’s face in campaign advertisements “in an effort to create a darker, more menacing image.” Burton Report 70.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence cited does not support the fact stated.

**Plaintiffs’ Statement No. 194.**

Governor Kemp repeatedly attacked Abrams in the general election as “upset and mad”—“evoking the trope and dog whistle of the ‘angry Black woman’”—while his Republican primary opponent, former Senator David Perdue, said in a televised interview that Abrams was “demeaning her own race” and should “go back where she came from.” Burton Report 70 (first quoting Abby Vesoulis, Did Brian Kemp Deploy a Dog Whistle During His Debate Against Stacey Abrams?, Mother Jones (Oct. 18, 2022),



<https://www.motherjones.com/politics/2022/10/ Georgia-debate-governor-abrams-kemp>; and then quoting Ewan Palmer, David Perdue Doubles Down on ‘Racist’ Stacey Abrams Remarks in TV Interview, Newsweek (May 24, 2022), <https://www.newsweek.com/david-perdue-racist-stacey-abrams-go-back-georgia-1709429>).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallos Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”)

**Plaintiffs’ Statement No. 195.**

After Abrams planned a campaign rally in Forsyth County, in suburban Atlanta, the Republican Party of Forsyth County issued a digital flyer that was “a ‘call to action’ encouraging ‘conservatives and patriots’ to ‘save and protect our neighborhoods,’” and accused both Abrams and Senator Warnock of being “designers of destructive [radicalism]” that would be “crossing over our county border”; the flier carried echoes of the infamous pogrom in Forsyth County in 1912, when most of the Black people in the county were forcibly expelled. Burton Report 70 (quoting Maya King, In

Georgia County With Racist History, Flier Paints Abrams as Invading Enemy, N.Y. Times (Sept.16, 2022), <https://www.nytimes.com/2022/09/16/us/politics/stacey-abrams-forsyth-georgia-republicans.html>).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs’ Statement No. 196.**

Governor Kemp and other Georgia politicians have also spread the unsubstantiated specter of “voter fraud” in the Atlanta metropolitan area and other areas with large Black populations—another coded term that echoes the efforts of conservative white Georgians during and after Reconstruction to restrict and eliminate Black suffrage. Burton Report 70–74.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur.*

*Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs’ Statement No. 197.**

Plurality-Black Fulton County has been at the center of these allegations of voter fraud, with former President Donald Trump promoting baseless conspiracy theories about the county as part of his effort to overturn the 2020 election results in Georgia. Cooper Report Ex. D; Burton Report 73–74.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs’ Statement No. 198.**

Two Black poll workers in Fulton County, Ruby Freeman and Shaye Moss, were targeted by former President Trump, his campaign, and Rudy Giuliani with allegations that they had engaged in “surreptitious illegal activity”; the two women received harassing phone calls and death threats, often laced with racial slurs, with suggestions that they should be “strung up from the nearest lamppost and set on fire”—in Dr. Burton’s words, “horribly echoing the calls for lynchings of Black citizens from earlier years who were attempting to participate in the political process.” Burton Report 73–74 (quoting Jason Szep & Linda So, *Trump Campaign Demonized Two Georgia*

Election Workers—and Death Threats Followed, Reuters (Dec. 1, 2021), <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia>).

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and the evidence on which the statement relies is inadmissible because it is hearsay. *Schafer v. Time, Inc.*, 142 F.3d 1361, 1374 (11th Cir. 1998); *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs’ Statement No. 199.**

During the 2022 election cycle, other political candidates—including Governor Kemp, Congressman Jody Hice (running for secretary of state), and State Senator Butch Miller (running for lieutenant governor)—continued to sound the drumbeat of voter fraud, with particular focus remaining on Fulton County. Burton Report 74.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case because Jody Hice and Butch Miller were not successful in being elected to office.

**Plaintiffs' Statement No. 200.**

Since the 2016 election, local, state, and national news outlets have repeatedly reported on instances of racial appeals in Georgia campaigns. Exs. 14– 25.

**RESPONSE:** Objection. The evidence on which the statement relies is inadmissible because it is hearsay. *Dallas Cty. v. Commercial Union Assur. Co.*, 286 F.2d 388, 391-92 (5th Cir. 1961) (“Of course, a newspaper article is hearsay, and in almost all circumstances is inadmissible.”).

**Plaintiffs' Statement No. 201.**

At the time of the Voting Rights Act's passage, Black Georgians constituted 34% of the voting-age population, and yet the state had only three elected Black officials. Burton Report 35.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 202.**

By 1980, Black Georgians comprised only 3% of county officials in the state, the vast majority of whom were elected from majority-Black districts or counties. Burton Report 41.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because Dr. Burton's report does not cite to any evidence supporting this fact.

**Plaintiffs' Statement No. 203.**

While more Black Georgians have been elected in recent years, those officials are almost always from near-majority- or outright-majority-Black districts. Burton Report 55–57.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 204.**

In the 2020 legislative elections, no Black members of the Georgia House of Representatives were elected from districts where white voters exceeded 55% of the voting-age population, and no Black members of the Georgia State Senate were elected from districts where white voters exceeded 47% of the voting- age population. Burton Report 56.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 205.**

After the 2020 elections, the Georgia Legislative Black Caucus had only 16 members in the Georgia State Senate and 52 members in the Georgia House of Representatives—less than 30% of each chamber. Burton Report 56.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

**Plaintiffs' Statement No. 206.**

Senator Raphael Warnock is the first Black Georgian to serve Georgia in the U.S. Senate after more than 230 years of white senators. Burton Report 53, 68.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 207.**

Black Georgians face clear and significant disadvantages across a range of socioeconomic indicators, including education, employment, and health. Collingwood Report 3; Cooper Report ¶¶ 83–85.

**RESPONSE:** Objection. The evidence cited does not support the fact stated. While it is undisputed that Dr. Collingwood gives that opinion in his report, Mr. Cooper testified that he only reviewed county-level ACS data and not municipal-level data and offered no opinions about what those facts demonstrate. Cooper Dep. 97:25-99:1.

**Plaintiffs' Statement No. 208.**

As Dr. Collingwood explained, “[i]t follows that the political system is relatively unresponsive to Black Georgians; otherwise, we would not observe such clear disadvantages in healthcare, economics, and education.” Collingwood Report 4.

**RESPONSE:** Undisputed that Dr. Collingwood gives that opinion in his report.

**Plaintiffs’ Statement No. 209.**

During the 117th Congress, the U.S. House of Representatives voted to remove Congresswoman Marjorie Taylor Greene from the House Committee on the Budget and the House Committee on Education and Labor “in light of conduct she has exhibited.” Exs. 26–27.

**RESPONSE:** Objection. The fact is immaterial to the claims and defenses in this case because the status of Congresswoman Greene’s committees is not relevant to any issue under Section 2 of the Voting Rights Act.

**Plaintiffs’ Statement No. 210.**

The enacted congressional plan splits majority-non-white Cobb County into parts of four districts, including three majority-white districts: Congressional Districts 6, 11, and 14. Cooper Report ¶¶ 60, 65, 73, fig.14.

**RESPONSE:** Undisputed.

**Plaintiffs’ Statement No. 211.**

Under the enacted congressional plan, southwest Cobb County is included in Congressional District 14, which stretches into Appalachian north Georgia and the suburbs of Chattanooga:



Cooper Report ¶¶ 60, 68, Ex. G.

**RESPONSE:** Undisputed. Further, this statement is duplicative of Statement No. 62.

**Plaintiffs' Statement No. 212.**

Under the enacted congressional plan, western Douglas County is included in Congressional District 3, which stretches west and south into majority- white counties along the Alabama border:

Cooper Report Exs. D & G.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 213.**

While the population requirements of congressional districts might sometimes require mixing urban and rural voters, Mr. Cooper's illustrative congressional plan demonstrates that the western Atlanta metropolitan area can be united in a district with all or part of Cobb, Douglas, Fulton, and Fayette counties, all of which are core counties under the ARC. Cooper Report ¶ 68, Ex. H-1.

**RESPONSE:** Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, this fact is refuted by Mr. Cooper's testimony that the western part of Douglas County, which he

included in Illustrative District 6, is rural. Cooper Dep. 54:6-20. This Statement is largely duplicative of Statement No. 64.

**Plaintiffs' Statement No. 214.**

Georgia's enacted congressional plan includes two majority-Black districts based on percentage Black voting-age population, three majority-Black districts based on percentage non-Hispanic Black citizen voting-age population, and four majority-Black districts based on percentage non-Hispanic DOJ Black citizen voting-age population. Cooper Report ¶ 73, fig.14.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 215.**

Mr. Cooper's illustrative congressional plan includes three majority-Black districts based on percentage Black voting-age population, three majority-Black districts based on percentage non-Hispanic Black citizen voting-age population, and five majority-Black districts based on percentage non-Hispanic DOJ Black citizen voting-age population. Cooper Report ¶ 73, fig.14.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 216.**

Only 49.96% of Black voters in Georgia reside in majority-Black districts under the enacted congressional plan, while 82.47% of non-Hispanic

white voters live in majority-white districts—a difference of 32.51 percentage points. Cooper Report ¶ 74, fig.15.

**RESPONSE:** Undisputed.

**Plaintiffs' Statement No. 217.**

Under Mr. Cooper's illustrative congressional plan, 57.48% of the Black voting-age population resides in majority-Black districts, while 75.50% of the non-Hispanic white voting-age population resides in majority-white districts—a difference of 18.01 percentage points. Cooper Report ¶ 74, fig.15.

**RESPONSE:** Undisputed.

Respectfully submitted this 19th day of April, 2023.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson

Bryan P. Tyson

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# EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

Page 1

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA  
3 ATLANTA DIVISION  
4

5 COAKLEY PENDERGRASS, ET AL., )  
6 PLAINTIFFS, ) CIVIL ACTION NO.  
7 v. ) 1:21-CV-05339-SCJ  
8 BRAD RAFFENSPERGER, ET AL., )  
9 DEFENDANTS. )  
-----

10  
11  
12  
13 DEPOSITION OF WILLIAM S. COOPER  
14 (TAKEN by DEFENDANTS)  
15 ATTENDING VIA ZOOM IN BRISTOL, VIRGINIA  
16 FEBRUARY 14, 2023  
17  
18  
19

20 REPORTED BY: Meredith R. Schramek  
21 Registered Professional Reporter  
22 Notary Public  
23 (Via Zoom in Mecklenburg County,  
24 North Carolina)  
25

1 Q So if a plan split fewer counties than your  
2 illustrative plan, you wouldn't say that your  
3 illustrative plan was inconsistent with the principle  
4 of keeping jurisdictions whole?

5 A No. Because you're constantly balancing  
6 things.

7 Q And so there's -- for Georgia, there's no  
8 objective number of county splits that makes a plan  
9 consistent with the traditional principle of keeping  
10 counties whole; is that right?

11 A Well, ultimately, there would be. But I --  
12 you know, it's difficult to give you a number because  
13 there are some very small counties and some large  
14 counties and so it could vary. And -- so I'm unable to  
15 tell you exactly what the threshold would be.

16 I've -- in the latest plan, the plan that's  
17 part of my November 2020 -- December 2022 declaration,  
18 I've split one fewer county -- or one less county. And  
19 there are, I think, 18 county splits total compared to  
20 21 in the state plan.

21 So I assume that's sufficient since I've  
22 been -- done better than the State did in that respect.

23 Q But you wouldn't say that the State's plan  
24 was inconsistent with the traditional principle of  
25 keeping counties whole just because your plan splits



1 one fewer, would you?

2 A No.

3 Q On that --

4 A Just looking at -- from the perspective of  
5 splits of political subdivisions, no.

6 Q Okay. You mentioned the compactness scores  
7 and the compactness of the districts.

8 How do you determine that a plan is  
9 consistent with the traditional redistricting principle  
10 of compactness?

11 A Well, that's very tricky because states and  
12 towns and precincts can have odd shapes and so that  
13 would vary from state to state and district to  
14 district. A coastal district, for example, might score  
15 very low on Polsby-Popper because of all the ins and  
16 outs of a coastline or a river.

17 So it's a very -- it seems to be an objective  
18 score, but it ends up being so much subjective in terms  
19 of how you interpret it. But I don't think there's any  
20 question that the illustrative plan I've drawn is  
21 acceptable in terms of compactness based on the Reock  
22 and Polsby-Popper scores.

23 Q Is there a range for the Reock and  
24 Polsby-Popper scores that is unacceptable for  
25 compactness?

1           A       There is not necessarily. I do think that at  
2       some point, at least in terms of drawing districts that  
3       are not affected by a coastline or a municipal boundary  
4       or some other potential subdivision like a precinct,  
5       that once you get into the low single digits, become  
6       somewhat problematic.

7                   But you can have situations like, say, the  
8       infamous "snake on the lake" in Ohio that stretches --  
9       it was the old snake on the lake that went from  
10      downtown Cleveland all the way to Toledo, a narrow  
11      strip of land along the lake. It actually had a very  
12      high Polsby-Popper score, and that was, of course, very  
13      misleading and that was because it had precincts that  
14      extended out into Lake Erie because a couple of those  
15      islands in the lake are populated. So that "snake on  
16      the lake" congressional district had a reasonably high  
17      compactness score even though it was not at all  
18      compact.

19           Q       Do you use or display the Reock and  
20      Polsby-Popper scores on the screen as you're drawing a  
21      plan, or do you just check them once the plan is  
22      complete?

23           A       I will look at them occasionally, but I don't  
24      routinely check them. The latest version of Maptitude  
25      does allow you to do that from the data view, but I

1 basically just ignore that until I'm interested.

2 Q So within Maptitude, you don't use the  
3 display of the compactness score as you're drawing?  
4 You have to stop and run a report to see that  
5 information?

6 A Well, it's there. But normally I would just  
7 run the report because I use just visual assessments  
8 basically as I'm drawing a plan so that I would  
9 hopefully check it if I thought the plan was starting  
10 to look a little strange. So needless to say, with  
11 respect to this congressional plan, I never checked it  
12 because it looks good from the start.

13 Q And I believe we discussed the traditional  
14 redistricting principle of incumbency doesn't really  
15 apply on a congressional plan because incumbents can  
16 live anywhere in the state; right?

17 A That's my understanding.

18 Q And so when you say in paragraph 10 that this  
19 district is "consistent with traditional redistricting  
20 principles," the new district, are you saying anything  
21 beyond it splits a similar number of counties, it has a  
22 similar compactness score, and its equal population to  
23 other districts in the state?

24 A Well, as I've mentioned, one must factor  
25 in -- I mean, again, this is very subjective --

1 cultural and historical information and, above all, of  
2 course, one must take into account minority voting  
3 strengths and whether or not the plan is, you know, not  
4 protecting minorities under Section 2.

5 Q Okay. So you referenced historical and  
6 cultural connections. Do I have that right?

7 A Yes, generally speaking.

8 Q Okay. How do you determine if a plan is  
9 consistent with the traditional principle of historical  
10 and cultural connections?

11 A It's subjective. I mean, it's a community of  
12 interest, which is entirely subjective. I think I've  
13 likened it to pinning Jell-O to a wall because everyone  
14 can have a different definition.

15 Q So your determination that your plan complies  
16 with the traditional principle of maintaining  
17 historical and cultural connections is just your view  
18 and there's not a specific definition for how that  
19 complies?

20 A I don't think there would be a specific  
21 definition, no. It's very general. And different  
22 people can come to different conclusions, obviously.

23 Q You also referenced minority voting strength  
24 as a traditional redistricting principle.

25 How do you go about determining that the

1 illustrative plan complies with the traditional  
2 principle of maintaining minority voting strength?

3 A Or not diluting minority voting strengths?

4 Q Or not diluting.

5 A Well, to a large degree, I would rely on the  
6 attorneys' interpretation of the statistical work done  
7 by the individual who's working on the Gingles 2 and  
8 Gingles 3 analysis, expert analysis.

9 Q So as a map drawer, are there any steps you  
10 take apart from reliance on the attorneys for  
11 maintaining the traditional principle of not diluting  
12 minority voting strength?

13 A Well, I mean, just my general background  
14 depending on the circumstances. I mean, in Georgia I  
15 know, for example, that there are two districts that  
16 are actually slightly under 50 percent black voting age  
17 population, District 2 and District 5. So it would  
18 appear in Metro Atlanta, a district that is around  
19 50 percent black is a competitive district that could  
20 be a so-called minority opportunity district. That  
21 might not be the case in the delta of Mississippi, but  
22 it just depends.

23 Q And specifically for District 6 -- again, not  
24 asking for anything that you relied on the lawyers for  
25 in this case, but as a map drawer, did you determine

1 that the dilution of minority voting strength was met  
2 as a traditional principle because District 6 was over  
3 50 percent?

4 A Well, yes. It's over 50 percent. And so for  
5 that reason, along with evidence that minorities have  
6 been elected even in districts that are under  
7 50 percent, I reached that conclusion, which was  
8 confirmed, I suppose, in the Gingles 2 and Gingles 3  
9 analysis in this case.

10 Q So, again, kind of getting back to your  
11 conclusion that the new CD 6 is drawn consistent with  
12 traditional redistricting principles, what you mean by  
13 the phrase "consistent with traditional redistricting  
14 principles" is that it meets population equality by  
15 being plus or minus zero, it splits a number of  
16 counties and precincts similar to the enacted plan, the  
17 compactness scores are similar to the enacted plan, in  
18 your opinion, historical and cultural connections are  
19 maintained, and the district is over 50 percent black  
20 VAP.

21 Is there anything else that is included in  
22 the phrase "consistent with traditional redistricting  
23 principles" in paragraph 10?

24 A Well, reasonably shaped and compact. I don't  
25 think you mentioned that. And the district should be

1 contiguous unless the jurisdiction in question is not  
2 contiguous. So those are other factors that I took  
3 into consideration.

4 Q On any other factors that you took into  
5 consideration that we've not talked about that are  
6 included in that phrase "consistent with traditional  
7 redistricting principles"?

8 A I think we've covered them, but I reserve the  
9 right to interject another one if I suddenly think that  
10 maybe we didn't.

11 Q Understood. But as of right now, you can't  
12 think of another one; is that right?

13 A As of right now, I don't have any other one  
14 top of mind.

15 Q Let's go next to paragraph 11 of your report.  
16 And you reference that you don't change districts -- 6  
17 of the 14 districts on the enacted 2021 plan; correct?

18 A Correct.

19 Q And so in order to draw the new majority  
20 black Congressional District 6, you've had to change,  
21 on the illustrative plan, 8 of the 14 districts from  
22 the enacted plan; right?

23 A I don't know if I had to change eight, but --  
24 I suppose it's possible I could have changed fewer than  
25 eight. I don't know.

1       you've made Douglas County whole; is that right?

2           A       Yes.

3           Q       You've introduced a new split of Cobb by  
4       bringing District 3 into Cobb County on the 12/5 plan;  
5       right?

6           A       That is correct.

7           Q       It looks like you took part of East Cobb and  
8       put it into the 11th district on the 12/5 plan as  
9       compared to the PI plan; is that right?

10          A       Well, yes. Yes. I included a little bit  
11       less of Cobb County in the 12/5 plan or the  
12       illustrative plan attached to my December 2022  
13       declaration.

14                So I did not take the district as far north  
15       as Acworth, for example, which I did do in the  
16       preliminary injunction report. I know you had concerns  
17       about that so I took your concerns into account as I  
18       was drawing the illustrative plan in my December 2022  
19       declaration.

20          Q       And you also altered the split in Fayette  
21       County, it looks like, from Fayetteville over to the  
22       western side of the county; is that correct?

23          A       That is correct. To -- to meet one person,  
24       one vote, I had to include part of Fayette County in  
25       District 6 to meet one person, one vote in District 13



1 without -- I could have split up another county, I  
2 suppose.

3 But in order to avoid splitting a county  
4 like, say, Coweta or one of the others, I added that  
5 portion of Fayette County into District 6. It's  
6 basically hugging the county line around Tyrone and  
7 just outside of Fayetteville to the northwest.

8 Q Okay. And so you said in order to avoid  
9 splitting another county, you had to split Fayette.

10 Did I hear that right?

11 A Well, yeah. I think so. I mean, there may  
12 have been -- there may be some other way to do it, but  
13 I was focused on equalizing the population in  
14 District 13, not District 6 because I could have  
15 extended District 6 north, and I didn't do that, you  
16 know, to make up that difference. But I had to take  
17 population out of District 13 under this configuration  
18 from Fayette County just to get plus or minus one for  
19 District 13.

20 Q Is not changing District 5 part of the reason  
21 why you had to split Fayette County on this plan?

22 A Perhaps. Perhaps.

23 Q Because you'd agree if you were willing to  
24 change the boundaries of District 5, you could alter  
25 the split between District 5 and District 13; right?

1           A     That's true. But then I would have to make  
2     some other change to District 5, which would affect  
3     District 4. So there's this ripple effect. But there  
4     are -- you know, there would be different  
5     configurations. This is just an illustrative plan.

6           Q     And on the illustrative plan, you chose not  
7     to alter the boundaries of District 5 as drawn by the  
8     General Assembly; right?

9           A     Right. I made it a priority to try to avoid  
10    changing districts that the Legislature had drawn where  
11    possible. And so I was able to isolate the changes to  
12    8 of the 14 districts.

13          Q     So let's turn to paragraph 48 where you  
14    discuss traditional redistricting principles. And you  
15    say in paragraph 48 that "The illustrative plan adheres  
16    to traditional redistricting principles."

17                   Do you see that?

18          A     Yes.

19          Q     Then you list a number of principles. When  
20    you say in paragraph 48 the illustrative plan adheres  
21    to traditional redistricting principles including the  
22    principles you listed, are you saying something  
23    different than what you said in paragraph 10, that the  
24    plan was designed consistent with traditional  
25    redistricting principles?

1 A I think it's synonymous.

2 Q Synonymous? So it's the same thing?

3 A Yes.

4 Q And then I know we talked about communities  
5 of interest a little while ago.

6 Looking at illustrative District 6 in  
7 Figure 10 there on page 20, what are the communities of  
8 interest that you can identify located in illustrative  
9 District 6?

10 A Well, illustrative District 6 is largely  
11 suburban/exurban Atlanta. So it's part of the Atlanta  
12 core counties, the 11 core counties, which are also  
13 part of the Atlanta MSA. So there are economic and  
14 transportation commonalities there, lots of small  
15 cities. It can get sort of rural once you get out into  
16 western Douglas County, for example. I took a little  
17 spin around the district in -- on Saturday after our  
18 deposition on Friday of last week and visited parts of  
19 Douglas and extended all the way -- drove actually  
20 almost halfway to Villa Rica.

21 I guess you say it differently though, don't  
22 you? How do you say that?

23 Q We say "Villa Rica." That's where my Tysons  
24 are from actually, is in Villa Rica.

25 A Pardon?

1 Hancock and other counties, Taliaferro in eastern  
2 Georgia being part of a new majority black state senate  
3 district that you created in one of the other cases;  
4 right?

5 A We have discussed that in the other case.

6 Q So can you tell me what the community of  
7 interest is between majority black Hancock County and  
8 the Appalachian Mountains and Rabun and Towns County on  
9 the North Carolina border?

10 A Well, again, the connection is not very  
11 strong, but one has to balance out the populations so  
12 that you have 14 districts that are roughly 765,000  
13 people. So, again, there would be other ways to draw  
14 it.

15 Q So, Mr. Cooper, when you talked about, in  
16 paragraph 48, the illustrative plan adhering to  
17 traditional principles and you listed the various  
18 principles, it sounds like what you're saying is  
19 population equality is really the most important  
20 principle even more so than being able to explain where  
21 there's communities of interest between different parts  
22 of districts.

23 Do I have that right?

24 A Well, actually I think you do. It's a  
25 nonstarter. If it doesn't meet population equality or

1 something very close to plus or minus one, then it's a  
2 nonstarter. Right?

3 Q And so then after population equality, what  
4 other traditional redistricting principles explain the  
5 configuration of District 10 on the illustrative plan?

6 A I was following county boundaries. I think  
7 there's a split of Wilkes County. And I believe  
8 Lumpkin County, but there are no other county splits I  
9 believe, unless -- maybe Hall County is split.

10 But I was attempting to draw a plan that was  
11 reasonably compact, reasonably shaped that -- I had the  
12 information about the incumbents, I think, at maybe the  
13 latter stage of drawing the plan. So I was probably  
14 attempting to avoid placing a couple of incumbents who  
15 live very close to one another in the Jackson County  
16 area, I think. I was attempting to put them, maybe, in  
17 different districts even though I understand they don't  
18 have to be, I believe. I'm not looking at the  
19 incumbents right now and haven't done so since  
20 December.

21 Q So, Mr. Cooper, in paragraph 48, I didn't see  
22 where you listed incumbents as a traditional principle  
23 as part of the illustrative plan, and thought that we  
24 had talked about earlier that incumbency wasn't as  
25 important.

1 Did you use incumbency data in the drawing of  
2 the illustrative plan?

3 A I was sort of aware of where I thought the  
4 incumbents lived. It's always in the background. So  
5 that was in the background.

6 Q So beyond incumbency and keeping counties  
7 whole minus Hall, Lumpkin, and Wilkes Counties, and  
8 population equality, are there any other traditional  
9 redistricting principles that went into the districting  
10 of District 10?

11 A Well, I had to make the plan reasonably  
12 compact. I tried to follow county boundaries. The  
13 district's contiguous. It looks as compact as the  
14 districts that have been drawn in the enacted plan.  
15 But it could be drawn differently.

16 Q But you'd agree that there's not a community  
17 of interest between majority black Hancock County and  
18 Rabun County in extreme northwest Georgia, wouldn't  
19 you?

20 A They are different. They are different. And  
21 so I am open to other suggestions for how one might  
22 draw District 10.

23 Q And I understand they're different. My  
24 question was: You'd agree there's not a community of  
25 interest between Hancock and Rabun counties; right?

1           A     Well, not entirely. Because most counties  
2     are quite poor. And in Rabun County, you'd be talking  
3     about poor whites. And in Hancock County, a fairly  
4     significant black population that is not experiencing  
5     prosperity. So there are connections there. There are  
6     connections in that regard.

7           Q     So you believe a community of interest in  
8     illustrative District 10 would be poor white voters in  
9     the Rabun and similar socioeconomic status black voters  
10    in Hancock County?

11          A     Could be. Could be. On certain  
12    socioeconomic issues.

13          Q     Was that the community of interest you  
14    considered when you drew illustrative District 10?

15          A     When I was drawing District 10, I was mainly  
16    trying to avoid splitting counties and meet one person,  
17    one vote requirements. And I was aware that there are  
18    different areas in the sense that Rabun County is  
19    Appalachian and that parts of the southern end of  
20    District 10 are in the historic black belt.

21          Q     And you'd agree that Athens and Clark County  
22    is included in District 10 on the illustrative plan;  
23    right?

24          A     That's right. There's a university there.

25          Q     And --

1 District 13 in Clayton County begins near the Atlanta  
2 airport as you've drawn it?

3 A Yes.

4 Q And you'd agree that Butts and Jasper  
5 Counties on the eastern side of District 13 as drawn  
6 are rural counties; right?

7 A They are rural, but still part of Metro  
8 Atlanta. In other words, the Census Bureau has  
9 determined that there's a 29-county area where there  
10 are commuting and transportation ties that are  
11 significant enough to put those counties into Metro  
12 Atlanta.

13 Q But you agree that District 13 as drawn  
14 connects urban areas in Clayton County with rural areas  
15 in Fayette, Spalding, Butts, and Jasper Counties;  
16 right?

17 A Yes.

18 Q Are you aware that the only majority black  
19 portions of any county in District 13 as drawn is the  
20 portions in Clayton and Newton Counties?

21 A Well, there's obviously black population and  
22 significant black population in some of the other  
23 counties. Henry County is almost majority black. It's  
24 50/50. And the black population is growing. Fayette  
25 County has a significant black population that is



1 growing.

2 So I'm not -- I'm just not that focused on  
3 the pieces of a particular county in terms of the  
4 actual percentages involved, but I do know there's  
5 significant black population in the area that comprises  
6 District 13, including South Metro counties like  
7 Spalding and, of course, Fayette and Henry.

8 Q Okay. Let's take a look at that. Exhibit  
9 Number I-3 of your declaration, this is the plan  
10 components report for the illustrative plan; right?

11 A Right.

12 Q And this shows, for the portion of each  
13 county located in a district, what the population and  
14 racial breakdown of the portions of those counties in  
15 that district is; right?

16 A Right. And I'll stress that this was  
17 reported after the plan had been completed. In other  
18 words, I was focusing on what the component parts were  
19 as I was drawing the plan.

20 Q And so looking at District 13, do you agree  
21 that the portion of Butts County in District 13 is  
22 27.80 percent AP black VAP; right?

23 A Right. It's a significant black population.

24 Q Right. And Clayton, the portion in Clayton  
25 is 71.9 percent AP black VAP?

1 Appalachian North Georgia with urban/suburban Metro  
2 Atlanta, but then on the illustrative plan, you're  
3 doing the same thing on District 3 connects areas of  
4 urban/suburban Metro Atlanta to Columbus. It connects  
5 areas of the Appalachia North Georgia to the black  
6 belt.

7 I guess what I'm trying to understand is  
8 what's the distinction with Congressional District 6  
9 and 14 on the enacted plan that's different from the  
10 illustrative plan?

11 A Well, first of all, Cobb County is split four  
12 ways in your -- in the enacted plan. And I just split  
13 it three ways in the illustrative plan. So there's an  
14 unnecessary split involved there. And also it includes  
15 a much larger base population. I mean, we can go back  
16 and look at the numbers, but I'm fairly confident that  
17 the population that's placed in District 14 in Cobb  
18 County is much larger than the smaller area that I've  
19 identified that would go into District 3 along the  
20 Paulding County line.

21 We could look at those numbers. I could be  
22 incorrect about that, but I'm fairly certain that the  
23 population difference would be pretty significant,  
24 bringing a large chunk of Cobb County into District 14.

25 Q So let's turn next to paragraph 72. You

1 reference the split into Fayette County to help ensure  
2 that CD 13 is not overpopulated.

3 Do you see that?

4 A Yes.

5 Q And you say that the dividing line "generally  
6 follows the municipal boundary of Tyrone."

7 Do you see that?

8 A Yes.

9 Q It doesn't follow the municipal boundary  
10 exactly though, does it?

11 A No. Because I had to get it to zero.

12 Q Okay.

13 A I had to get District 13 to zero. I mean, as  
14 we've already -- I'm not really adding in black  
15 population into District -- into District 6. What I'm  
16 doing is taking some population out of Fayette County  
17 to get District 13 down to plus or minus one person.  
18 That's all.

19 Q Okay. So at some point --

20 A But I did have to split a precinct and  
21 actually maybe include part of Tyrone to get -- to get  
22 it to balance out to plus or minus one person.

23 There definitely would be other ways to do it  
24 though. This seemed to be the cleanest way because  
25 once you're really zoomed out, you hardly even know

1 that District 6 goes into Fayette County.

2 Q Well, I just want to look briefly at Exhibit  
3 M-4 of your report. That's on page 183. So as you can  
4 see -- your declaration Exhibit M-4.

5 Do you see that?

6 A Yeah.

7 Q And this is a report called "Communities of  
8 Interest (Condensed)"; is that right?

9 A Yeah. That's an automated Maptitude report.

10 Q And scrolling down to the first column,  
11 District 6, Tyrone, and it indicates I believe on this  
12 report that about 29.9 percent of the population of  
13 Tyrone is in District 6; is that right?

14 A Yes.

15 Q And then on the next page, the remaining  
16 70 -- a little bit more than 70 percent of Tyrone is in  
17 District 13; right?

18 A Right.

19 Q So when you say you're generally following  
20 the municipal boundary of Tyrone, how are you ending up  
21 with a 70/30 split of the city?

22 A Well, it goes into the city but around the  
23 city. I followed the Tyrone boundary. I believe.

24 Q Okay. But 70 percent of the population is in  
25 District 13 and roughly 30 percent is in District 6;

1 right?

2 A Right. I had to go into the town of Tyrone  
3 to get population into District 6. And I did it in a  
4 reasonable fashion. But I did put part of Tyrone in  
5 District 6.

6 But to reiterate, there would be other ways  
7 to accomplish the same objective. As you know, if you  
8 go back and look at the illustrative plan that was done  
9 for the preliminary injunction, I went into the middle  
10 part of Fayette County to get the population and  
11 actually get to plus or minus one person for  
12 District 13.

13 Q Let's go back to your report and then to the  
14 chart on Figure 15, page 30 of the report.

15 So can you just walk me through what  
16 Figure 15 shows?

17 A Well, it shows that under the 2021 plan,  
18 about half of the black population, black voting age  
19 population is in a majority black district, and over  
20 80 percent, 82.5 percent of the white population is in  
21 a majority white district.

22 In drawing the illustrative plan, I was able  
23 to narrow the gap somewhat so that now, under the  
24 illustrative plan, over 57 percent of the black voting  
25 age population would be in a majority black district;

1           You skipped over the other portion of  
2       Figure 14 there where the illustrative plan is superior  
3       to the 2021 plan for VTD splits -- split cities and  
4       towns and city/town splits. I'm just pointing that  
5       out.

6           And now we'll go to your question.

7           Q     And to be clear, as you said earlier, Georgia  
8       doesn't tend to focus on municipality splits when  
9       drawing its redistricting plans; right?

10          A     Well, it's not -- it's not emphasized in the  
11       general guidelines posted on the website. I mean, it  
12       could be, because Georgia tends to have frequent  
13       annexations. But then precincts change also. So I'm  
14       not sure what the rationale is there. Because as I was  
15       saying, everyone knows what town they live in. But no  
16       one -- or hardly anyone including me knows what  
17       precinct they're in. Maybe the polling place, but the  
18       precinct, no.

19          MS. KHANNA: No one except Mr. Tyson.

20          THE WITNESS: Except Mr. Tyson, right. And  
21       Abha probably knows too.

22       BY MR. TYSON:

23          Q     All right. So let's see if we can land the  
24       plane here.

25          Paragraph 83 you talk about socioeconomic

1 characteristics; is that right?

2 A Yeah.

3 Q And the ACS data that you're referencing that  
4 you prepared charts for is based on, ultimately,  
5 county-level data. Do I have that right? Or is it  
6 based on some other level of geography?

7 A No, it's county-level data from the 2021 ACS,  
8 which was released in September of 2022.

9 Q And in paragraph 85, it appears that the  
10 only -- the only statement you're making about these  
11 data is that non-Hispanic whites maintain higher levels  
12 of socioeconomic well-being.

13 Is that what you say in paragraph 85?

14 A I think so in this case. First of all, I'm  
15 not the expert on historical or cultural factors or  
16 socioeconomic factors in this case. And usually I  
17 produce these charts and they end up getting used for  
18 making a point about Senate Factor 5. And they could  
19 be used for that purpose here, but I'm not going to be  
20 testifying on that.

21 Q Okay. And that's what I wanted to just make  
22 sure, that while you're offering these particular  
23 facts, you're not offering any opinions about the ACS  
24 data that you're reporting in paragraphs 83, 84, and  
25 85; right?

1 A Nothing beyond that, no.

2 (Exhibit 4 Marked for Identification.)

3 BY MR. TYSON:

4 Q Mr. Cooper, I have one other quick exhibit to  
5 show you and then I think we're going to be finished  
6 here. Just a couple of quick questions on that. I'm  
7 going to mark Exhibit 4 which is the supplemental  
8 declaration that you submitted in January of 2022 in  
9 this case.

10 Do you see that on my screen?

11 A Yes.

12 Q Okay. So I'm going to go down to  
13 paragraph 4. And in this, you're responding to  
14 Mr. Morgan's report in the preliminary injunction  
15 proceedings; right?

16 A Right.

17 Q And you make a statement in paragraph 4 that  
18 "Core retention is largely irrelevant when an election  
19 plan is challenged on the grounds that it violates  
20 Section 2."

21 Do you see that?

22 A I do.

23 Q Do you consider core retention of districts  
24 to be a traditional redistricting principle?

25 A In the background, perhaps. But it's a



# EXHIBIT B

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Grant, Annie Lois, et al.v. Raffensperger, Brad, E

Page 1

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

ANNIE LOIS GRANT, et al.,

Plaintiffs,

vs.

CIVIL ACTION FILE

BRAD RAFFENSPERGER, in NO. 1:22-CV-00122-SCJ  
his official capacity as  
the Georgia Secretary of  
State, et al.,

Defendants.

COAKLEY PENDERGRASS, et  
al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:21-CV-05339-SCJ

BRAD RAFFENSPERGER, et  
al.,

Defendants.

REMOTE VIDEO DEPOSITION OF  
ORVILLE VERNON BURTON, PH.D.

February 17, 2023

1:24 p.m.

Suite 200

1600 Parkwood Circle

Atlanta, Georgia

Tracy A. Williams, B-2168, RPR

Jesse Wiggins, Videographer

1 other people, and it might lead me to it.

2 Q. Okay. And then you read everything you  
3 could and that -- and then summarized that  
4 information. Would that be fair to say?

5 A. Yes, and analyzed it and put it together  
6 so that it's not just one source, but all evidence  
7 that sort of points in a direction.

8 Q. Okay. I'm going to refer back to your  
9 report. I may need to just leave it up for a while,  
10 but -- sorry about that.

11 We are going to go to Page 3, and the  
12 second paragraph there on Page 3 of your report  
13 indicating that "For the next 40 years, Georgia  
14 failed to go to a redistricting cycle without  
15 objection from the Department of Justice."

16 Do you see that statement there?

17 A. Yes.

18 Q. Okay. And you would agree that the  
19 redistricting plans drawn in 1971, 1981, '91, and  
20 2001 were drawn by Democratic legislatures, correct?

21 A. Yes.

22 Q. And you would agree that the  
23 Republican-drawn maps in 2011 were precleared by the  
24 Department of Justice on the first attempt, correct?

25 A. Yes.

1 Q. And on Page 4 -- and on Page 4, I'm going  
2 to scroll down to that full paragraph above the  
3 heading "Expert Credentials." And there you conclude  
4 that "Race unquestionably contributes to Georgia's  
5 partisan divides today. And, similarly, those  
6 divides cannot be fully explained without discussing  
7 race."

8 Is that correct?

9 A. Yes.

10 Q. And I believe also in your report, you say  
11 that "Partisanship and race are and have been  
12 inextricably intertwined in Georgia."

13 Does that sound right?

14 A. Yes.

15 Q. So in other words, you conclude that race  
16 and partisanship cannot be separated, correct?

17 A. Correct, today in Georgia.

18 Q. Today in Georgia. And you further state  
19 that -- I believe on Page 4, you indicate that -- so  
20 you're not saying that all voters that identify with  
21 the Republican party in Georgia are racist. Have I  
22 read that correctly?

23 A. You have read what I said there correctly.  
24 I would rephrase it to say that it doesn't matter.  
25 And I'm not saying that anyone is racist. But I am

1 A. I thought that I did. That's what I was  
2 attempting to do in the report.

3 Q. Okay. And how do you measure intent?

4 A. With examples and the context in which  
5 they're used, which I outlined specific examples in  
6 Georgia.

7 Q. And on -- let's look at Page 67. You refer  
8 to an example of a racial appeal. And then if we go  
9 ahead and -- sorry -- look at Page 68 concerning a  
10 robocall imitating Oprah Winfrey during the Stacey  
11 Abrams campaign. Do you see that?

12 A. I do.

13 Q. Okay. Did you research how widely  
14 distributed that call was?

15 A. I don't remember.

16 Q. Do you know how many people received that  
17 robocall?

18 A. Do not.

19 Q. Would it surprise you if it was a total of  
20 583 people in Georgia? And I can refer you to an  
21 exhibit if that would help.

22 A. No. I would hope it would be less than  
23 that. It's so disgusting. But, no, it would not  
24 surprise me.

25 Q. Did you evaluate the impact of that, of the

1 robocall?

2 A. I did not. But as I noted here, someone  
3 said that racist appeals didn't hurt the candidates  
4 making them in Georgia. Throughout the South, it  
5 actually helped them.

6 Q. Are any of the racial appeals that you  
7 discuss in your report, Dr. Burton, in Georgia from a  
8 State House race in recent elections?

9 A. I don't remember without going back, you  
10 know, into the report and see. I think I was just  
11 looking at the level, explaining how these work in  
12 Georgia. I'm not sure I paid attention to whether  
13 they were in the State House or just in the general  
14 elections where we had someone like a black candidate  
15 like Warnock.

16 Q. Okay. Did your research show any racial  
17 appeals in any state legislative races in the state  
18 of Georgia in the last ten years?

19 A. I don't remember if I did or not. I  
20 discussed different candidates or different people  
21 using these appeals, but I don't know if it was in  
22 the legislature or just at the state level.

23 Q. Okay. Do you recall specifically looking  
24 at examples of racial appeals in a State Senate race  
25 here in Georgia?