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May 1, 2026

David J. Smith
Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St., N.W.
Atlanta, GA 30303

Re: Alpha Phi Alpha Fraternity, Inc., et al. v. Secretary of State (No. 23-13914)
Coakley Pendergrass, et al. v. Secretary of State (No. 23-13916)
Annie Lois Grant, et al. v. Secretary of State (No. 23-13921)

Dear Mr. Smith:

The Secretary writes to notify the Court of the Supreme Court's recent decision in *Louisiana v. Callais*, 608 U.S. ____ (2026) (Op.). *Callais* represents a comprehensive vindication of the Secretary's interpretation of Section 2 of the Voting Rights Act—and is correspondingly devastating to the district court's decision and Plaintiffs' theories. It compels prompt reversal of the judgment below.

First, *Callais* resolves the debate over whether a Section 2 plaintiff must "disentangle race from ordinary partisanship," Opening.Br.20, by holding that a plaintiff must "disentangle race and politics," Op.30; *id.* 24-26, 34. Plaintiffs and the district court expressly rejected that obligation. Doc.333 at 235-36; Doc.268 at 42; Opening.Br.27-34. Indeed, the court found that Georgia drew maps not for racial reasons but to "capitalize on partisan advantage," Doc.333 at 262—and states may draw "districts to achieve partisan advantage," Op.24.

Relatedly, by clarifying that Section 2 entitles "a minority voter ... to nothing less and nothing more" than "whatever opportunity results from the application of the State's combination of permissible criteria," Op.22, *Callais* confirms that "[i]f black voters' preferred candidates lose elections for non-racial reasons, then they have exactly the same opportunity as other" voters, Opening.Br.21-22. The district court misapplied every *Gingles* precondition by discarding that principle. *See* Op.29-30, 33-34; Opening.Br.10, 21-29.

Second, *Callais* dooms the district court’s totality-of-the-circumstances analysis, which relied on a potpourri of long-past intentional discrimination, laws with supposed “disparate impacts,” and socioeconomic data. Opening.Br.35-43; Grant/Pendergrass.Br.16-20. But this inquiry “must focus” on “intentional present-day voting discrimination”—*not* historical practices or “present-day disparities” linked to “societal discrimination.” Op.30-31, 34-35. After *Callais*, there is no excuse for ignoring the “broad success” of Georgia’s black voters. Opening.Br.42.

Finally, *Callais* confirms that Plaintiffs’ misuse of Section 2 violates the Fifteenth Amendment. To remain “sufficiently congruent with and proportional to” that Amendment, Section 2 “imposes liability only when the circumstances give rise to a strong inference that intentional discrimination occurred.” Op.23; Opening.Br.43-57. Otherwise, it could be “used as a tool for advancing a partisan end,” Op.36—namely, “a partisan boost to [black voters] preferred party,” Reply.Br.32—rather than as a prophylactic against invidious discrimination.

Sincerely,

/s/ John Henry Thompson

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