

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

IN RE GEORGIA SENATE BILL 202

Master Case No.
1:21-MI-55555-JPB

**CONSOLIDATED PLAINTIFFS' RESPONSE TO STATE
DEFENDANTS' CONSOLIDATED STATEMENT OF MATERIAL FACTS**

1. Plaintiffs who challenge mobile voting units freely admit they have only ever been used in Georgia in a single county during the 2020 pandemic-election cycle. [NAACP Doc. 35, ¶ 168].

RESPONSE: Undisputed.

2. Plaintiffs who challenge drop boxes acknowledge that they, too, have only been used since the 2020 election cycle following the promulgation of an emergency SEB rule at the height of the COVID-19 pandemic. [NGP Doc. 39, ¶ 85], [NAACP Doc. 35, ¶ 153], [AME Doc. 83, ¶¶ 264–267], [AAAJ Doc. 27, ¶¶ 97–99], [CBC Doc. 1, ¶¶ 125, 127–129].

RESPONSE: Not material. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

(a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar’s offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381

and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.”

O.C.G.A. § 21-2-382(a) (2020)(emphasis added). This section does not state that the alternative site must be inside of a building. When SB202’s provisions regarding drop boxes were enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate “additional site” for “voting absentee ballots” and changed “locations” to “buildings.” *Compare* O.C.G.A. § 21-2-382(a) (2020) *with* O.C.G.A. § 21-2-382(a) (2022).

The longtime General Counsel for the Secretary of State’s office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. In an email dated January 3, 2022, Ryan Germany wrote, “What most people don’t realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups.” Ex. 198 (CDR00056863-64).

3. New Georgia Project is not a membership organization and thus can rely solely on organizational standing. Deposition of New Georgia Project [Doc. 733] (“NGP Dep.”) 21:25–22:3.

RESPONSE: Undisputed that NGP is not a traditional membership organization. **Disputed** that NGP can only rely on organizational standing. NGP can also establish associational and third-party standing on behalf of the constituents whom the organization serves as part of its mission. Ex. 43 [ECF 733] (NGP Dep. 22:1-12). *See Hunt v. Washington State Apple Advert. Comm’n*, 432 U.S. 333, 344 (1977) (finding an entity representing constituents of apple growers and dealers could assert associational standing, even though it did not have “members” in the traditional sense, as their constituency possessed “all of the indicia of membership in an organization”); *Doe v. Stincer*, 175 F.3d 879, 886 (11th Cir. 1999) (affirming an entity that is not a traditional association can still assert associational standing on behalf of constituents who are a specialized segment of the community that benefit from the entity’s activities, including the prosecution of litigation); *Young Apartments, Inc. v. Town of Jupiter*, 529 F.3d 1027, 1042 (11th Cir. 2008) (stating that a plaintiff can establish third-party standing if the plaintiff demonstrates (1) an injury-in fact to itself, (2) a close relationship to the third-party and (3) a hindrance to the third party’s ability to

assert its own interests). Finally, Defendants’ statements about NGP’s standing are legal conclusions which do not comply with LR 56.1(B)(1).

4. The only diversion-of-resources injury that NGP could identify is an increase in an existing program to provide voters with free rides to the polls. NGP Dep. 125:2–12.

RESPONSE: Undisputed that NGP identified, as part of its diversion-of-resources injury, the expansion of its program to provide voters with free rides to the polls, which required NGP to shift funds, staffers, and volunteers from the organization’s Party at the Polls program to its Rides to the Polls program. *See also* Ex. 43 (NGP Dep. 61:4-22). **Disputed** that this is NGP’s only diversion-of-resources injury. NGP has identified several other examples of diversion-of-resource injuries to the organization as a result of SB 202, including (1) shifting resources, money, and staff and volunteer time out of NGP’s Poll Chaplains program to its new Voter Protection (“VoPro”) program, which was designed to help voters navigate election law changes stemming from SB 202, *id.* at 55:17-60:13; (2) shifting staff from NGP’s faith programs, which were previously dedicated to assisting congregations of voters apply for and vote by absentee ballot, to new educational efforts teaching primarily elderly congregation members how to successfully navigate all of the changes in methods of voting after SB 202, *id.* at 61:23-62:7; ; and (3) shifting staff time away from helping voters fix issues

with their ballots to avoid their ballots being rejected to collecting information and educating voters about early voting in the runoff period in response to questions and outreach from voters with concerns about where and how to vote during the early-voting period, *id.* at 62:19-63:9; 65:3-65:12.

5. NGP has not been harmed by SB 202, but actually has more resources today because its funding has increased since the adoption of SB 202. NGP Dep. 63:10–19; 66:7–10.

RESPONSE: The citation does not support the claim that NGP has not been harmed by SB 202, but instead simply establishes that NGP’s funding increased after SB 202. Notwithstanding trends in funding, NGP was still forced to divert resources from existing programs to efforts specifically dedicated to combating the effects of SB 202 in several different ways. *See* Pls’ Response to Paragraph 4. Increased funding cannot alleviate NGP’s diversion-of-resources injury, moreover, because funding oftentimes comes in earmarked for specific projects, and, in any event, NGP has also diverted non-monetary, finite resources such as staff and volunteer time. Ex. 43 (NGP Dep. 63:25-64:4, 65:13-18).

6. Black Voters Matter Fund (BVMF) has not eliminated any projects as a result of SB 202. Deposition of Black Voters Matter Fund [Doc. 696] (“BVMF Dep.”) 88:21–89:8.

RESPONSE: This statement is immaterial because an organization does not need to eliminate any projects to establish standing in its own right. Rather, “[a]n organization has standing to sue on its own behalf if the defendant’s illegal acts impair [the organization’s] ability to engage in its projects by forcing [it] to divert resources to counteract those illegal acts.” *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1350 (11th Cir. 2009).

7. It is still engaged in the same organizational development, training, and voter education programs it was engaged in prior to SB 202. BVMF Dep. 69:6–9, 72:4–24.

RESPONSE: This statement is immaterial. BVMF may establish standing by showing that SB 202 impaired the organization by requiring it to divert resources away from regular activities—including, for example, by redirecting resources from South Carolina and Tennessee in order to expand its Georgia grant-giving, virtual town halls, and press events, and by organizing less on issues such as Medicaid expansion to focus instead on ways to overcome the voting obstacles posed by SB 202, *see* Ex. 14 [ECF 696] (BVMF Dep. 82:9–83:4)—with no need to show that BVMF abandoned those activities altogether. *See Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1350 (11th Cir. 2009).

8. BVMF agreed that it can continue to encourage voters to stay in line to vote by coordinating distribution of food and water outside the restricted area at

the polls after SB 202 or if the voters approach BVMF. BVMF Dep. 83:17–84:7, 86:22–87:3.

RESPONSE: Undisputed that SB 202 permits BVMF to distribute water outside the restricted areas. **Disputed** that the ability to provide food and water outside the restricted areas would represent a “continuance” of BVMF’s activities prior to SB 202 because BVMF has had to modify and limit its preferred methods of communicating and interacting with individuals in line. Ex. 14 (BVMF Dep. 84:5-86:5).

9. Ultimately, BVMF would be engaged in voter outreach programs even if SB 202 did not exist. BVMF Dep. 55:3–9.

RESPONSE: This fact is immaterial. BVMF may establish standing by showing that SB 202 impaired the organization by requiring it to divert resources away from regular activities, *see* Ex. 14 (BVMF Dep. 82:9–83:4), with no need to show that BVMF abandoned those activities altogether. *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1350 (11th Cir. 2009).

10. During the deposition of Rise, it could not identify any cuts in any budget as a result of SB 202 nor could it establish any quantifiable amount of diverted funds as a result of SB 202. Deposition of Rise [Doc. 734] (“Rise Dep.”) 47:3–8; 65:10–12.

RESPONSE: The statement that Rise could not quantify the cuts to its budget is immaterial. *See People for the Ethical Treatment of Animals, Inc. v. Miami Seaquarium*, 189 F. Supp. 3d 1327, 1340 (S.D. Fla. 2016), *aff'd* 879 F.3d 1142 (11th Cir. 2018) (“The showing of an actual, concrete injury is a modest requirement for Article III standing, which does not require quantification.”).

Disputed that cuts to Rise’s program budgets as a result of SB 202 did not occur. Ex. 44 [ECF 734] (Rise Dep. 38:6-22; 59:15-60:8; 60:21-61:8).

11. Rise has continued to provide training on requesting and casting of absentee ballots and encouraging voters to check their voter status and voting location, as it was doing before SB 202. Rise Dep. 39:25–41:3.

RESPONSE: This statement is immaterial. Rise may establish standing by showing the diversion of resources away from its regular activities, including its need to redirect resources from HBCU fellowships and from student-debt and scholarship-criteria organizing to expand its SB 202-related trainings and voter assistance efforts, Ex. 44 (Rise Dep. 38:6–22; 59:15–60:8; 60:21–61:8)—with no need to show that it no longer engages in its regular activities. *See Jacobson v. Fla. Sec’y of State*, 974 F.3d 1236, 1250 (11th Cir. 2020).

12. Mr. Solomon was unable to identify any situation where he was prevented from voting. In fact, the only challenge Mr. Solomon could identify after the adoption of SB 202 was that he would have preferred to vote in Sunday in 2022

(a decision in the hands of county officials). Deposition of Elbert Solomon [Doc. 742] (“Solomon Dep.”) 40:19–41:2, 44:18–45:1.

RESPONSE: Immaterial that Mr. Solomon did not identify any situation in which he was prevented from voting. *See Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1351 (11th Cir. 2009) (“A plaintiff need not have the franchise wholly denied to suffer injury.”). **Disputed** that the only challenge Mr. Solomon identified after SB 202 was a lack of Sunday voting. Mr. Solomon testified that SB 202 eliminated drive-up voting by drop box, which he had relied on in 2020. Ex. 70 [ECF 742] (Solomon Dep. 31:16–25). And Mr. Solomon indicated that he waited in line to vote in the 2022 runoff for an hour and a half, where previously he had never had to wait longer than fifteen minutes to vote. *Id.* at 45:5–8.

13. Mr. Solomon was still able to vote in that election. Solomon Dep. 40:19–41:2, 44:18–45:1.

RESPONSE: Immaterial that Mr. Solomon was able to vote in 2022. *See Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1351 (11th Cir. 2009) (“A plaintiff need not have the franchise wholly denied to suffer injury.”).

14. While Mr. Solomon complained he had difficulty turning in voter-registration applications for other voters—not himself—those applications were all accepted. Solomon Dep. 27:16–29:10.

RESPONSE: This statement is immaterial because none of the claims in this action relate to the submission of voter registration applications.

15. Despite claiming injury from SB 202, Ms. Gibbs has voted in every election since SB 202 took effect, without difficulty. Deposition of Fannie Marie Jackson Gibbs [Doc. 744] (“Gibbs Dep.”) 59:12–24; 59:25–60:5.

RESPONSE: Undisputed that Ms. Gibbs has voted in every election since SB 202 took effect. **Citation does not support** that such voting has been without difficulty.

16. The only change in Mr. Durbin’s voting experience since the enactment of SB 202 is that he says he votes on Election Day, but voted early in the 2022 primary elections and the November 2022 general election. Deposition of Jauan Durbin [Doc. 746] (“Durbin Dep.”) 16:19–23, 37:3–9.

RESPONSE: Undisputed that Mr. Durbin said he voted on Election Day after SB 202. Specifically, Mr. Durbin said that he voted on Election Day during the 2022 runoff, and voted early in person during the 2022 primary and general elections. Ex. 53 [ECF 746] (Durbin Dep. 17:5-7, 37:3-23). **Disputed** that voting on Election Day was the only change to Mr. Durbin’s voting experience after SB 202. Mr. Durbin testified that he was not able to pass out food and water to other voters because of SB 202. *Id.* at 17:16-18:19, 52:3-13. And he testified that his driver’s license was rejected as voter ID after SB 202 was enacted. *Id.* at 34:2-22.

17. The wait Mr. Durbin encountered in November 2022 was about 15 minutes long. Durbin Dep. 38:7–9.

RESPONSE: Undisputed.

18. There were no activities or projects the Ga. NAACP was unable to continue as a result of the implementation of SB 202. Deposition of Ga. State Conf. of the NAACP [Doc. 731] (“Ga. NAACP Dep.”) 58:6–10.

RESPONSE: Disputed that the Ga. NAACP’s activities have remained unchanged and continue to exist as they did prior to the implementation of SB 202. In his deposition, Ga. NAACP President Gerald Griggs testified that educating voters about SB 202’s provisions forced the Ga. NAACP to reorganize staff roles, reduce voter registration and get-out-the-vote activities, and divert resources from preexisting projects addressing climate justice, environmental issues, and housing discrimination. *See* Deposition of Georgia State Conference of the NAACP (Gerald Griggs) taken Feb. 21, 2023 (“NAACP Dep.”) Ex. 31 [ECF 731] (NAACP Dep. 58:10-12) (“I wouldn’t say discontinue. I would say that we had to reduce our attention on certain things to combat the effects of SB 202.”); *id.* at 77:3-8 (“So instead of responding to climate issues, environmental issues, they had to focus all of their messaging on SB 202 as putting together press releases, press conferences, digital information to make sure that the messaging got out.”); *id.* at 62:13-24 (testifying that Ga. NAACP’s housing chair had to spend “large amount of time

doing voter related [] education, voter challenges . . . instead of dealing with, you know, housing discrimination.”).

Defendants’ Statement No. 18 is also **immaterial** because past diversion of resources is not necessary to establish standing; anticipated diversion is sufficient. *See State Conference of NAACP v. Browning*, 522 F.3d 1153, 1165-66 (11th Cir. 2008). The Ga. NAACP has experienced a marked increase in calls to its voter hotline since the enactment of SB 202 and expects it will continue to have to educate voters about the law’s provisions. *See* Ex. 31 (NAACP Dep. 37:5-17); *see also* Declaration of Gerald Griggs dated May 16, 2023 (“Griggs Decl.”) Ex. 282 [ECF 548-12] (Griggs Decl. ¶ 8) (“After the passage of SB 202, the [Ga. NAACP’s] 1-866-OUR-VOTE hotline experienced increased call volumes”). This expected work will continue to divert resources away from the Ga. NAACP’s other planned activities. *See* Ex. 31 (NAACP Dep. 58:20-59:12, 152:15-153:1).

19. None of the Ga. NAACP’s staff members’ responsibilities changed as a result of SB 202. Ga. NAACP Dep. 60:10–13.

RESPONSE: Disputed. All of the Ga. NAACP’s volunteers and many of its committee chairs—including the housing, political action, veterans’ affairs, education, and membership chairs—“had to shift their focus” from projects related to their committee in order to respond to SB 202. Ex. 31 (NAACP Dep. 65:7-18, 66:2-67:12, 82:15-83:3). Instead of focusing on activities associated with their

typical roles, Ga. NAACP staff had to “for the first time in [the Ga. NAACP’s] history . . . organize[] a statewide, 22-city voter education campaign, including town halls, civic engagement events, and church events throughout Georgia, to make sure that people were aware of SB 202’s voting processes and its new restrictions, and that they had available options to participate in the franchise [of voting].” Ex. 282 (Griggs May 16, 2023 Decl. ¶ 9).

Several committee chair members had to entirely forsake their committee duties to focus solely on SB 202 initiatives. Ex. 31 (NAACP Dep. 65:7-18). For example, Housing Chair Penny Poole’s responsibilities shifted substantially to voter education and protection. *Id.* at 60:22-61:6 (“So the housing chair went from responding to issues of housing discrimination to actually have to respond to voter challenges at Gwinnett County, 30,000. She had to go testify before local education boards to keep polling precincts open. She had to actually partner with churches to make sure there were effective GOTV in Gwinnett County. So her responsibilities shifted—I mean, she literally is just now getting back to her housing responsibilities as of last month from the runoff.”); *see also id.* at 62:13-15, 62:17-21; Ex. 282 (Griggs May 16, 2023 Decl. ¶ 10) (“[I]nstead of addressing housing discrimination issues, because of SB 202, the chair of the housing committee had to shift her focus to voter education and election protection matters unrelated to housing.”). Likewise, the Ga. NAACP’s Veteran Affairs Committee

had to divert attention from its existing areas of focus to “address the effects of SB 202 on veterans who may be overseas, and who accordingly may not fly back [to Georgia] to vote in-person and had to cast absentee ballots.” Ex. 282 (Griggs May 16, 2023 Decl. ¶ 10). And the Education Committee had to shift its focus to “address issues for students who would not be able to vote because they were off at college.” *Id.*

20. The Ga. NAACP only employs one administrative assistant and relies on volunteers for the remainder of its activities. Ga. NAACP Dep. 20:10–12.

RESPONSE: Disputed because it mischaracterizes the positions and roles within the Ga. NAACP. It is true that the Ga. NAACP employs one paid administrative assistant. Ex. 282 (Griggs May 16, 2023 Decl. ¶ 5). However, after the passage of SB 202, the Ga. NAACP had to further expand its staff by hiring two paid attorneys to specifically address increased voter hotline calls as well as hiring a paid State Director to spearhead the Ga. NAACP’s election protection, voter mobilization, and voter education efforts for the 2022 election cycle. *Id.* ¶ 8.

The Ga. NAACP also has an executive committee comprised of 15 or so volunteers, including the President, three Vice Presidents, Secretary and Treasurer, and a Standing Committee of about 17 individuals, including the Political Action Committee Chair, Education Chair, and Housing Chair. *Id.* ¶ 6; Georgia NAACP, *Leadership*, <https://www.georgianaacp.org/leadership>.

21. But it is unable to quantify the amount of time any volunteers spent on other activities as a result of SB 202. Ga. NAACP Dep. 76:15–77:25.

RESPONSE: It is **undisputed** that President Griggs did not quantify an amount of time diverted; however, President Griggs also clarified that all Ga. NAACP volunteers spent the “majority” of their time focusing on voter education related to SB 202 and that some committee chair members focused exclusively on those activities instead of on the activities associated with their typical roles. Ex. 282 (Griggs May 16, 2023 Decl. ¶ 9); *see also* Ex. 31 (NAACP Dep. 65:9-18) (“[A]ll of the volunteers and many of the committee chairs had to shift their focus to respond to SB 202 . . . it was quite a few of them that were focused solely on, okay, this bill is coming. We have to respond to this bill and how we respond.”). For example, because of SB 202, Housing Committee Chair Penny Poole had to stop addressing housing discrimination issues and instead dedicate all her time to voter education and election protection matters unrelated to housing. Ex. 282 (Griggs May 16, 2023 Decl. ¶ 10); *see also* Ex. 31 (NAACP Dep. 62:9-21). The Ga. NAACP has explained that, as a result of the changes imposed by SB 202, it has, and will continue to have, fewer resources to dedicate to its other initiatives. *See* Ex. 31 (NAACP Dep. 58:20-59:12, 152:15-153:1).

Statement No. 21 is also **immaterial** because Eleventh Circuit law does not require quantification of injury, *see PETA, Inc. v. Miami Seaquarium*, 189 F. Supp.

3d 1327, 1340 (S.D. Fla. 2016), and the Supreme Court has stated that even minimal injury is sufficient to establish standing, *United States v. Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U.S. 669, 689 n. 14 (1973).

22. Further, the Ga. NAACP was unable to identify any members who were limited in voting in any way. Ga. NAACP Dep. 133:6–135:8.

RESPONSE: Disputed. President Griggs explained that, while the Ga. NAACP identified anecdotal evidence that its members were unable to vote due to SB 202's provisions, it could not definitively establish that those members did not have their votes counted because it does not have access to the Secretary of State's complete voter files. Ex. 31 (NAACP Dep. 133:22-25, 134:22-135:8).

The Ga. NAACP did however conclusively establish that hundreds of voters in Gwinnett County did not have their votes counted due to SB 202: several of these voters cast provisional ballots outside their precinct but did not have their votes counted; *id.* at 166:7-19; others were struck from Gwinnett's voter rolls after a lay citizen challenged their registration for allegedly living at commercial or condemned properties (even though Georgia permits voter registration at a commercial or condemned property); *id.* at 167-68; and at least 218 others had their absentee ballots excluded in the 2022 runoff election based on missing or incorrect birthdates on their ballot envelopes. *See* Declaration of Laurence Pulgram

dated January 12, 2024 (“Pulgram Decl.”) Ex. 308 (Pulgram Decl. ¶¶ 4-10); *see also id.* at 252-97 (NAACPGA00010722-25) (Gwinnett County spreadsheets identifying voters in Gwinnett County whose absentee ballot was rejected for a 2022 election). And in Cobb County, notice letters were issued to 759 voters indicating that their absentee ballots were rejected in the 2022 elections based on missing or incorrect birthdates. Ex. 308 (Pulgram Decl. ¶ 20). That same year Cobb County also notified 435 voters that their absentee ballots were rejected for listing identifying information that did not match the county’s system records and advised 106 additional voters that their absentee ballots were rejected due to missing or mismatched signatures. *Id.* ¶¶ 23, 25, 27. As this Court concluded, given these findings, as a factual matter “it is highly unlikely ‘that not a single [Ga. NAACP] member will have his or her [ballot] rejected’” due to SB 202’s provisions. Aug. 18, 2023 Order Granting in Part and Denying in Part Plaintiffs’ Motion for a Preliminary Injunction Based on Immaterial Voting Requirements (“Immaterial Voting Requirement PI Order”) [ECF 613] at 12-13.

23. At most, Ga. NAACP was only able to speculate about whether members were affected by SB 202 and had members contact them to say they had no issues voting after SB 202. Ga. NAACP Dep. 136:2–23, 139:6–11.

RESPONSE: Disputed and incomplete. Though President Griggs acknowledged that a few Ga. NAACP members did not report issues, he also

testified that the Ga. NAACP received hundreds of communications from voters expressing concern about SB 202’s unlimited voter challenges, mobile voting restrictions, drop box limitations, and voting timeline compression. Ex. 31 (NAACP Dep. 137:12-138:19). Several voters indicated they no longer felt comfortable using drop boxes because the presence of law enforcement and licensed security guards—as mandated by SB 202—intimidated them. *Id.* at 151:11-25.

24. The Ga. Coalition for the People’s Agenda (GCPA) claims it diverted resources related to its efforts to educate voters. Deposition of Ga. Coalition for the People’s Agenda (Butler) [Doc. 724] (“GCPA Dep.”) 36:12–37:7, 87:3–8.

RESPONSE: Undisputed that the GCPA diverted resources to educate voters on SB 202. **Disputed** that the GCPA only diverted resources from its education-related efforts to address the changes implemented by SB 202. The GCPA had to divert resources from its voter registration, get-out-the-vote, and non-election related initiatives to SB 202-related efforts, including educating voters on the changes brought by SB 202. Declaration of Helen Butler dated May 14, 2023 (“Butler Decl.”) Ex. 263 (Butler Decl. ¶¶ 6-7); Deposition of Georgia Coalition for the People’s Agenda (Helen Butler) taken Apr. 6, 2023 (“GCPA Butler Dep.”) Ex. 26 [ECF 724] (GCPA Butler Dep. 36:6-10, 20-23) (“We’ve had to, as I said, expend more time of our staff to be able to educate voters and get

them to understand the changes and how it would impact them as they go vote but that has meant that other activities that we do at the People’s Agenda have been left unattended and not done.”).

Instead of attending to the activities associated with their typical roles, GCPA staff also had to dedicate substantial time to helping challenged members and voters navigate the reinstatement process. Ex. 26 (GCPA Butler Dep. 179:17-23) (“So we weren’t certain that people were getting timely notices [of their votes being challenged], so we tried to get the list of people that were being challenged so that we could send phone banks of text messages to them about that they were being challenged, and that we could then send people to the hearings and speak like I did where they would allow us to speak.”); Deposition of Georgia Coalition for the People’s Agenda (Cynthia Battles) taken Apr. 6, 2023 (“GCPA Battles Dep.”) Ex. 25 [ECF 752] (GCPA Battles Dep. 87:4-15) (“[A] number of us . . . are monitoring [voter challenges]. I have volunteers who will call counties on a regular basis asking if they have gotten voter challenges.”). Redirecting these resources to SB 202 education efforts forced the GCPA to cease work on its citizen review board, community school board, same-day-voter-registration, utility processing, and contract facilitation initiatives. Ex. 26 (GCPA Butler Dep. 98-99, 101:7-15, 107:15-19); *see also* Ex. 263 (Butler May 14, 2023 Decl. ¶ 9); Ex. 25 (GCPA Battles Dep. 33-34).

25. But it always provides education when laws related to voting change. GCPA Dep. 103:7–18.

RESPONSE: Immaterial and partially disputed. It is **undisputed** that the GCPA aims to keep its voter education materials up to date. *See* Ex. 26 (GCPA Butler Dep. 103:7-18). **Disputed** that the GCPA always diverts resources from other projects and/or always dedicates a substantial amount of time to educating voters about changes in voting laws.

The GCPA had to invest significantly more time and effort to apprise voters of the severe consequences of misunderstanding SB 202’s requirements, including the imposition of criminal penalties for engaging in previously permitted conduct (such as assisting with absentee ballot applications or providing line relief) and the ballot rejection of otherwise eligible voters due to the Birthdate Requirement. Ex. 263 (Butler May 14, 2023 Decl. ¶¶ 6-7). These unprecedented education efforts included leading a virtual SB-202-education tour in five Georgia counties and organizing an in-person tour with seven stops across different counties. *Id.* ¶ 7. In addition, the effect of SB 202’s restrictions forced the GCPA to expand its “Rides to the Polls” initiative to better serve seniors and other vulnerable communities who had difficulty traveling to the ballot box, and engage extensively with government officials and legislatures to address SB 202 requirements and problems. *Id.* ¶¶ 10-11. Focusing on these activities prevented the GCPA from

advancing its non-voting-related initiatives. *Id.* ¶ 8 (“[I]n normal times, the People’s Agenda typically performs a lot of work on matters outside of the voting process—namely, criminal justice reform, equity in education, economic empowerment for Black-owned businesses, environmental justice, and elder issues . . . due to the extensive changes to absentee voting and election laws more broadly under SB 202, the People’s Agenda had to divert attention of its staff and membership away from these areas and focus instead on voter education.”).

In any event, Statement 25 is immaterial as Plaintiffs may show organizational standing if they must devote more resources because of SB202’s illegal provisions, even if the additional resources will be used for activities that are the same as those that the organization did before the law was passed. *See Martin v. Kemp*, 341 F. Supp. 3d 1326, 1334 (N.D. Ga. 2018) (holding that plaintiffs still had standing even if the actions were a continuation of their “regular voting and voter registration activities”).

26. Further, GCPA did not dismiss or hire any staff members as a result of SB 202. GCPA Dep. 105:17–23.

RESPONSE: Undisputed but incomplete. It is **undisputed** that Director Butler agreed with Statement No. 26 in her deposition. Nonetheless, Director Butler explained that, despite not hiring or dismissing any staff members, the GCPA had to reorganize staff roles and enlist many volunteers due to SB 202’s

implementation. Ex. 26 (GCPA Butler Dep. 106:9-14, 105:23-25). Notably, Policy & Engagement Director Cynthia Battles had to divert so much of her time to SB 202 education efforts that she could no longer attend to policy issues, including criminal justice, education, and economic-related initiatives—issues for which she was hired. *Id.* at 105:23-25 (“Ms. Battles was hired to do a lot of our policy work, and because of SB 202, she was not able to do that.”); Ex. 263 (Butler May 14, 2023 Decl. ¶ 9) (“[T]he People’s Agenda [] specifically hired Cynthia Battles . . . to address and deepen its work in [] non-voting subject matter areas, including initiatives to create citizen oversight boards in the criminal justice system, to collaborate with community school boards to improve education quality in underperforming schools, to obtain better access to state and local contracts for Black-owned businesses, and to negotiate utility bills for seniors. Because of the disruption caused by SB 202, however, Ms. Battles could not engage in this policy work and instead dedicated the vast majority of her time to voter education issues; in some cases, as with the project to get fairer utility bills for seniors, the People’s Agenda’s work stopped altogether.”). And Director Butler herself could no longer fulfill her broader responsibilities and duties as Executive Director due to the substantial time she had to personally dedicate to SB 202 voter outreach and education activities, which included preparing and giving presentations about SB 202, engaging with government officials and legislators about the law, and even

giving testimony about SB 202's absentee voting restrictions before the United States House Judiciary Committee. Ex. 263 (Butler May 14, 2023 Decl. ¶ 11).

27. Regarding any impact on its members, GCPA was unable to identify any members who lack government-issued photo identification. GCPA Dep. 110:12–21.

RESPONSE: Disputed. The GCPA never attempted to identify members who lack government-issued photo identification. Helen Butler's deposition testimony makes clear that the GCPA did not ask its members whether they had government-issued photo identification because most of them were already registered to vote. Ex. 26 (GCPA Butler Dep. 110:12-21).

28. It is also not aware of any voter who was unable to vote as a result of the changes to absentee-ballot applications and timelines for those applications in SB 202. GCPA Dep. 113:3–115:13, 119:22–120:6, 120:16–121:10.

RESPONSE: Disputed. Several voters informed the GCPA that they were unable to vote in the 2022 elections because they could not meet SB 202's compressed absentee ballot mailing deadline. Ex. 26 (GCPA Butler Dep. 120:20–24). Many voters—particularly elderly citizens—sought transportation to polling places from the GCPA because they were unable to vote by mail due to SB 202's new absentee ballot requirements. *Id.* at 91:17-22. Various GCPA members with

disabilities were unable to vote absentee and required transportation assistance to vote in person. *Id.* at 113:13-15.

29. GCPA is unaware of any voters who was unable to vote because of being unable to get time off of work, the drop box changes, or out of precinct voting provisions of SB 202. GCPA Dep. 125:4–7, 130:6–20, 130:22–131:2, 131:16–132:1.

RESPONSE: Disputed. GCPA is aware of at least 500 voters who did not have their votes counted due to SB 202’s changes to out-of-precinct voting provisions. Ex. 25 (GCPA Battles Dep. 37:23-38:4). Approximately 130 of those voters were disenfranchised because affidavits for the voters’ out-of-precinct provisional ballots were not completed. *Id.* at 86:3-25. Cynthia Battles also testified about an incident involving 30 senior citizens from an assisted-living facility whose precinct changed without notice. *Id.* at 55:25-56:18. When the senior citizens attempted to vote at their designated precinct, they learned that their polling place had changed and was now located thirty minutes away. *Id.* After much effort and a long wait, the GCPA was eventually able to transport the senior citizens to their new polling place. *Id.* Before the implementation of SB 202 these voters could have cast provisional ballots at their original precinct. *Id.* at 56:19-57:5. Under the current statute, they would not have been able to vote without the GCPA’s intervention. *Id.* at 55-56.

30. Nor has GCPA taken any steps to determine if any of its members waited in line in 2022. GCPA Dep. 138:14–139:6.

RESPONSE: Undisputed.

31. The League of Women Voters of Georgia (LWV) has increased its work in advocacy as a result of SB 202 but has also been affected by decreased activity of its local league partners in its resource-allocation decisions. Deposition of League of Women Voters of Georgia [Doc. 732] (“LWV Dep.”) 61:6–62:11.

RESPONSE: Partially disputed. It is **undisputed** that the LWV increased advocacy efforts to educate voters about the changes implemented by SB 202.

Disputed that the LWV did not have to divert resources from non-advocacy-related activities to prioritize these efforts. Educating voters about SB 202 forced the LWV to reduce the number of electoral races they covered in candidate comparison materials, limit work on redistricting issues, reduce voter registration drives, and entirely discontinue certain voter registration work typically done. Deposition of League of Women Voters of Georgia (Susannah Scott) taken Mar. 22, 2023 (“LWV Dep.”) Ex. 40 [ECF 732] (LWV Dep. 62:3-7, 63:1-19, 70:23-71:5); *see also* Declaration of Susannah Scott dated May 15, 2023 (“S. Scott Decl.”) Ex. 311 (S. Scott Decl. ¶ 8) (“[B]ecause of the importance of educating the voting public about SB 202’s changes in Georgia voting laws, the LWVGA had to discontinue all its voter registration initiatives except for those it conducted at

naturalization ceremonies.”). Due to SB 202’s extensive changes to Georgia’s election laws, the LWV had to entirely rework the voting materials provided on its Vote411.org online voter guide. Ex. 311 (S. Scott Decl. ¶ 6) (“In particular, given SB 202’s severe restrictions on absentee ballots, the LWVGA prepared detailed guides covering SB 202’s changes to the absentee voting process specifically, including information about the Birthdate Requirement.”). This process limited the number of races the LWV could cover for its candidate survey initiative, resulting in publication of a “less robust and comprehensive” candidate guide than usual. *Id.* ¶ 9.

32. Regarding any impact on its members, LWV was unable to identify any members who lack government-issued photo identification. LWV Dep. 73:5–8.

RESPONSE: Disputed that the LWV attempted but failed to identify members who lack government-issued photo identification. The LWV made no such attempts. Ex. 40 (LWV Dep. 73:5-8).

In any event, Statement 32 is **immaterial** as, given its presence across Georgia, *see* Ex. 311 (S. Scott Decl. ¶¶ 2-3), it is “highly unlikely that not a single [LWV] member” lacks government identification. Immaterial Voting Requirement PI Order at 12-13 (quotation omitted). Moreover, the LWV does not need to identify named impacted members to establish standing, for “every member faces a

probability of harm in the near and definite future” when, as here, “the alleged harm is prospective.” *Id.* at 11 (quoting *Browning*, 522 F.3d at 1160, 1163).

33. It is also not aware of any voter who was unable to vote as a result of the changes to absentee-ballot applications and timelines for those applications in SB 202. LWV Dep. 73:23–74:2, 75:1–5, 75:19–76:25.

RESPONSE: Disputed. The LWV is aware of voters who were unable to meet SB 202’s shortened deadline for returning absentee ballots due to County and/or United States Postal Service ballot mailing delays. Ex. 40 (LWV Dep. 76:2–12). These voters only received their ballots a few days before—or even after—SB 202’s compressed return deadline. *Id.* The LWV is also aware of voters whose ballots were not counted because they failed to include immaterial information required by SB 202. *Id.* at 74:2–4. Further, after its deposition, the LWV became aware that at least 218 Gwinnett voters had their absentee ballots excluded in the 2022 runoff election because the birthdates on their ballot envelopes were either missing or did not match the county’s records, and that Cobb County issued notice letters to 759, 435, and 106 voters indicating their absentee ballots were rejected in the 2022 elections based on missing or incorrect birthdates, listing ID numbers that did not match the county’s system records, and missing or mismatched signatures, respectively. Ex. 308 (Pulgram Decl. ¶¶ 4–10, 20, 23, 25, 27).

34. LWV also has no knowledge of any voter or member being harmed by the voter-challenge provisions or the takeover provisions of SB 202. LWV Dep. 78:5–20, 78:21–79:4.

RESPONSE: Partially Disputed. Though the LWV does not know of specific members impacted by SB 202’s voter-challenge provisions, it is aware that tens of thousands of Georgian voters have been subject to those challenges. *See* Declaration of Nichola Hines dated January 12, 2024 (“Hines Decl.”) Ex. 287 (Hines Decl. at 4-5) (LWVGA00010877-78) (LWV United States Impact Statement).

35. GALEO Latino Community Development Fund (GALEO) has been engaged in voter education before and after SB 202. Deposition of GALEO Latino Community Development Fund [Doc. 723] (“GALEO Dep.”) 101:14–18.

RESPONSE: Immaterial. Statement No. 35 is **undisputed** as to GALEO’s continued engagement in voter education, but **disputed** as to the implication that GALEO’s voter education activities were not changed by SB 202. Before SB 202, GALEO’s voter education focused on motivating and teaching citizens to vote. Deposition of GALEO Latino Community Development Fund (Jerry Gonzalez) taken Feb. 20, 2023 (“GALEO Dep.”) Ex. 27 [ECF 723] (GALEO Dep. 102:13-22). The passage of SB 202 forced GALEO to “narrow the scope of [voting] options” taught and instead focus on explaining the substance of SB 202’s

provisions. *Id.* at 99:8-23, 103:10-25; *see also* Declaration of Jerry Gonzalez dated May 15, 2023 (“Gonzalez Decl.”) Ex. 279 (Gonzalez Decl. ¶ 8) (“focus[ing] on the nuts and bolts of the voting process . . . distracted GALEO and its members from its core mission of advancing leadership engagement and development.”).

In any event, Plaintiffs may show organizational standing if they must devote more resources to their regular educational programming because of the illegal activity, even if the additional resources will be used for activities that are the same as those that the organization did before the law was passed. *See Martin v. Kemp*, 341 F. Supp. 3d 1326, 1334 (N.D. Ga. 2018).

36. GALEO cannot identify any projects related to voter registration that it took resources away from to address the impact of SB 202. GALEO Dep. 98:8–12.

RESPONSE: Disputed. GALEO had to make significant changes to its civic engagement and voter education programs in order to educate voters about SB 202, including by creating and sending mailers, flyers, and other voter education materials addressing SB 202’s changes to election laws; engaging in grassroots mobilization efforts; running tailored language assistance programs; and recruiting and training additional volunteers. Ex. 279 (Gonzalez Decl. ¶¶ 7-8). These changes forced GALEO to divert time, energy, and resources from initiatives important to the Latino community such as get-out-the-vote campaigns,

naturalization paperwork trainings, and voting walkthroughs. Ex. 27 (GALEO Dep. 94-98). Given the ongoing impact of SB 202, GALEO expects that its SB 202 work will continue to divert resources from other planned activities in the future. *Id.* at 109-10.

37. GALEO did not hire or dismiss any staff members as a result of SB 202, GALEO Dep. 109:3–8.

RESPONSE: Undisputed, but immaterial. The Supreme Court has made clear that minimal injury is sufficient to establish standing, *SCRAP*, 412 U.S. at 689 n. 14, and GALEO explained that any time diverted to addressing SB 202’s changes “means we’re not spending [time] on other things that are important in our community.” Ex. 27 (GALEO Dep. 106:9-12).

38. There have been no projects that GALEO has been unable to engage in as a result of SB 202. GALEO Dep. 109:17–21.

RESPONSE: Undisputed that GALEO did not have to entirely abandon projects as a result of SB 202, but **disputed** that GALEO’s activities continue to exist as they did prior to the implementation of SB 202. GALEO’s diversion of resources to counteract SB 202’s voter suppression has impaired its ability to conduct other civic engagement and voter education activities like its get-out-the-vote and naturalization training initiatives, narrowed the scope of voting options

discussed with voters, and diverted time, energy, and resources to creating SB-202-specific materials. Ex. 27 (GALEO Dep. 94-98, 99:8-23, 102:13-22, 103:10-25).

39. GALEO has no knowledge of any voter or member who was unable to vote because of SB 202's requirements related to government-issued identification, absentee-ballot applications and deadlines, early voting, drop boxes, out-of-precinct voting, suspension provisions, or waiting in line. GALEO Dep. 117:15–118:6, 121:3–6, 113:3–115:13, 132:14–19, 133:4–18, 138:1–5, 143:9–11, 146:9–147:4, 148:17–21, 150:3–14, 155:8–12.

RESPONSE: Partially disputed. Although GALEO did not have conclusive evidence that specific voters were unable to vote because of SB 202's requirements at the time of its Rule 30(b)(6) deposition, it has since become aware that hundreds of voters had their absentee ballots excluded in the 2022 elections because the birthdates on their ballot envelopes were either missing or did not match the county's records. Ex. 308 (Pulgram Decl. ¶¶ 4-10, 20-27). GALEO also knows of voters who were likely unable to exercise their right to vote due to SB 202's provisions. For instance, several GALEO members reported waiting in line for three to four hours when they attempted to vote in the 2022 general election; discouraged by the long lines, some of those members left and were likely unable to vote at a later date. Ex. 27 (GALEO Dep. 155). This is consistent with Cobb County's former Director of Elections' warning to the sponsors of SB 202 that

“eliminating all but a few days of early voting . . . will mean that lines on election day will be untenable.” Ex. 217 (CDR00009771-73) (Email chain between R. Germany, J. Eveler, and C. Harvey dated Mar. 11, 2021). Voters contacted GALEO to seek guidance regarding SB 202’s absentee ballot application deadline and expressed concern about their ability to receive and drop off ballots within SB 202’s compressed timeline because of business, family and international travel. Ex. 27 (GALEO Dep. 155).

40. Common Cause is not claiming any diversion of financial resources as a basis for its standing in the case. Deposition of Common Cause [Doc. 697] (“Common Cause Dep.”) 7:10–19.

RESPONSE: Undisputed, but immaterial because diversion need not be of financial resources, but can include diversion of personnel and time, *see Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1341 (11th Cir. 2014).

41. Common Cause provided information about legislative changes, legislative debriefs, grassroots mobilization, pollworker recruitment, provisional ballot programs before and after SB 202. Common Cause Dep. 106:4–107:12.

RESPONSE: It is **undisputed** that Common Cause provided information about legislative changes, legislative debriefs, grassroots mobilization, poll worker recruitment, and provisional ballots before and after SB 202, **but disputed** that Common Cause did not engage in any other civic engagement or voter education

activities prior to the implementation of SB 202 and that these activities were done at the same levels before and after SB 202. For instance, the new restrictions on absentee voting imposed by SB 202 required Common Cause to invest time and resources in mass education campaigns “at a scale unlike those [Common Cause] had previously conducted” by organizing additional meetings, in-person community engagement panels, town halls, and other outward-facing events for voters and local communities. Declaration of Treanna (“Aunna”) Dennis dated May 16, 2023 (“Dennis May 16, 2023 Decl.”) Ex. 272 (Dennis May 16, 2023 Decl. ¶ 7).

42. While Common Cause identified some programs it wished to engage in for future events, it only identified the sheriff accountability program as an existing program it stopped engaging in. Common Cause Dep. 107:13–108:11.

RESPONSE: Disputed. In her deposition, Aunna Dennis made clear that diverting staff and resources to SB 202 initiatives forced Common Cause to not only terminate its sheriff accountability program, but also abandon its goal of building an advisory board and discontinue its procurement and real estate activities in all but one local jurisdiction. Deposition of Common Cause (Treanna Dennis) taken Feb. 21, 2023 (“Common Cause Dep.”) Ex. 16 (Common Cause Dep. 107:13-108:21, 116:1-5); *see also* Ex. 272 (Dennis May 16, 2023 Decl. ¶ 8). In addition, due to SB 202’s criminalization of line relief activities, Common

Cause had to entirely cease supplying personal protective equipment, food, and drinks to voters who face long lines. Declaration of Treaunna Dennis dated May 24, 2022 (“Dennis Line Relief Decl.”) Ex. 271 (Dennis Line Relief Decl. ¶ 15). Those efforts were central to Common Cause’s mission “because they help[ed] to provide equitable access to the democratic process and encourage[d] voter participation,” and “words alone do not communicate the same message to voters as line relief does.” *Id.* ¶¶ 10-11.

43. But this program was a program funded by the national organization and Common Cause simply chose to prioritize election projects over the sheriff projects. Common Cause Dep. 108:22–113:6.

RESPONSE: Disputed. Common Cause did not testify (and the state offers no other evidence) that its sheriff accountability program was funded by its national branch. Ex. 16 (Common Cause Dep. 108:22-113:6). Defendants’ characterization that Common Cause “simply chose” to prioritize election projects neglects that the impact of SB202 required that choice. As Aunna Dennis explained, Common Cause was “no longer able to invest time into the transparency of sheriff accountability” because it had to divert its limited staff to SB 202 education. *Id.* at 108:6-109:4; *see also* Ex. 272 (Dennis May 16, 2023 Decl. ¶ 8) (“Common Cause GA had to discontinue its sheriff accountability work because

the organization did not have enough staffing or headcount to perform it, given the increase[d] demand for voter education.”).

44. The only other reasons Common Cause could identify for not engaging in certain projects was due to a lack of funding from its national organization, about which Defendants were not permitted to inquire. Common Cause Dep. 108:22–113:6, 113:13–116:10.

RESPONSE: Partially disputed and immaterial. It is **undisputed** that Common Cause asserted associational privilege over communications regarding the national organization’s funding strategy. Ex. 16 (Common Cause Dep. 111-12). However, it is **disputed** that Common Cause did not identify reasons other than lack of funding for discontinuing projects. Director Dennis explained that Common Cause lacked the staff capacity to continue its sheriff accountability, advisory board, and procurement and real estate activities because it had to divert its limited resources to address the impact of SB 202. *Id.* at 108:6-109:4; *see also* Ex. 272 (Dennis May 16, 2023 Decl. ¶ 8). In any event, Statement No. 44’s speculation regarding the reasons for these cuts is **immaterial**, as Common Cause clearly explained that it would have continued to engage in the discontinued activities if SB 202 had not been enacted. Ex. 16 (Common Cause Dep. 108:19-21, 113:14-16).

45. The only areas where Common Cause claims it diverted resources to projects were in the areas of provisional ballot curing programs and voter education programs, both of which it engaged in prior to SB 202. Common Cause Dep. 117:16–121:4.

RESPONSE: Not disputed provided the phrase “provisional ballot curing programs” is used to encompass relevant voter protection, advocacy, and outreach activities as described by Aunna Dennis. Ex. 16 (Common Cause Dep. 105:9-19, 115, 117); Ex. 272 (Dennis May 16, 2023 Decl. ¶¶ 7-8).

But immaterial. Plaintiffs may show organizational standing if they must devote more resources to their regular educational programming because of the illegal activity, even if the additional resources will be used for activities that are the same as those that the organization did before the law was passed. *See Martin v. Kemp*, 341 F. Supp. 3d 1326, 1334 (N.D. Ga. 2018).

46. Common Cause has no knowledge of any voter or member who was unable to vote because of SB 202’s requirements related to government-issued identification, absentee-ballot applications and deadlines, early voting, drop boxes, out-of-precinct voting, suspension provisions, or voter challenge provisions. Common Cause Dep. 124:14–125:4, 139:18–22, 140:14–141:23, 147:9–17, 155:24–156:15, 161:4–162:20, 163:20–166:3, 166:4–165:19.

RESPONSE: Disputed. In her deposition, Director Dennis reported that a Metro Atlanta County voter who attempted to vote out of precinct because his precinct no longer existed was ultimately unable to cast a ballot since the alternative precinct they traveled to had closed by the time they arrived. Ex. 16 (Common Cause Dep. 161-62). Moreover, several voters who cast out-of-precinct provisional ballots in Gwinnett County in 2022 did not have their provisional ballots counted because they were unaware of SB 202’s signature requirements and did not receive clear instructions from poll workers. *Id.* at 211-12. Similarly, Common Cause learned from information obtained after its deposition of hundreds of Gwinnett County and Cobb County voters—including several Common Cause members—who had their ballots excluded in the 2022 runoff election because the birthdates on their ballot envelopes were either missing or did not match the county’s records. Declaration of Sherrill Gammon dated Jan. 12, 2024 (“Gammon Decl.”) Ex. 277 (Gammon Decl. ¶ 6); Ex. 308 (Pulgram Decl. ¶¶ 4-10, 20-22).

Common Cause is also aware of voters who received and successfully cast absentee ballots in 2020, but were discouraged from voting in the 2022 elections by SB 202’s onerous new voting procedures. Ex. 16 (Common Cause Dep. 130-32). These voters informed Common Cause “they no longer want to vote in Georgia because it is too hard. And they’re also really afraid of what happens when

you go to a polling place and you can be targeted just because of how you look . . .
.” *Id.* at 132:1-5.

47. Lower Muskogee Creek Tribe (LMCT) is not relying on a diversion of resources. Deposition of Lower Muskogee Creek Tribe [Doc. 730] (“LMCT Dep.”) 48:3–9, 53:8–12.

RESPONSE: Undisputed.

48. LMCT is relying on associational standing on behalf of its members. LMCT Dep. 48:3–9, 53:8–12.

RESPONSE: Undisputed.

49. The only types of injuries that LMCT could identify are members not getting off work until 6:00 or 7:00 and being unable to utilize early voting hours LMCT Dep. 63:22–64:10.

RESPONSE: Disputed. In addition to discussing the injuries described in Statement No. 49, the LMCT explained that SB 202’s restrictions on weekend voting frustrated members’ ability to vote because “most are construction workers [who] work six and seven days a week.” Deposition of Lower Muskogee Creek Tribe (Marian McCormick) taken Feb. 27, 2023 (“LMCT Dep.”) Ex. 41 [ECF 730] (LMCT Dep. 64:4-10). Likewise, many LMCT members cannot comply with SB 202’s compressed absentee ballot deadlines because they “work out of state, commuting back and forth” and hence no longer have enough time to receive and

return absentee ballots. *Id.* at 63:8-16. SB 202’s new absentee ballot requirements are even more onerous for LMCT members, as many of them lack a computer, printer, and/or scanner now required to submit ballot applications. *Id.* at 61:24-62:4. Voting in person is often not a viable alternative because polling places are far from the Tribe and many LMCT members do not have access to a vehicle. *Id.* at 40, 43:22-44:9.

50. LMCT was unable to identify any member who was prevented from voting since the enactment of SB 202. LMCT Dep. 67:14-19, 76:18-25, 77:6-78:8.

RESPONSE: Disputed that the LMCT attempted but failed to identify members prevented from voting since the enactment of SB 202. LMCT did not poll or canvas members regarding their voting experience. Ex. 41 (LMCT Dep. 77:1-5). Moreover, given that the LMCT has approximately 2,700 members, *id.* at 38:4-6, it is “highly unlikely that not a single member” was unable to vote unbeknownst to the LMCT. Immaterial Voting Requirement PI Order at 12-13 (quotation omitted). Nor does the LMCT need to identify named members impacted by SB 202 to establish associational standing. *Id.* at 11 (“When the alleged harm is prospective . . . all that plaintiffs need to establish is that at least one member faces a realistic danger”) (quoting *Browning*, 522 F.3d at 1160, 1163).

51. Since 2016, the Sixth District of the African Methodist Episcopal Church (Sixth District AME) has been very engaged in voter registration, voter education, voter mobilization, and voter organization for every election.

Deposition of Sixth District of the African Method Episcopal Church [Doc. 691] (“Sixth District AME Dep.”) 27:9-19.

RESPONSE: Undisputed.

52. What the Sixth District claims are its efforts combatting SB 202 can more accurately be described as generalized voter-education efforts that include making sure people have ID and making a plan to vote, all of which the Church undertakes as a normal practice. Sixth District AME Dep. 93:24-94:16.

RESPONSE: Disputed. The Sixth District engaged in more than just generalized voter education efforts to combat SB202, including organizing boycotts and speaking with legislators and governmental officials about the bill. Ex. 45 (Sixth District AME Dep. 61:7-10; 68:16-23). The Sixth District also had to refine and reeducate congregations about the provisions of election law that SB202 changed. *Id.* at 27:20-22.

53. Although the Sixth District claims to have spent more time on voting and voting education efforts in 2022 than in 2018, it could not identify how these efforts were related to combatting the challenged provisions of SB 202. Sixth District AME Dep. 43:3-6.

RESPONSE: Disputed. The Sixth District noted that part of its reeducation efforts involved informing members about the changes in absentee voting, the changes in ballot drop boxes, the changes in voter ID requirements, and the area where volunteers could not participate in line relief efforts. Ex. 45 (Sixth District AME Dep. 29:9-13).

54. The Sixth District has member churches, but not individual members, and has no control of how the ministers function in each local church. Sixth District AME Dep. 21:4-9, 22:16-18.

RESPONSE: Disputed in part and undisputed in part. The Sixth District has over 500 member-churches and approximately 96,000 individual church members. Ex. 45 (Sixth District AME Dep. 22:1-7). All ministers fall under the authority of the Sixth District; however, local churches determine some aspects of how ministers are governed, such as compensation matters. *Id.* at 22:8-18.

55. Thus, despite claiming that the Sixth District has had to divert time and resources allegedly combatting the challenged provisions of SB 202, the activities they identified like Get Out the Vote efforts, food programs, after-school programs, and senior/shut-in ministries, are all conducted at the local level by member churches and not at the district level. Sixth District AME Dep. 40:2-41:3, 43:3-6, 46:4-20.

RESPONSE: Disputed in part, undisputed in part. The Sixth District coordinates civic engagement efforts such as Operation Voter Turnout. Ex. 289 (R. Jackson Decl. [ECF No. 171-10] ¶10). For example, although local churches implement Get Out the Vote efforts, the Sixth District provides churches with instructions on how to carry out these efforts. Ex. 45 (Sixth District AME Dep. 33:14-33:19; 32:8-33:19). Thus, Sixth District staff, including the Bishop of the Church, are involved with voting-related efforts. *Id.* at 33:14-23. Between 2020 and 2022, the voter education workload of Sixth District staff members increased. *Id.* at 37:2-17. The Sixth District noted that it had to refine and reeducate members after the passage of SB202 because of provisions of the law that changed relating to drop boxes, absentee voting, and mobile voting units. *Id.* at 27:5-29:13.

56. While claiming intentional racial discrimination, the Sixth District based its conclusions about the purpose behind SB 202 based solely on the timeline of it being passed after the 2020 election. Sixth District AME Dep. 63:24-64:4; 9-11, 66:7-14.

RESPONSE: Disputed. The Sixth District noted that SB202 specifically targeted methods of voting that Black voters had used in large numbers in 2020, such as absentee voting, drop boxes, mobile voting units. Ex. 45 (Sixth District AME Dep. 28:3-29:13).

57. The only basis for the Sixth District's claims that SB 202 was passed to marginalize and disenfranchise black and minority voters was that SB 202 was enacted after the Shelby County case involving the Voting Rights Act and Gov. Kemp's alleged statements that he was not happy with the results of the 2020 election. Sixth District AME Dep. 86:2-21.

RESPONSE: Disputed as incomplete. The Sixth District noted that SB202 specifically targeted methods of voting that Black voters had used in large numbers in 2020, such as absentee voting, drop boxes, mobile voting units. Ex. 45 (Sixth District AME Dep. 28:3-29:13).

58. The primary purpose of the Georgia Muslim Voter Project ("GMVP") is to educate minorities about the political process, to build voter turnout in elections, and to promote civic responsibility among local communities. Deposition of Ga. Muslim Voter Project [Doc. 725] ("GMVP Dep.") 35:20-36:5.

RESPONSE: Undisputed.

59. The organization has always done voter education events and maintained an active voter engagement campaign for the 2020 election cycle. GMVP Dep. 37:8-10, 38:22-23, 39:1-3.

RESPONSE: Undisputed.

60. Those voter education efforts were in effect before SB 202 and after its passage. [AME Doc. 83, ¶ 40], GMVP Dep. 62:8-11, 63:22-64:5, 67:8-12.

RESPONSE: Disputed in part. Some of GMVP’s voter education efforts had to change and were updated by staff as a result of SB202. Ex. 30 (Khabani/GMVP Dep. 98:20-101:21).

61. Regardless of whether they agree with a law, GMVP continually updates their communications, trainings, and workshops to make sure that they are always providing updates on changes in election laws. GMVP Dep. 128:4-10, 65:6-11.

RESPONSE: Disputed as to the “whether they agree with the law.”
Undisputed as to the rest.

62. GMVP had never actually started those programs and just “wished” they could be implementing those programs. GMVP Dep. 107:8-11.

RESPONSE: Disputed. Programs were always ongoing and in the process of getting them to the point that they are fully in place. For instance, Executive Director of GMVP Shafina Khabani discussed launching voter education workshops that normally would occur in January that had not yet been implemented because of the extra resources diverted to SB 202-related work. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8 and 98:20-101:21). GMVP also had to cease work on a new program that they had just launched and allocated resources towards that was modeled on Souls to the Polls but tailored to the Muslim community. As GMVP Executive Director testified, GMVP “wasted a lot of staff

time on that shuttered program” after SB 202’s line relief ban. Ex. 299 (Khabani April 13, 2023 Decl. ¶ 14 (ECF No. 535-12)).

63. Similarly, expanding translation for workshops and services and materials and gathering data and data research studies on the Muslim community are other goals of the organization which have not yet been launched. GMVP Dep. 98:1-2, 106:11-16, 98:14-17, 100:5-6.

RESPONSE: Disputed. Programs were always ongoing and in the process of getting them to the point that they are fully in place. The translations, gathering data, and other materials were already planned and contemplated, but not fully implemented due to SB 202-related work diversions. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8 and 98:20-101:21).

64. Rather, “it was really about, I guess, more so taking away from the things that we wish we could be doing.” GMVP Dep. 104:21-25.

RESPONSE: Undisputed that the quote says what it says. **Disputed** in part because the fact is incomplete. Programs were always ongoing and in the process of getting them to the point that they are fully in place. For instance, Executive Director of GMVP Shafina Khabani discussed launching voter education workshops that normally would occur in January that had not yet been implemented because of the extra resources diverted to SB 202-related work. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8 and 98:20-101:21). GMVP also had to

cease work on a new program that they had just started and put resources towards that was modeled on Souls to the Polls but tailored to the Muslim community. As GMVP Executive Director testified, GMVP “wasted a lot of staff time on that shuttered program” after SB 202’s line relief ban. Ex. 299 (Khabani April 13, 2023 Decl. ¶ 14 (ECF No. 535-12)).

65. GMVP moved staff from part-time to full-time for voter registration, GOTV and voter education work when they saw the “slew of voting right bills that were being passed,” but that action was not tied specifically to SB 202 and GMVP did not create an individual membership program until after the passage of SB 202. GMVP Dep. 45:20-25, 121:11–16.

RESPONSE: Undisputed that the quoted language says what it says and **undisputed** that GMVP did not create an individual membership program until after the passage of SB 202. **Disputed** as to the rest of the information, which is incomplete. GMVP moved staff from part-time to full-time for voter registration, GOTV, and voter education and advocacy as a result of SB 202’s introduction and passage, in addition to other voting laws. Ex. 30 (Khabani/GMVP Dep. 116:9-117:7).

66. And GMVP does not have any specific information to base its claim that fewer people are able to vote in Georgia as a result of the eight challenged

provisions of SB 202. GMVP Dep. 165:8-10, 15-24, 166:1-3, 171:4-7, 172:14-23, 174:8-15, 178:14-17, 184:1-3.

RESPONSE: Disputed. GMVP's Executive Director testified that staff members spoke with community members who faced barriers exercising their right to vote as a result of SB 202's challenged provisions. *See*, e.g., Ex. 30 (Khabani/GMVP Dep. 132:20-133:12, 179:20-180:2). Also **disputed as immaterial** to standing. GMVP's Executive Director has testified that it had to divert human resources and programmatic resources as a result of SB 202. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8; *Id.* 98:20-101:21); Ex. 299 (Khabani April 13, 2023 Decl. ¶ 14 (ECF No. 535-12)).

67. GMVP has not determined whether any member of the community who lacks an ID is also lacking a utility bill, bank statement or other forms of ID permitted under SB 202. GMVP Dep. 169:15-20.

RESPONSE: Movant's fact is not material. GMVP's Executive Director testified that staff members spoke with community members who faced barriers exercising their right to vote as a result of SB 202's challenged provisions. *See*, e.g., Khabani/GMVP Dep. 132:20-133:12, 179:20-180:2. GMVP's Executive Director has testified that it had to divert human resources and programmatic resources as a result of SB 202. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8 and 98:20-101:21); Ex. 299 (Khabani April 13, 2023 Decl. ¶ 14 (ECF No. 535-12)).

68. GMVP does not know of anyone who could not vote because of the absentee ballot requirements in SB 202. GMVP Dep. 169:21-23, 170:5.

RESPONSE: Disputed. GMVP testified that it was aware of at least one person who had difficulty voting due to the changes in the time period to request an absentee ballot. Ex. 30 (Khabani/GMVP Dep. 171:4-15). GMVP's Executive Director testified that staff members spoke with community members who faced barriers exercising their right to vote as a result of SB 202's challenged provisions. *See, e.g.,* Ex. 30 (Khabani/GMVP Dep. 132:20-133:12, 179:20-180:2). Also **disputed** as immaterial to standing. GMVP's Executive Director has testified that it had to divert human resources and programmatic resources as a result of SB 202. *See* Ex. 30 (Khabani/GMVP Dep. 57:21-58:8 and 98:20-101:21); Ex. 299 (Khabani April 13, 2023 Decl. ¶ 14 (ECF No. 535-12)).

69. The information GVMP has is based on hearsay and may not even concern members of their community, let alone their organization's membership. GMVP Dep. 187:16-22.

RESPONSE: Disputed. GMVP's Executive Director testified that she had personal knowledge of someone who faced difficulty voting as a result of a provision of SB 202. Ex. 30 (Khabani/GMVP Dep. 132:20-133:12). GMVP also testified that staff members spoke with community members who faced barriers

exercising their right to vote as a result of SB 202's challenged provisions. Ex. 30 (Khabani/GMVP Dep. 179:20-180:2; 129:6-131:25).

70. Women Watch Afrika ("WAA") [*sic*] does not have any members, and thus cannot claim associational standing. Deposition of Women Watch Afrika [Doc. 738] ("WAA Dep.") 125:11-12.

RESPONSE: Movant's fact is not material because Women Watch Afrika ("WWA") does not seek to establish standing on the basis of associational standing. **Undisputed** that WWA does not have any members and is not claiming associational standing. **Disputed** insofar as the statement calls for a legal conclusion. WWA can establish standing based on other named plaintiffs. *See, e.g. Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 & n. 9 (1977); *Am. Iron & Steel Inst. v. OSHA*, 182 F.3d 1261, 1274 n. 10 (11th Cir. 1999); *People First of Ala. v. Sec'y of State for Ala.*, 815 Fed. Appx. 505, 510 (11th Cir. 2020); *Martin v. Kemp*, 341 F. Supp. 3d 1326, 1333 (N.D. Ga. 2018).

71. Instead, they are a community service provider that conducts civic engagements, voter registration and voter education ongoingly for residents becoming citizens working with them through their first time voting. WAA Dep. 16:16-25, 17:8, 125:13-16.

RESPONSE: Movant's fact is not material. Disputed in part and as incomplete. Women Watch Afrika is a nonprofit organization providing

comprehensive social adjustment services to African refugees and immigrants, both men and women, who have left their country to make the United States their newfound home. Ex. 46 (WWA Dep. 78:11-22).

72. They have been doing this kind of work since 2013. WAA Dep. 18:8-13.

RESPONSE: Movant's fact is not material.

73. WAA regularly keeps apprised of all changes with election laws to educate individuals talking with citizens. WAA Dep. 19:8-17, 27:23-28:9.

RESPONSE: Disputed as incomplete. As a result of SB 202, WWA had to divert more time and energy for additional trainings, information gathering, and voter education. Ex. 46 (WWA Dep. 29:4-29:20; 63:2-18).

74. WAA does not address obtaining state-issued identification in its voter registration education so it could not have diverted any resources regarding provisions of SB 202 related to IDs. WAA Dep. 52:12-16.

RESPONSE: Disputed. After the passage of SB 202, WWA diverted time and energy “encouraging and trying to tell [voters] that you cannot be taking your passport everywhere, especially if [citizens] want to vote, so part of the new law and the new requirements under SB 202 is for [citizens] to have a state-issued identification.” Consequently, WWA “started helping and working with citizens to obtain [state-issued] identification[.]” Ex. 46 (WWA Dep. 73:19-74:25).

75. WAA continued to engage in activities after the passage of SB 202 that it did before the law, including encouraging voters to check early voting locations and their own voting records, providing information on requesting and returning absentee ballots, and providing language assistance. WAA Dep. 40:18-23, 40:24-41:2, 202 41:3-10, 41:11-17, 41:41:18-42:2, 43:12-15, 54:18-55:1.

RESPONSE: Disputed as incomplete. As a result of SB 202, WWA had to divert more time and energy for information gathering, language assistance, and voter education. Ex. 46 (WWA Dep. 29:4-29:20, 54:24-55:10, 63:2-18).

76. The only new activity WAA could identify was coordinating with taxi services for rides to the polls for individuals, which it was unable to tie to any provision of SB 202. WAA Dep. 68:25-69:13, 69:25-70:4.

RESPONSE: Disputed. As a result of SB 202, WWA had to divert more time and energy for, among other activities, assisting citizens with obtaining licenses or qualifying identification documents and voter education relating to the presence of police at drop boxes. Ex. 46 (WWA Dep. 74:17-25, 75:13-76:17).

77. WAA had no knowledge of any voter that used a mobile voting unit, that was unable to request an absentee ballot in the shorter period, was unable to use pen and ink to apply for an absentee ballot, that was unable to use a drop box, or affected by the food-and-drink in line provisions or the out-of-precinct

provisions of SB 202. WAA Dep. 102:4-8, 103:14-17, 105:24-106:2, 107:23-108:1, 110:19-23, 111:1-5, 111:8-12.

RESPONSE: Movant's fact is not material. Disputed in part. WWA has knowledge of voters that requested but did not receive an absentee ballot. Ex. 46 (WWA Dep. 103:17-19).

78. WAA only knew of one individual who allegedly did not receive her absentee ballot, but knew nothing about why and had no idea if it had anything to do with SB 202. WAA Dep. 129:18-22, 130:2-6.

RESPONSE: Movant's fact is not material. Disputed in part. In its deposition, WWA was asked only about one specific anecdote regarding “the woman who was unable to vote because she didn’t receive her absentee ballot.” Ex. 46 (WWA Dep. 96:19-98:6). WWA did not disclaim knowledge of other issues resulting from SB 202. *Id.* at 103:17-19, 150:12-153:4.

79. The Latino Community Fund of Georgia (“LCF”) was incorporated in 2018 and has been involved in civic education and civic participation efforts including election protection, training volunteers on Georgia law and Spanish language assistance. Deposition of Latino Community Fund of Georgia [Doc. 728] (“LCF Dep.” 36:1-21.

RESPONSE: Undisputed.

80. The civic participation education program includes education, voter registration, mobilization and election protection, all of which predates SB 202. LCF Dep. 36:25-37:3.

RESPONSE: Undisputed in part and disputed in part. Undisputed that the fact accurately lists the components of LCF's civic participation program. **Disputed** to the extent that the specific composition of each of the components of LCF's civic participation program predated SB 202.

81. LCF does not have individual members, and thus cannot claim associational standing. LCF Dep. 50:1-7.

RESPONSE: Movant's fact is not material. LCF does not seek to establish standing on the basis of associational standing. **Undisputed in part.** LCF does not have any individual members. **Disputed in part** where the statement calls for a legal conclusion. LCF can establish standing based on other named plaintiffs. *See, e.g. Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 & n. 9 (1977); *Am. Iron & Steel Inst. v. OSHA*, 182 F.3d 1261, 1274 n. 10 (11th Cir. 1999); *People First of Ala. v. Sec'y of State for Ala.*, 815 Fed. Appx. 505, 510 (11th Cir. 2020); *Martin v. Kemp*, 341 F. Supp. 3d 1326, 1333 (N.D. Ga. 2018).

82. Regarding any potential diversion of resources, LCF claims to receive information about voters who had difficult finding the correct precinct, but does

not keep records of such instances and does not have specific information of any particular occurrences. LCF Dep. 50:1-7, 51:9-14.

RESPONSE: Disputed in part as incomplete. As a result of SB 202, all LCF resources in its civic participation program was diverted to efforts assessing, rethinking, redesigning, communication, and educating regarding the bill. Ex. 39 (LCF Dep. 29:16-30:14).

83. The only work LCF did related to SB 202 involving communicating about the requirements of Georgia law to other organizations, updating training and digital campaigns and training the community on the changes. LCF Dep. 61:17-62:6.

RESPONSE: Disputed in part as incomplete. In response to SB 202, LCF conducted phone banking to reach community members regarding election participation, tabled events to pass out flyers regarding the new regulations, and identifying legislative bills that the community may have thought important to know about. Ex. 39 (LCF Dep. 62:23-63:21; 66:18-66:25; 71:1-11).

84. Consistent with SB 202, LCF provided voter education on the use of drop boxes during the early voting or election day at the polls and encouraging voters not to use absentee voting by mail. LCF Dep. 64:20-65:9.

RESPONSE: Movant's fact is not material. Disputed in part as incomplete. LCF believed that because of the restrictions put in place by SB 202,

the safest way for people to turn in their ballot was in person. Ex. 39 (LCF Dep. Tr. 65:7-9).

85. LCF does not know of anyone specifically who has not been able to vote because of the challenged provisions of SB 202. LCF Dep. 94:19-23.

RESPONSE: The movant's citation does not support the movant's fact.

86. LCF has knowledge of a man who was unable to vote because he was in the wrong precinct in the last election in 2022 but does not know if he actually voted or not and any other specifics about his experience. LCF Dep. 84:23-85:2.

RESPONSE: Disputed in part as incomplete. LCF has knowledge of other individuals who had gone to the wrong precincts and had tried to vote, to be told that if they did vote, their votes were not going to count. Ex. 39 (LCF Dep. Tr. 86:3-18).

87. Delta Sigma Theta Sorority (DST) is a member organization that provides voter education in Georgia. Deposition of Delta Sigma Theta Sorority [Doc. 698] ("DST Dep.") 49:6-21.

RESPONSE: Undisputed.

88. The organization regularly conducts voter education in its newsletters as it focuses on local elections every two years. DST Dep. 50:6-18, 51:2-14.

RESPONSE: Undisputed.

89. DST was unable to identify any members who were unable to vote as a result of the provisions of SB 202. DST Dep. 42:24–44:10.

RESPONSE: Disputed in part. DST did not speak with any members who were unable to vote in the 2022 election, DST did identify numerous challenges faced by member voters in the wake of SB 202's passage, including confusion about polling places and a reduction in the total number of ballot boxes available for absentee voters. Ex. 19 (DST Dep. 43:2-44:6).

90. Any diversion of resources involve either members taking time off work to volunteer on election day generally—unrelated to SB 202—or time spent on this litigation, which cannot be the basis for a diversion of resources. DST Dep. 85:10-14, 86:1-20, 87:5-8.

RESPONSE: Disputed. At Dep. 114, Briggins notes that members were fearful of engaging in criminalized conduct as a result of SB 202's passage, and significant resources had to be spent re-engaging community members.

91. The ARC of the United States (ARC) has been engaged in voter education, assisting in registration, and getting out the vote prior to the passage of SB 202. Deposition of the ARC of the United States [Doc. 695] (“ARC Dep.”) 118:9-15.

RESPONSE: Undisputed.

92. The only purported diversion the ARC could identify was that it decided to include information about SB 202 in its usual advocacy related meetings and training documents. ARC Dep. 27:16–28:19.

RESPONSE: Disputed. SB 202 has forced, and will continue to force, The Arc Georgia to divert non-financial resources, including employee time, effort, and attention from other programming and core organizational goals. Ex. 303 (Mattox Decl. ¶¶ 13-23). Due to the passage of SB 202, The Arc Georgia has (1) spent significant time and resources studying the implications of SB 202 to ensure its activities comply with the changes in the law, (2) trained its volunteers and partners on the legislation to ensure that they are providing accurate information, (3) spent time and resources developing new and costly training materials and educational programs about SB 202 to help its members who are burdened by these changes in the law, (4) conducted widespread trainings for people with IDD about SB 202, including town halls, virtual events, meetings, multi- day trainings, and other grassroots activities, (5) created a documentary about SB 202 and the challenges it created for voters with disabilities, which was posted to its website, disseminated to its members and the community, and screened at events, including events held by its chapters, (6) provided extensive support to one of its Grassroots Connectors to create a weekly webinar that provided information about SB 202., which included training the volunteer on the impact of SB 202, paying for a Zoom

subscription to host the event, designing and disseminating marketing materials, coordinating guests, and providing technical support during the webinars, (7) responded to an increased number of calls from its members with questions about voting and SB 202, (8) updated its materials, conducted additional trainings for volunteers, and conducted outreach to educate people with disabilities to reflect the limitation on drop boxes, (9) provided technical assistance and support to members about how to submit their ballots given changes under SB 202, and (10) has *not* been able to conduct robust outreach and advocacy to help the almost 10,000 Georgians with IDD who are on the waitlist for Medicaid home and community-based services, services they need to live in their own homes in the community; to implement programs to help families advocate for children with IDD in special education; or to provide more support and leadership on issues other than voting to its 10 local chapters. Ex. 303 Mattox Decl. ¶¶ 16, 18, 20, 22; Ex. 11 (ARC Dep. 27:16- 28:19).

93. The ARC could not identify any member who could not vote and could not identify and specific examples of members who had trouble voting. ARC Dep. 31:25–33:17.

RESPONSE: Disputed. As a result of SB 202, members of The Arc have had a harder time or been kept from voting. Ex. 303 (Mattox Decl. ¶ 21). For example, members of The Arc were unable to drop off absentee ballots because

they need support from a neighbor, friend, or direct support staff and SB 202 makes it unclear whether these people are committing a felony by providing assistance. *Id.* Another example is that members of The Arc have had difficulty accessing drop boxes that have now been moved inside due to SB 202. *Id.* Other members of The Arc have had difficulty complying with the SB 202 voter identification requirements because they cannot print out or send in the necessary paperwork. *Id.*

94. The ARC also could not identify any activities prior to the adoption of SB 202 for any activities they would have diverted resources from as a result of SB 202. ARC Dep. 51:16-18, 52:20-23.

RESPONSE: Disputed. But for SB 202, The Arc Georgia would have more capacity for its work of ensuring that Georgians with IDD can be fully included in the community. Ex. 303 (Mattox Decl. ¶ 23). Since SB 202 passed, there are many activities that are priorities for The Arc to which it has not been able to dedicate resources due to SB 202. *Id.* ¶ 22. For example, The Arc has not been able to conduct robust outreach and advocacy to help the almost 10,000 Georgians with IDD who are on the waitlist for Medicaid home and community-based services, services they need to live in their own homes in the community; to implement programs to help families advocate for children with IDD in special education; or to provide more support and leadership on issues other than voting to its 10 local

chapters. *Id.* It also would like to be advocating to address the shortage of direct support professionals who provide critical personal care services to people with IDD and have a high staff turnover due to low wages. *Id.* This shortage has had a significant impact in the community and leads to people with IDD being at risk of institutionalization, neglect, and abuse. *Id.* Due to the passage of SB 202 and all the work The Arc has had to do associated with it, it has not been able to dedicate sufficient resources to address this important and time sensitive issue. *Id.*

95. Further, the ARC could not identify any particular member who was burdened or was unable to vote as a result of SB 202. ARC Dep. 88:14-18, 101:15-21.

RESPONSE: Disputed. As a result of SB 202, members of The Arc have had a harder time or have been kept from voting. Ex. 303 (Mattox Decl. ¶ 21). For example, members of The Arc were unable to drop off absentee ballots because they need support from a neighbor, friend, or direct support staff and SB 202 makes it unclear whether these people are committing a felony by providing assistance. *Id.* Another example is that members of The Arc have had difficulty accessing drop boxes that have now been moved inside due to SB 202. *Id.* Other members of The Arc have had difficulty complying with the SB 202 voter identification requirements because they cannot print out or send in the necessary paperwork. *Id.*

96. And while it provided some examples of concerns of the organization about potential burdens on members, it was unable to give any specific examples of these potential problems. ARC Dep. 88:22-90:3.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to the first clause. Disputed as to the rest. Members of The Arc have faced increased barriers accessing in person and absentee voting. Ex. 303 (Mattox Decl. ¶ 21); Ex. 11 (ARC Dep. 88:19-90:3). For example, members of The Arc were unable to drop off absentee ballots because they need support from a neighbor, friend, or direct support staff and SB 202 makes it unclear whether these people are committing a felony by providing assistance. *Id.* Another example is that members of The Arc have had difficulty accessing drop boxes that have now been moved inside due to SB 202. *Id.* Other members of The Arc have had difficulty complying with the SB 202 voter identification requirements because they cannot print out or send in the necessary paperwork. *Id.*

97. Georgia ADAPT uses civil resistance and principled nonviolence to end bias against Georgians with disabilities and it works to empower the disabled community in Georgia. Deposition of Georgia ADAPT Vol. I [Doc. 726] (“ADAPT Dep. Vol I”) 48:12–49:9.

RESPONSE: Undisputed.

98. Georgia ADAPT is not relying on financial diversion of resources for standing purposes. ADAPT Dep. Vol. I 17:23–18:8.

RESPONSE: Undisputed.

99. Prior to the adoption of SB 202, ADAPT provided rides to the polls and educational activities, including handing out snacks and water in the 2020–2021 election cycle only. ADAPT Dep. Vol. I 24:2–15, 83:17–84:15, 85:20–86:8.

RESPONSE: Disputed in part as incomplete. ADAPT provided rides to the polls and educational activities, including handing out snacks and water, prior to the adoption of SB 202. Ex. 22 (ADAPT Vol. I Dep. 39:1–15).

100. ADAPT would also provide interpreters for some voters with disabilities. ADAPT Dep. Vol. I 87:17–88:3.

RESPONSE: Undisputed.

101. Of these activities, ADAPT has only stopped providing interpreter services. ADAPT Dep. Vol. I 88:1–3.

RESPONSE: Disputed. ADAPT has also stopped providing snacks and water to voters in line because of SB 202. Ex. 317 (Thornton Decl. ¶ 24). It has also ceased some of its voter education work because SB 202 has required it to expend more of its resources on other activities. *Id.*

102. ADAPT still provides water and a snack to voters to whom it gives rides. ADAPT Dep. Vol. I 29:11–21.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to ADAPT providing water and snacks to voters while they are in ADAPT's van.

Disputed as to ADAPT providing water and a snack to voters after they exit ADAPT's van. ADAPT no longer provides food, water and chairs to voters while they wait in line at a polling place, which it used to do prior to the passage of SB 202. Ex. 317 (Thornton Decl. ¶ 24).

103. ADAPT still provides rides for voters. ADAPT Dep. Vol. I 34:1–11, 68:21–69:2.

RESPONSE: Undisputed.

104. ADAPT was not able to identify specific programs it ceased engaging in aside from interpreter services for deaf voters. ADAPT Dep. Vol. I 88:10–22, 116:18–117:1.

RESPONSE: Disputed. As a result of SB 202, ADAPT no longer helps people with disabilities apply for absentee ballots. Ex. 317 (Thornton Decl. ¶ 22). Because of the potential felony punishment for unauthorized ballot assistance under SB 202 and the unclear rules regarding who may assist voters, ADAPT now refers individuals who need assistance to other organizations. *Id.* Additionally, ADAPT no longer provides assistance handling absentee ballots. *Id.* ¶ 23. Previously, ADAPT drove disabled voters to a drop box and placed the ballot in the drop box for them. *Id.* Now, ADAPT will only bring voters to the drop box; it

requires voters to place the ballot in the drop box themselves. *Id.* ADAPT also ceased its line-relief activities for voters waiting in line. *Id.* ¶ 24. And it discontinued some of its voter education work because of the increased burden placed on some of its other activities because of SB 202. *Id.* ADAPT also had to cease non-election-related programs: it no longer performs its work removing institutional bias in Medicaid and other services that people with disabilities need to live at home, and it stopped its grassroots lobbying work. *Id.* ¶ 25.

105. ADAPT is also unaware of any members who were unable to vote by absentee ballot and could only identify one person who had difficulty voting because of a car battery issue. ADAPT Dep. Vol. I 103:2–104:2, 105:25–106:11.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to a specific ADAPT member having difficulty voting. **Disputed** as to the rest.

ADAPT is aware of multiple members who applied for but did not receive an absentee ballot. Ex. 317 (Thornton Decl. ¶ 17); Ex. 22 (ADAPT Vol. I Dep. 103:2-7). Without an absentee ballot, these members could not vote absentee. Ex. 317 (Thornton Decl. ¶ 17). Instead, ADAPT had to take these members to the polls so they could vote in person. *Id.*; Ex. 22 (ADAPT Vol. I Dep. 103:2-12).

106. While it knew of some members who had issues voting due to identification or other challenged provisions, it was not sure details about those

events. Deposition of Georgia ADAPT Vol. II [Doc. 729] (“ADAPT Dep. Vol. II”) 20:9–21:20, 34:2–36:13, 36:25–39:2. 40:5–25.

RESPONSE: Undisputed in part and disputed in part. **Undisputed** as to some of ADAPT’s members having issues voting due to identification or other challenged provisions. **Disputed** as to ADAPT knowing details about those events. ADAPT testified that it knew of at least five people who could not complete the voting process because of identification issues. Ex. 23 (ADAPT Vol. II Dep. 20:9-25). Those people were told that they could receive identification for free, but when they applied for a license they were charged \$30. *Id.* 20:21-25. Eventually they received a license but were unable to vote in the primary election because of this. *Id.* 21:1-8. ADAPT also explained how the 28-day time period caused problems for specific voters. Those voters were prevented from going to early voting because of work issues or trouble scheduling transportation and attendants to take them to the polling location. *Id.* 34:2-17.

107. It also was not aware of the situations for individuals who did not receive absentee ballots but for which it later provided rides. ADAPT Dep. Vol. II 29:20–31:16.

RESPONSE: Disputed. ADAPT explained the circumstances under which a woman in Savannah, Georgia, for whom ADAPT provided a ride to the polling place, did not receive an absentee ballot. Ex. 317 (Thornton Decl. ¶ 18). The voter

applied for, but did not receive, her absentee ballot. *Id.* There was not enough time for this voter to request another ballot, so she had to vote in person if she wanted to cast a ballot. *Id.* The voter was unable to access the polls herself and would need to rely on her parents, who work and do not live with her, to take her to the polls. *Id.* The voter's parents would need to pick her up; get her in the car; fold her wheelchair; take her to the polling place; assist her out of the car; and wait for her to vote. *Id.* Her parents were unable to do all of this, so ADAPT took her to her polling place instead. *Id.*

108. ADAPT also does not maintain a membership roster, so it cannot say for certain who its members are. ADAPT Dep. Vol. II, 8:9–14.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to ADAPT's maintenance of a membership roster. **Disputed** as to ADAPT's ability to identify its members. ADAPT stays in touch with its members via emails, and some of its members attend ADAPT's rallies and events. Ex. 317 (Thornton Decl. ¶ 6).

109. The majority of funding for the Georgia Advocacy Office (GAO) comes from federal grants. Deposition of Georgia Advocacy Office [Doc. 739] ("GAO Dep.") 27:10-18.

RESPONSE: Undisputed. As the State's protection and advocacy system, GAO is the designated agency in Georgia to receive annual federal grants,

including the Protection and Advocacy for Voting Access (“PAVA”) and Help America Vote Act (“HAVA”) grants to promote access and engagement in the electoral process for voters with disabilities. Ex. 305 (Orland Decl. ¶ 9).

110. One of GAO’s goals is “to ensure full participation in the electoral process for individuals with individuals residing in facilities and congregate settings.” GAO Dep. 48:09-19.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to the accuracy of the quoted language, but **disputed** as to the fact that is just one of GAO’s many goals. Central to GAO’s mission is empowering Georgians with disabilities to participate fully and independently as active and engaged citizens. Ex. 305 (Orland Decl. ¶ 5).

111. And this was the organization’s goal prior to enactment of SB 202. *Id.*

RESPONSE: Disputed. GAO has many goals as the State’s protection and advocacy system. Ex. 305 (Orland Decl. ¶ 4). Central to GAO’s mission is empowering Georgians with disabilities to participate fully and independently as active and engaged citizens. *Id.* ¶ 5. The enactment of SB 202 has not altered GAO’s mission, but has required GAO to divert resources from its other core activities so it may continue to further its mission. *Id.* ¶ 12.

112. GAO’s primary mission is to advocate for people with disabilities, GAO Dep. 50:16-25.

RESPONSE: Disputed in part. Disputed as to this being GAO's primary mission. Central to GAO's mission is empowering Georgians with disabilities to participate fully and independently as active and engaged citizens. Ex. 305 (Orland Decl. ¶ 5). GAO's overarching purpose is the protection of, and advocacy for, the rights of Georgians with disabilities. *Id.* ¶ 13, Ex. 24 (GAO Dep. 167:13-15).

113. A large portion of the work GAO involves voter education specific to individuals with disabilities or those that are housed in a psychiatric facility. GAO Dep. 51:16-52:01.

RESPONSE: Undisputed in part and disputed in part. Undisputed as to GAO's work involving voter education specific to individuals with disabilities. **Disputed** as to the rest. Ensuring and promoting access to voting by people with disabilities is germane to GAO's purpose and is directly in keeping with GAO's overarching purpose: the protection of, and advocacy for, the rights of Georgians with disabilities. Ex. 305 (Orland Decl. ¶ 12). Prior to the passage of SB 202, GAO's PAVA work was specifically geared towards protecting the disability vote using a combination of supporting self-advocacy, citizen involvement, staff advocacy, and legal advocacy to protect and advocate for the rights of Georgians with disabilities. *Id.* ¶ 14. Since the passage of SB 202, GAO has had to completely overhaul, modify, and expand its voter education program. *Id.* ¶ 19; Ex. 24 (GAO Dep. 151:5-152:2, 153:11-24).

114. And much of this education revolves around changes in voting laws as they occur: for example, GAO updated training materials in response to the change in voting machines Georgia implemented in 2019. GAO Dep. 56:21-57:05.

RESPONSE: Disputed in part and undisputed in part. Undisputed as to GAO providing updated training materials related to the change in voting machines implemented in Georgia in 2019. **Disputed** to the extent that GAO has had to completely overhaul, modify, and expand its voter education program due to SB 202. Ex. 305 (Orland Decl. ¶ 19); Ex. 24 (GAO Dep. 151:5-152:2).

115. GAO could not explain changes in its voter education-related work after the passage of SB 202: “[O]verwhelmingly, before SB202, our concentration was telling people to exercise their right to vote. And now it’s more about helping to facilitate them to vote and how to vote.” GAO Dep. 60:14-17.

RESPONSE: Disputed. GAO has had to completely overhaul, modify, and expand its voter education program due to SB 202. Ex. 305 (Orland Decl. ¶ 19); Ex. 24 (GAO Dep. 120:15-121:5, 151:5-152:2). GAO has had to (1) update a detailed PowerPoint presentation entitled Reminding You to Vote; (2) spend additional time during visits to nursing homes, psychiatric facilities, and day programs to educate voters about the burdens imposed by SB 202 and assist voters in formulating and executing a plan to vote, which has reduced the amount of time GAO’s 8 staff members can spend advising people about their other rights and

monitoring conditions in those settings; (3) respond to reports of problems that voters with disabilities face so GAO can troubleshoot for the future; (4) host webinars and educational events specifically to help explain the changes to the voting process for Georgians with disabilities due to SB 202, including new ID requirements and limitations and penalties for violations of voter assistance provisions; (5) call nursing facilities and attempt to speak to staff about voting access and practices for assisting residents, in light of the changes in SB 202; (6) pay almost \$20,000 to rewrite and reshoot a pre-planned educational video and modify and expand a voting forum due to SB 202's significant changes to Georgia's voting processes for people with disabilities; and (7) discontinue some voter support efforts including providing absentee ballot applications to voters with disabilities, including nursing facility residents, for fear of being charged with criminal penalties. Ex. 305 (Orland Decl. ¶ 19); *see also* Ex. 24 (GAO Dep. 153:13-24, 169:1-9).

116. And as a practical matter, the GAO said it continued its earlier process of occasionally escalating complaints the organization received from individuals with disabilities related to voting to the Secretary of State's office, "a couple times a year, maybe." GAO Dep. 150:05-11.

RESPONSE: Disputed as incomplete. GAO testified: “Couple times a year, maybe. I mean, it’s a guess. Sometimes we go years without -- we don’t have any, and sometimes we have a lot. It just depends.” Ex. 24 (GAO Dep. 150:5-11).

117. But since the passage of SB 202, GAO could not recall escalating any such complaints. GAO Dep. 150:12-16.

RESPONSE: Disputed in part. Disputed to the extent that GAO testified in full “So we have not escalated any. We have talked to people about themselves doing it. I think probably the lawsuit is our big complaint to the Secretary of State. We are not also bringing individual action.” Ex. 24 (GAO Dep. 150:12-20).

118. Another of GAO’s primary examples of purported resource diversion involved the creation of a videotape the organization had made related to voting which, “we had planned to use for years,” that had to be remade after SB 202 Ga Dep. 150:22-151:010.

RESPONSE: Disputed. GAO paid almost \$20,000 to rewrite and reshoot a pre-planned educational video due to SB 202’s significant changes to Georgia’s voting processes for people with disabilities. Ex. 305 (Orland Decl. ¶ 19); Ex. 24 (GAO Dep. 169:1-9, 172:3-15).

119. But GAO could not explain why the video redo was ordered and paid for before SB 202 was passed. GAO Dep. 172:13-174:09.

RESPONSE: Disputed. GAO paid almost \$20,000 to rewrite and reshoot a pre-planned educational video due to SB 202’s significant changes to Georgia’s voting processes for people with disabilities. Ex. 305 (Orland Decl. ¶ 19); Ex. 24 (GAO Dep. 169:1-9, 172:3-15).

120. Other purported “expenses” resulting from SB 202 involved thousands of dollars allocated to banquet halls and hotels. GAO Dep. 174:10-177:01.

RESPONSE: Disputed in part. Disputed to the extent that paragraph 120 does not identify that the “expenses” for the “banquet hall and hotels” were for GAO hosting educational voting forums that educated voters on the changes of SB 202. Ex. 24 (GAO Dep. 174:10-17-178:20). GAO hosted webinars and educational events specifically to help explain the changes to the voting process for Georgians with disabilities due to SB 202, including new ID requirements and limitations and penalties for violations of voter assistance provisions. Ex. 305 (Orland Decl. ¶ 19).

121. Asian Americans Advancing Justice – Atlanta (AAAJ) does not assert any standing based on a diversion of financial resources or based on associational standing. Deposition of Asian Americans Advancing Justice – Atlanta [Doc. 694] (“AAAJ Dep.”) 7:14–8:5.

RESPONSE: Undisputed.

122. Its sole basis for standing is diversion of non-financial resources because it is not a membership organization. *Id.*, AAAJ Dep. at 7:24–8:5.

RESPONSE: Undisputed.

123. AAAJ has long engaged in voter engagement and voter education, including get-out-the-vote activities and policy advocacy as part of its mission of encouraging voters to participate in the political process. AAAJ Dep. 41:22–24:24, 82:13–17.

RESPONSE: Undisputed.

124. That includes updating materials and training staff when laws related to elections change. AAAJ Dep. 55:16–56:2; 68:25–69:6.

RESPONSE: Disputed. While Advancing Justice-Atlanta typically updates materials and trains staff for each election or when election laws change, with SB202, the updating required for both public-facing materials and some internal materials was “much more significant” than Advancing Justice-Atlanta ever had to do previously because of all the changes that SB202 enacted. Ex. 12 (Advancing Justice-Atlanta Dep. 55:20-56:2). With respect to education and training materials, those are not necessarily updated every election cycle if there is no significant change in the law. Generally, the updates are minor changes. *Id.* at 56:10-20. Because of SB202, Advancing Justice-Atlanta had to “undertake significant

efforts” to educate its staff, particularly with respect to the various restrictions to absentee voting. *Id.* at 50:8-11.

125. While claiming it was unable to engage in some immigrant detention issues, AAAJ does not have any documents reflecting those changes in resource allocation it claims occurred. AAAJ Dep. 60:7–61:11, 61:23–62:2.

RESPONSE: Undisputed but immaterial. Advancing Justice-Atlanta stated that strategic decisions to divert resources are not necessarily documented. Ex. 12 (Advancing Justice-Atlanta Dep. Dep. 63:24-64:4). As a nonprofit, Advancing Justice-Atlanta does not have the resources to create detailed documentation of each strategic decision or “thought process.” *Id.* at 90:19-25. But this fact is **immaterial** in light of ample record evidence, including sworn testimony, that Advancing Justice-Atlanta diverted resources away from other activities (for example, immigrant justice advocacy) to combat the harmful impact of SB202, and it expended “significant efforts to educate [its] staff and [its] community members about the various restrictions to absentee voting that SB202 imposes.” *Id.* at 50:8-11; 60:12-23.

126. Ultimately, the types of decisions made by AAAJ were related to resource allocation as opposed to discontinuing all of certain categories of its work. AAAJ Dep. 97:3–98:8.

RESPONSE: Disputed. Ms. Nguyen expressly stated that the organization was not able to engage in advocacy with the County Boards of Elections as effectively because of the changes that SB202 made to the law. Prior to SB202, Advancing Justice-Atlanta engaged in advocacy with the County Election Boards by making a number of recommendations to different counties about steps they can take to make voting easier, more accessible, and more effective for voters (e.g., by increasing the number of drop boxes). Because SB202 does not allow for this, the organization stopped doing this. Ex. 12 (Advancing Justice-Atlanta Dep. 76:11-25). Ms. Nguyen also stated that Advancing Justice-Atlanta used to distribute water and snacks to voters waiting in line, but it discontinued this type of work because of SB202. *Id.* at 93:5-12.

127. AAAJ's advocacy often changes, so it could not say for sure whether particular activities it chose not to engage in were actually planned activities it could not engage in as a result of SB 202. AAAJ Dep. 93:23–95:7.

RESPONSE: Disputed. Defendants misstate Ms. Nguyen's response. The question posed during the 30(b)(6) deposition to which Defendants cite was whether Advancing Justice-Atlanta resumed any of the activities or projects that it had already discontinued as a result of SB202, to which Ms. Nguyen answered "no." She goes on to clarify that there is "a continuing strain" on Advancing Justice-Atlanta's limited resources. Because of SB202, Advancing Justice-Atlanta

cannot pivot its attention to some of the other things that are priorities for the organization. Ex. 12 (Advancing Justice-Atlanta Dep. 93:24-94:4, 17-20). Ms. Ngyuen goes on to say that there were “very specific things” that the organization discontinued because of SB202. For example, Advancing Justice-Atlanta no longer engages in certain advocacy with County Boards of Elections because of SB202. Also, the organization also used to give out water and snacks to voters, but discontinued that after SB202 passed. *Id.* at 93:5-12. Ms. Nguyen further states that because of the efforts in the past and the continuing efforts needed to navigate and combat the harmful effects of SB202, there was and continues to be an opportunity cost to being able to focus on immigrant justice work. *Id.* at 93:13-22. One specific example is regarding the deportation of Vietnamese individuals, where Advancing Justice-Atlanta was unable to lead a process to respond to the deportation because of SB202. *Id.* at 94:21-95:4.

128. Ultimately, AAAJ is unaware of any specific individuals who were unable to vote as a result of SB 202. AAAJ Dep. 119:20–120:8.

RESPONSE: Disputed. Advancing Justice-Atlanta is aware of individuals who experienced more difficulty voting following SB202, and is aware of a higher rate of absentee ballot rejections after the passage of SB202. Ex. 12 (Advancing Justice-Atlanta Dep. 68:2-10; 120:1-8).

129. Despite making a number of claims about his concerns about the voting process, Mr. Paik was able to successfully vote by absentee ballot in the 2021 and 2022 elections. Deposition of Steven Paik [Doc. 751] (“Paik Dep.”) 24:7–25:1.

RESPONSE: Disputed. Mr. Paik was only able to vote for the first time and by absentee ballot in the 2021 and 2022 elections because of the in-language support he received from Advancing Justice-Atlanta, which included Korean-speaking employees helping him to register to vote and understand the candidates. Ex. 68 (Paik Dep. 20:19-22, 21:2-21, 48:4-21). This also included relying on a Korean-speaking employee of Advancing Justice-Atlanta to help him with requesting his absentee ballot application. *Id.* at 48:22-49:8. To fill out his absentee ballot, Mr. Paik needs to use a translation app on his phone, and stated that if he cannot use that, he relies on the Korean-speaking employee at Advancing Justice-Atlanta to assist him. *Id.* at 49:9-50:9.

130. In fact, Mr. Paik used a dropbox when voting in the 2022 election. Paik Dep. 26:10–16, 40:9–17, 40:24–41:19.

RESPONSE: Undisputed.

131. Mr. Paik agreed that the changes in Georgia law in SB 202 did not personally impact him, but he had only “heard it is going to get difficult” to vote. Paik Dep. 42:3–43:3.

RESPONSE: Disputed. As a person with limited English proficiency (LEP), Mr. Paik has required voting assistance since he first registered to vote. Ex. 68 (Paik Dep. 20:19-22, 21:2-21). In fact, he has required in-language assistance from Advancing Justice-Atlanta in every election he has voted in. *Id.* at 42:7-43:18. Mr. Paik understands it will be difficult to vote for LEP voters like him because of SB202. To the extent Mr. Paik is not personally aware as to whether he was negatively affected by SB202 in getting his absentee ballot, it is in large part because he had assistance from Advancing Justice-Atlanta. *Id.* at 43:14-23. In fact, Mr. Paik stated that the shortened timeline impacts him because he requires assistance, including language assistance, from Advancing Justice-Atlanta, and that he is unaware whether 78 days is long enough for Advancing Justice to help him. *Id.* at 43:24-44:15. Mr. Paik is unaware of the steps the Korean-speaking employee at Advancing Justice-Atlanta takes to assist him in requesting the absentee ballot application. *Id.* at 48:22-49:8. Mr. Paik has never requested an absentee ballot by himself because it is in English and he does not speak English, and no one in his household speaks English. *Id.* at 47:18-48:2.

132. Ms. Aquino voted using a drop box in 2020, but could not remember whether the drop box was still there when she voted in 2022. Aquino Dep. 49:25–50:21.

RESPONSE: Undisputed.

133. Ms. Aquino testified that SB 202 did not make it more difficult for her to vote and that she has not had trouble voting since SB 202. Aquino Dep. 29:9–14, 51:20–24.

RESPONSE: Disputed. Ms. Aquino expressly stated that she is dependent on her daughter or someone else to help her vote in person or by absentee. Ex. 48 (Aquino Dep. 29:9-14, 52:7-14). Her daughter has helped her by taking her to the polling place and interpreting or explaining the election process so Ms. Aquino understands what she is doing. *Id.* at 29:15-30:4. Additionally, because Ms. Aquino no longer drives, she prefers to vote absentee due to the difficulty of her accessing the nearby polling place, located five miles from her house. *Id.* at 37:24-38:7, 38:12-24.

134. Ms. Uddallah [*sic*] says her preference is to vote by mail, but only voted absentee by mail in the January 2021 runoff election. Deposition of Angelina Thuy Uddallah [*sic*] [Doc. 740] (“Uddallah [*sic*] Dep.”) 35:19–36:2, 36:17–37:10.

RESPONSE: Disputed. Ms. Uddallah prefers to vote by mail because she is a busy mom who is in school and working. Ex. 71 (Uddallah Dep. 22:16-23). She voted absentee by mail for the 2021 run-off because she was working two jobs while being a student, and had unpredictable hours. *Id.* at 33:1-23. However, she was unable to vote by absentee ballot after SB202 passed because of the shortened deadline. *Id.* at 37:22-38:7.

135. Ms. Uddallah [*sic*] has only used a drop box in the January 2021 runoff and in no other election. Uddallah [*sic*] Dep. 42:21–43:1.

RESPONSE: Disputed. Ms. Uddallah voted absentee ballot with use of the drop box in January 2021, which is her preferred method of voting, but because of SB202’s changes to the deadlines for voting by absentee, she has subsequently voted in person. Ex. 71 (Uddallah Dep. 22:16-23, 37:22-38:7).

136. Ms. Uddallah [*sic*] voted in person using early voting in the 2022 general election. Uddallah [*sic*] Dep. 36:3–36:12.

RESPONSE: Disputed. While Ms. Uddallah was able to vote in person for the 2022 general election, it was hectic because she had two babies with her, and had to stop work and her studies to be able to vote. Ex 71 (Uddallah Dep.38:16-39:8). The line was very long and it extended outside the building. *Id.* at 39:9-12.

137. Ms. Uddallah [*sic*] was able to vote in the general election and runoff in 2022. Uddallah [*sic*] Dep. 42:13–16.

RESPONSE: Disputed. While Ms. Uddallah was able to vote in person for the 2022 runoff, she was nearly unable to vote because she had school that day. She planned to vote early, but was working and did not have enough time to vote during the early voting period. She stated she had a “dilemma” about whether she could vote or not because she did not have enough time to go vote. Ultimately,

because she does not drive, her husband had to leave work to drive her to the polls, which is why she was able to vote. Ex. 71 (Uddullah Dep. 40:8-41:7).

138. Ms. Enjeti-Sydow has not attempted to vote by absentee ballot since SB 202, but has instead opted to voted early in person. Deposition of Anjali Enjeti-Sydow [Doc. 741] (“Enjeti-Sydow Dep.”) 43:20–44:2, 48:21–49:3.

RESPONSE: Disputed. Ms. Enjeti-Sydow’s preference is to vote by absentee ballot and drop boxes because she believes they are secure, convenient and reliable. Ex. 56 (Enjeti-Sydow Dep. 41:15-42:4, 72:4-7). However, because of SB202, Ms. Enjeti-Sydow decided to vote early in person instead of voting via absentee ballot. *Id.* at 43:20-44: 2. Ms. Enjeti-Sydow was dissuaded to vote via absentee ballot because the absentee application process became much more onerous under SB202. *Id.* at 57:10-22. She previously requested her absentee ballot online, but after SB02 she would have to complete many more steps in order to do so. *Id.* at 50:14-51:1, 58:1-7. Her decision not to use absentee ballots was also related to when they could be returned to the drop boxes and the fact that the drop box nearest to her house was no longer operational. *Id.* at 57:10-22.

139. Ms. Enjeti-Sydow chose not to vote using a drop box after the passage of SB 202, even though she had never used a drop box except in the 2020 election cycle. Enjeti-Sydow Dep. 40:23–14.

RESPONSE: Disputed. Ms. Enjeti-Sydow preferred to use absentee-by-mail ballots and drop boxes because she believes they are secure, convenient and reliable. Ex. 56 (Enjeti-Sydow Dep. 41:15-42:4, 72:4-7). Ms. Enjeti-Sydow had not voted by mail before 2020 because she did not understand the process and did not know enough information about it. *Id.* at 76:17-23. After SB202, Ms. Enjeti-Sydow decided not to vote using a drop box because after SB202 was passed, the drop box she previously used was no longer available and the next closest drop box was about a 30-35 minute drive away. *Id.* at 41:4-14. Ms. Enjeti-Sydow also has a medical issue that limits her mobility and causes her to minimize when she leaves the house. Because the next closest drop box would create an hour round trip, continuing to use the drop box method became unattainable. *Id.* at 41:7-14. Ms. Enjeti-Sydow stated she never knows how she will feel on a given day, so she is very conscious about driving as minimally as possible. *Id.* at 87:13-20. Conversely, to vote in person, her polling places are about a 12-15 minute drive. *Id.* at 47:15-48:5. If a drobox had been closer to her home, she would have voted absentee-by-mail in the 2022 elections because she could drop it off at any time of the day. She wanted to be able to drop her absentee ballot off outside of her working hours. *Id.* at 86:3-13.

140. Ms. Enjeti-Sydow did successfully deliver her daughters' absentee ballots to a drop box in a process that took 30-45 seconds after she arrived. Enjeti-Sydow Dep. 104:21-105:14, 106:20-107:5.

RESPONSE: Disputed. Ms. Enjeti-Sydow's daughters live out of state, and she was only able to drop off her daughters' absentee ballots after SB202 after having to drive approximately 30 minutes each way. Ex. 56 (Enjeti-Sydow Dep. 102:21-104:19). The process was very "onerous" on Ms. Enjeti-Sydow's family because of how far the closest drop box was to her house and because of the limited days the drop box was available. *Id.* at 104:21-105:4, 105:15-106:9.

141. Ms. Enjeti-Sydow does not know of any voters who could not vote as a result of SB 202. Enjeti-Sydow Dep. 119:15-20.

RESPONSE: Disputed. Ms. Enjeti-Sydow is aware of voters who had great difficulty voting because of SB202. These voters had to make multiple trips to polling places where the lines were too long, and they did not use absentee ballots because of the limited availability of drop boxes. Ex. 56 (Enjeti-Sydow Dep. 116:17-117:2). While she informed these people they could mail their ballots, these voters felt it was too risky to do so because they did not receive their ballots in time. *Id.* at 117:3-11.

142. Ms. Enjeti-Sydow has not waited in a line to vote that was longer than 25 minutes after the passage of SB 202.¹ Enjeti-Sydow Dep. 63:23–64:11, 64:18–65:14, 66:10–67:22.

RESPONSE: Undisputed.

143. The Concerned Black Clergy of Metropolitan Atlanta (CBC) explained that while 30-40 percent of CBC’s time centered on election activities prior to the passage of SB 202, once the law was passed “it began to really be the focus of our organization.” Deposition of the Concerned Black Clergy of Metropolitan Atlanta [ECF 692] (“CBC Dep.”) 64:07-08.

RESPONSE: Undisputed.

144. But this change in focus resulted not necessarily from the passage of SB 202, but due to the “great deal of hysteria” surrounding its passage and the high degree of “misinformation and disinformation circulating.” CBC Dep. 63:12-64:13.

RESPONSE: Undisputed that there was hysteria and misinformation about SB 202. The remainder of the fact is **disputed** because the change of focus in CBC’s time centered on “voter education” and “voter reeducation” because SB 202 changed the way that people can vote. Deposition of The Concerned Black Clergy

¹ Ms. Enjeti-Sydow lacks confidence in Georgia’s Dominion voting equipment. Enjeti-Sydow Dep. 88:21–90:3.

of Metropolitan Atlanta, Inc. (“CBC Dep.”) Ex. 17 [ECF 692] (CBC Dep. 73:18-74:6).

145. So while CBC says it “moved away from health issues, and you know, all of the other issues that we would talk about in the community,” in order to focus on SB 202, this move was ultimately the result of a speculative hysteria about what the law meant as distinct from the provisions of the law itself. *Id.*

RESPONSE: Undisputed that CBC had to move away from health issues and that there was hysteria about SB 202. The remainder of the fact is **disputed** because the change of focus in CBC’s time centered on “voter education” and “voter reeducation” because SB 202 changed the way that people can vote. Ex. 17 (CBC Dep. 73:18-74:6). Moreover, CBC spent more time during the 2022 election cycle coordinating and providing transportation for voters to get to the polls because many community members no longer wished to vote absentee given SB 202’s restrictions on requesting and casting an absentee ballot. Ex. 17 (CBC Dep. 84:13-85:20; 157:10-158:4).

146. Moreover, any changes were not diversions but were only increases in voter-related activities, that “went from a grass fire to a house fire to neighborhood fire to a five-alarm fire.” CBC Dep. 73:21-23.

RESPONSE: Disputed. Prior to the passage of SB 202, approximately 30 percent of CBC’s work related to voting, with the balance addressing issues related

to health, housing, and other matters of interest to the Black community. Ex. 17 (CBC Dep. 63:5-15; 62:2-24; 100:1-6). However, after SB 202 was enacted, the statute “began to really be the focus of our organization” and “we just really moved away from health issues and, you know, all of the other issues that we would talk about in community.” Ex. 17 (CBC Dep. 64:7-10). CBC “began to shift and change the scope work that CBC – we had to quickly become a voter education centric organization as opposed to an organization that dealt with all of these issues that affected the African American community.” Ex. 17 (CBC Dep. 100:11-15).

147. Rev. Jones admitted that CBC has not “surveyed or polled its members to determine if the challenged provisions in this lawsuit have impaired members’ ability to vote.” CBC Dep. 138:18-22.

RESPONSE: Undisputed.

148. The Justice Initiative (JI) is not claiming a financial diversion of resources in this action, so they are relying on the diversion of the organization’s time and personnel to establish organizational standing. Deposition of the Justice Initiative [Doc. 727] (“JI Dep.”) 21:14–17.

RESPONSE: Undisputed. To the extent that Defendants contend a diversion of financial resources is required to establish standing, however, Plaintiffs **dispute** that assertion.

149. JI could only point to doing “more” of its usual practices as a result of the passage of SB 202. JI Dep. 29:07-09 (“[B]asically... we went into a more intense training of citizens because of the effects of SB 202.”).

RESPONSE: Disputed. The cited testimony relates to conversations done to prepare for the 30(b)(6) deposition. Deposition of The Justice Initiative, Inc. (“JI Dep.”) Ex. 38 [ECF 727] (JI Dep. 28:1-29:9.) In reality, because of SB 202, JI’s GOTV efforts have been significantly curtailed. Previously JI was able to stop in up to five counties per day to educate and register voters, but after SB 202, JI can typically stop in just one county because its training programs are required to be more intensive. Ex. 38 (JI Dep. 31:12-32:8).

150. When describing that “more intense training,” JI stated that, usually, the organization “may have done caravans to empower people to go and vote and get out the polls,” and “we may have actually been in five counties a day.” JI Dep. 31:12-20.

RESPONSE: Disputed in part. The cited testimony refers to how JI engaged in election-related activities, including GOTV efforts, prior to the passage of SB 202. Ex. 38 (JI Dep. 31:6-20).

151. Since SB 202, however, these caravans are “covering one county a day” and the Justice Initiative considers this as “non-financial diversion of

resources” essentially because “we’re hitting one county a day versus four counties a day.” JI Dep. 31:12-20, 32:07-08.

RESPONSE: Disputed in part. JI also testified that it was able to visit only one county per day because it was required to “train [people] on the effects of Senate Bill 202.” Ex. 38 (JI Dep. 31:19-20). Further, the cited testimony refers to four counties a day, but JI testified elsewhere that it was previously able to visit as many as five counties per day. Ex. 38 (JI Dep. 31:16).

152. JI provided a slew of apparent changes in the organization dealing with issues entirely distinct from SB 202, including Get Out the Vote Efforts, List Maintenance, and Voter ID, but could not identify specifically what aspects or provisions of SB 202 resulted in the organization’s diversion of resources as to these widely varying election topics that are required by a variety of different election laws. JI Dep. 37:11-38:14.

RESPONSE: Disputed. JI testified that it previously conducted a “general teaching” of voters, but after SB 202 was passed, “[w]e had to then break down and utilize the unit to go through the specific of SB 202,” including “what was traditional culturally how blacks go out and vote.” Ex. 38 (JI Dep. 38:15-39:7). Further, JI identified that there were certain things that SB 202 criminalized, which required “training [people] on what they can and cannot do according to the new law.” Ex. 38 (JI Dep. 42:17-21).

153. JI insisted that its already-existing voter-education efforts were “increased and... more individualized” due to SB 202 but it had no documentation reflecting whatever increase it claimed occurred. JI Dep. 40:15-19, 54:18-24.

RESPONSE: Disputed. In the cited testimony, the question asked was “And then as far as the documentation that reflects that, is there anything beyond the documentation that you have already discussed and described previously that would reflect how those resources have been diverted.” Ex. 38 (JI Dep. 54:18-22) (emphasis added). As indicated by the question, JI previously had discussed documents it prepared. Ex. 38 (JI Dep. 27:8-15).

154. There are no fees associated with membership and once a person shows up at a meeting and that person becomes a member, with all non-financial resources allocated based on volunteer choices. JI Dep. 66:1-67:06, 53:13-20.

RESPONSE: Undisputed that there are no fees associated with JI membership and that members ultimately volunteer their time. The remainder of the fact is **disputed** because JI testified that it is the CEO of the organization, in conjunction with others, that determines how resources are allocated. Ex. 38 (JI Dep. 53:13-16). From there, members decide whether to volunteer based on their time availability and the recommendations. Ex. 38 (JI Dep. 53:21-54:3).

155. There are no benefits of membership that JI could identify apart from “the general sense of having participated [in] activities and action that brings justice and particular voice to the voiceless.” *Id.*

RESPONSE: Undisputed that this is a benefit of JI membership. The remainder of the fact is **disputed** because the JI deponent was not asked whether these were the only benefits of membership or whether he could identify any additional benefits apart from these. Ex. 38 (JI Dep. 67:2-6).

156. In order to determine the extent of any injury to The Justice Initiative’s members, the organization simply solicited reports. JI Dep. 70:24-71:2.

RESPONSE: Disputed in part. It is **undisputed** that JI received reports of members that have been affected by SB 202; however, the remainder of the fact is **disputed** because the JI deponent was not asked whether this was all that the organization did.

157. But it could only identify one individual who purportedly experiencing harm as a result of SB 202, who was not named or otherwise identified by JI, reported that a poll worker intimidated her while voting and asked her for whom she was voting. JI Dep. 71:04-16.

RESPONSE: Disputed in part. It is **undisputed** that the JI witness identified one individual harmed as a result of SB 202; however, the remainder of the fact is **disputed** because the JI witness indicated he had a recollection of other

members harmed by SB 202. Counsel did not ask for any additional instances—just whether a list existed—choosing instead to follow-up on other harms the witness identified. Ex. 38 (JI Dep. 77:20-80:5).

158. JI could not connect how this action by the poll worker, which was itself against the law, was the result of SB 202 except by the unsupported non sequitur that “Georgia law empowers the poll worker to be illegal.” JI Dep. 72:15-16.

RESPONSE: Disputed. JI testified that “every aspect of SB 202 played into that decision.” Ex. 38 (JI Dep. 73:14-74:23).

159. JI ultimately admitted that any explanation for the poll worker’s actions was entirely speculative, saying “I can’t say what caused the poll worker to do that.” JI Dep. 73:14-22.

RESPONSE: Undisputed.

160. The Metropolitan Atlanta Baptist Ministers Union (“Union”) could not identify any legally significant diversion of resources for purposes of establishing Article III standing.

RESPONSE: Disputed. This is legal argument, not a fact, nor do Defendants cite any evidence in support of it.

161. The Union had an “in-house” member, named Darrell Elligan, who generally provides reports on “political and voter registration issues,” “political

empowerment,” “political education,” and “political encouragement.” Deposition of Metropolitan Atlanta Baptist Ministers’ Union [Doc. 736] (“Union Dep.”) 30:13-31:07.

RESPONSE: Undisputed.

162. Mr. Elligan has performed this task on a weekly basis for its designee’s entire tenure at the Union. Union Dep. 31:01-09.

RESPONSE: Undisputed that that Mr. Elligan has performed the described task on a weekly basis for three years. The remainder of the fact is **disputed** because the cited testimony does not state that was for the designee’s entire tenure. Deposition of Metropolitan Atlanta Baptist Ministers Union, Inc. (“Union Dep.”) Ex. 42 [ECF 736] (Union Dep. 31:1-11).

163. As part of his pre-SB 202 duties, Mr. Elligan would periodically create voter-education-related materials, and these materials increased after the passage of SB 202. Union Dep. 51:05-52:04; 53:07-11.

RESPONSE: Undisputed.

164. The Union also discussed SB 202 in conjunction with its preexisting voter coordinating hub, claiming that SB 202 required more activity around the efforts of the hub and that SB 202 necessitated “more activity,” “longer meetings,” and “more discussions.” Union Dep. 58:01-60:01.

RESPONSE: Undisputed.

165. Moreover, most of the informational material that the Union disseminated to its members was created not by the Union, but by other organizations including the Secretary of State's office. Union Dep. 60:04-09.

RESPONSE: Undisputed that “more” of the informational material was created by other organizations. The remainder of the fact is **disputed** because the cited testimony does not state that “most” of it was; indeed, the designee could not identify a specific percentage. Ex. 42 (Union Dep. 60:4-13).

166. In addition to the purported lengthening of meetings at the Union and the general increase in material provided as a result of SB 202, the Union claimed its voter transportation schedule undertaken was also affected by SB 202. But in support of this, the Union only identified transportation efforts undertaken by other organizations that the Union would join, such as Souls to the Pools. Union Dep. 88-07-13.

RESPONSE: Disputed. As a result of SB 202's shortening of the early voting period for runoff elections, the Union could not transport as many seniors to early voting locations in 2022 as it had in January, 2021. Declaration of Rev. Stanley Smith (“Rev. S. Smith Decl.”) Ex. 313 [ECF 618-5] (Rev. S. Smith Decl. ¶ 9).

167. Moreover the Union engaged in transportation services, if informally, at least since 2018. Union Dep. 79:09-25.

RESPONSE: Undisputed that the Union engaged in transportation services. The remainder of the fact is **disputed** because the Union's designee testified that it did not provide transportation services during the 2018 election cycle. Ex. 42 (Union Dep. 79:24-80:4).

168. Even on the issue of food and drink in line, the Union admitted that it is possible it was encouraging people to have a snack and remain in line before SB 202, but that "it was more important in 2022" due to SB 202. Union Dep. 93:13-20, 93:21-25.

RESPONSE: Disputed in part. The question asked was "And that's information you conveyed in 2022 but not previously?" The prior answer related to encouraging people to take their medications, not food and drink. Further, the cited testimony is uncertain, and the witness testified that the Union "may have" conveyed that information.

169. Due do the drop box provisions of SB 202, the Union's designee reported that members decreased giving rides to seniors to drop off ballots "because of intimidation." Union Dep. 119:21-120:04.

RESPONSE: Undisputed that the Union's designee testified that members decreased giving rides to seniors to drop off ballots "because of intimidation." However, the fact is incomplete because the cited testimony states that occurred

because “the law says that anybody could . . . report you. And so people were intimidated and ministers were intimidated.” Ex. 42 (Union Dep. 119:21-120:04).

170. The First Congregational Church, United Church of Christ (“UCOC”) based its claims of purported resource diversion on the fact that the organization needed to “ramp up” its usual voter education efforts in the wake of SB 202. Deposition of First Congregational Church [Doc. 735] (“UCOC Dep.”) 25:02-13.

RESPONSE: Undisputed that UCOC needed to “ramp up” its usual voter education efforts because of SB 202. The remainder of the fact is **disputed** because UCOC’s designee also testified that “We took time away from other things to make sure that our members were properly prepared to vote.” Deposition of First Congregational Church, United Church of Christ Incorporated (“UCOC Dep.”) Ex. 20 [ECF 735] (UCOC Dep. 25:14-16).

171. It claimed that “we took time away from other things to make sure that our members were properly prepared to vote,” UCOC Dep. 25:14-16, but did not delve into those projects that had resources taken away in any detail.

RESPONSE: Undisputed that UCOC’s designee made that statement. The remainder of the fact is **disputed** because the questioner did not follow-up or ask what those other projects were.

172. Moreover, UCOC admitted that it “can’t quantify the hours of time” the organization apparently diverted in response to SB 202. UCOC Dep. 27:02-13.

RESPONSE: Undisputed but immaterial.

173. Beyond that, UCOC has “no documents... that quantify the number of additional hours or redirected hours.” UCOC Dep. 27:14-21.

RESPONSE: Undisputed but immaterial.

174. Finally, with respect to activities or initiatives that UCOC is unable to engage in due to its purported resource diversion on account of SB 202, it admitted that, “the way in which the church operates, it’s impossible to answer that...” UCOC Dep. 44:06-12.

RESPONSE: Undisputed that UCOC’s designee made that statement. The remainder of the fact is **disputed** because the designee also indicated that UCOC is active in addressing food insecurity, provides educational activities and after-school programs, has financial assistance programs, and has sponsored seminars on policing and community violence. Ex. 20 (UCOC Dep. 20:13-23). Further, UCOC’s designee testified that we took time away from other things to make sure that our members were properly prepared to vote.” Ex. 20 (UCOC Dep. 25:14-16).

175. With respect to injury to UCOC’s members, it only “know[s] of one member particularly, who was actually did not vote because of SB 202, only one.” UCOC Dep. 23:15-21.

RESPONSE: Disputed. UCOC’s designee testified that he knew of “several members who were burdened by the additional difficulties of voting and access to voting.” Ex. 20 (UCOC Dep. 25:15-21).

176. But the reason the individual was unable to vote was because “they were in the wrong – at the wrong precinct and could not [get to the correct precinct] because they were dependent on mass transportation...” Ex. 20 (UCOC Dep. 23:22-24:06).

RESPONSE: Undisputed that UCOC’s designee testified to that effect. The remainder of the fact is **disputed** in that he also testified that this individual “went to their normal precinct” on the day of the election. Ex. 20 (UCOC Dep. 23:22-24:06).

177. UCOC has no documentation evidencing this story. UCOC Dep. 24:14-18.

RESPONSE: Undisputed but immaterial.

178. The Georgia Latino Alliance for Human Rights’ (“Alliance”) mission is “educate voters about how to vote... and to encourage them to vote... and to give them information about where and when they can vote.” Deposition of Georgia Latino Alliance for Human Rights [Doc. 693] (“Alliance Dep.”) 34:08-19.

RESPONSE: Undisputed.

179. While the Alliance identified several areas where it claimed a conflict with its mission, it was unable to explain how educating voters about the changes in SB 202 were in conflict with their overall purpose. Alliance Dep. 33:03-25, 34:05-07.

RESPONSE: Disputed. GLAHR's designee testified at length about how the changes in SB 202 "undermine[d] our mission in terms that affecting civil rights and our constitutional right, which is to vote." Deposition of Georgia Latino Alliance for Human Rights, Inc. ("GLAHR Dep.") Ex. 29 [ECF 693] (GLAHR Dep. 33:3-34:7).

180. To the extent the Alliance described how it "diverted" resources in response to SB 202, it is more accurately described as simply doing more of the same things it usually did. Alliance Dep. 39:12-25.

RESPONSE: Disputed. As a result of SB 202, GLAHR has had to devote approximately 50 to 75 percent of its time to civic engagement and community reeducation. It has had to divert this time away from other initiatives, commitments, and causes, including those dealing with deportations, detentions, arrests, and racial profiling. Ex. 29 (GLAHR Dep. 42:13-43:11; 105:13-106:20). GLAHR had to completely cancel a conference in Philadelphia due to the amount of canvassing and outreach work done in the Georgia Latinx community. Ex. 29 (GLAHR Dep. 105:13-106:20). Had SB 202 not been enacted, GLAHR would

have developed more digital content rather than the ramp up in door-to-door canvassing in which it engaged. Ex. 29 (GLAHR Dep. 48:20-25).

181. While the Alliance's purpose is to educate voters, its designee explained the difference in education after SB 202 was one of degree. "[W]e did it before... the difference, the amount of, number of people canvassing on the streets. Materials, increase in staff, and also all the time-consuming for all of us..." Alliance Dep. 41:23-42:02.

RESPONSE: Undisputed that GLAHR was forced to increase education after SB 202. The remainder of the fact is **disputed** because it also had to divert this time away from other initiatives, commitments, and causes, including those dealing with deportations, detentions, arrests, and racial profiling. Ex. 29 (GLAHR Dep. 42:13-43:11; 105:13-106:20). GLAHR had to completely cancel a conference in Philadelphia due to the amount of canvassing and outreach work done in the Georgia Latinx community. Ex. 29 (GLAHR Dep. 105:13-106:20). Had SB 202 not been enacted, GLAHR would have developed more digital content rather than the ramp up in door-to-door canvassing in which it engaged. Ex. 29 (GLAHR Dep. 48:20-25).

182. And when asked what the Alliance would be doing today but for the passage of SB 202, its designee could only speculate, saying, the Alliance

“probably would create more digital contents,” instead of responding to SB 202. Alliance Dep. 48: 20-25.

RESPONSE: Disputed. While GLAHR’s designee testified to that effect, she also testified that GLAHR had to divert this time away from other initiatives, commitments, and causes, including those dealing with deportations, detentions, arrests, and racial profiling. Ex. 29 (GLAHR Dep. 42:13-43:11; 105:13-106:20). GLAHR also had to completely cancel a conference in Philadelphia due to the amount of canvassing and outreach work done in the Georgia Latinx community. Ex. 29 (GLAHR Dep. 105:13-106:20).

183. Each Plaintiff group of the five consolidated cases considered in this motion raises challenges to the timing of various election procedures. Specifically, the various plaintiff groups challenge the deadlines related to mailing absentee ballots, [NGP Doc. 39, ¶ 76]; [NAACP Doc. 35, ¶ 147]; [AME Doc. 83, ¶¶ 254]; [AAAJ Doc. 27, ¶¶ 85-86].

RESPONSE: Undisputed.

184. They also challenge the shortened time period for runoff elections, [NGP Doc. 39, ¶ 108]; [NAACP Doc. 35, ¶ 148], [AME Doc. 83, ¶ 268]; [CBC Doc. 1, ¶ 138].

RESPONSE: Undisputed.

185. Finally, the Ga. NAACP Plaintiffs challenge the provisions of SB 202 related to the timeline for early voting, [NAACP Doc. 35, ¶ 149].

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

186. During the 2020 election, the timeline was so long that some voters were confused, forgetting they voted by absentee ballot by the time the election arrived. Deposition of Ryan Germany (March 7, 2023) [Doc. 707] (“Germany Dep. (3/7)”) 132:9–133:4.

RESPONSE: Not material.

187. Further, a number of late-requested absentee ballots were never returned. Declaration of C. Ryan Germany (July 27, 2023) [Doc. 601-3], attached as Ex. C (“Germany 7/27/23 Dec.”), ¶ 99.

RESPONSE: Undisputed that some late-requested absentee ballots were not returned. **Disputed** as to the extent that the fact asserts that a majority of late-requested absentee ballots were never returned, as is the claim in paragraph 99 of Mr. Germany’s cited declaration. The State’s own data show that, for absentee ballot applications submitted on each of the last seven days permitted for such requests in the November 2020 election, anywhere between 34% and 59% of applications resulted in ballots that were submitted on time and counted. Ex. 85 (Burden Supp. 4-5). **Objection to the admissibility of movant’s fact based on**

lack of personal knowledge and improper opinion. Fed. R. Evid. 602, 701. Mr. Germany's testimony, the only citation on which the Defendants rely, is based on speculation and not his own personal knowledge about whether absentee ballots submitted during the week prior to Election Day were cast. To the extent Mr. Germany is offering an opinion as to whether a late-requested absentee ballot would ever be returned, he is unqualified to do so because he is not an expert.

188. And instead of four days before an election being the deadline, the legislature added a week, setting 11 days as the deadline prior to an election—a timeline that will still ensure a full week of early voting is available for any voter who does not return an application before 11 days prior to the election. Germany 7/27/2023 Dec. ¶¶ 94–95.

RESPONSE: Undisputed that SB 202 moved the deadline to submit an absentee ballot application from 4 days before Election Day to 11 days before Election Day. **Disputed** that early voting is available for any voter who does not return an absentee ballot application 11 days prior to the election. Many voters are unable to vote in person due to disabilities, employment, or caregiving responsibilities. *See, e.g.,* Deposition of Helen Lockette (“Lockette Dep.”) [ECF 793] Ex. 64 (Lockette Dep. 15:13-15, 16:23-17:2); Ex. 298 (Daniel Decl. ¶ 4) (“I have a disability, which makes it difficult for me to vote in person.”).

189. Importantly, SB 202 retained Georgia’s no-excuse absentee voting. Expert Report of Dr. Justin Grimmer, attached as Ex. DDDD (“Grimmer Report”), ¶ 71.

RESPONSE: Not material. Georgia has had no excuse absentee voting since 2005 and the fact that it considered but did not enact a ban on such voting is not material to this litigation. The proposed ban led to the Lieutenant governor refusing to preside over SB 241 because the proposal to ban no excuse absentee voting was “a solution in search of a problem.” *See* Ex. 213 (USA-04194).

190. In 2018 election, 88.4% of all mail-in absentee ballot applications were requested within the new deadlines in set forth in SB 202. Grimmer Report, ¶ 76.

RESPONSE: Not material. Data on mail-in absentee ballot applications not broken down by race provide no information for analyzing a claim of racial discrimination under Section 2, the Fourteenth Amendment, and the Fifteenth Amendment.

191. For the 2020 election, 93.8% of all mail-in absentee-ballot applications complied with the SB 202 deadlines. Grimmer Report, ¶ 78.

RESPONSE: Not material. Data on mail-in absentee ballot applications not broken down by race provide no information for analyzing a claim of racial

discrimination under Section 2, the Fourteenth Amendment, and the Fifteenth Amendment.

192. While there are slight variations in the racial data about the return of absentee ballots, there is no consistent patten across different racial groups. Grimmer Report, ¶¶ 79–80.

RESPONSE: Disputed. Even before 2018—when Black voters became more likely than white voters to vote absentee—Black voters in Georgia were more likely to cast absentee ballots in the final four days of the election cycle. Ex. 85 (Burden 12-20); Ex. 86 (Burden Sur-Rebuttal 2). **Citation does not support the statement** because the cited paragraphs discuss absentee ballot *applications*, not absentee ballots.

193. The data also confirms the legislature’s analysis—that applications that arrived outside of the SB 202 deadlines in prior elections were more likely not to be voted or to be cancelled. Grimmer Report, ¶ 85.

RESPONSE: Disputed. The State’s own election data demonstrate that, of the absentee-by-mail ballots requested outside of the SB 202 deadline in the November 2020 election, more than half (52%-59%) of each day’s requested absentee ballots were cast and counted. Ex. 87 (Burden Supp. 4-5, Tbl. 1).

Citation does not support movant’s fact that the legislature undertook any analysis regarding applications that arrived outside of the SB 202 deadlines in prior

elections; rather, the citation is to the analysis of the Defendants’ expert, conducted in 2022 and 2023 for purposes of this litigation. **Undisputed** as to the remainder of the paragraph.

194. From 2014 through 2019, the only general-election runoffs took place in 2018 for the state offices of Secretary of State and Public Service Commissioner and both were held four weeks after election day. Declaration of Ryan Germany (Aug. 10, 2023) [Doc. 610-1], attached as Ex. IIIII (“Germany Dec. [Doc. 610-1]”), ¶¶ 57–58.

RESPONSE: Not material. The runoff elections referenced in this paragraph are for statewide races, *see* Decl. of Ryan Germany (Aug. 10, 2023) [Doc. 610-1] ¶ 58, but Plaintiffs’ claims concern runoffs for federal races only (which prior to SB 202 occurred nine weeks after the general election), *see id.* ¶ 59; Compl. ¶¶ 25, 34, 48, 54, 61, 83. **Undisputed** that from 2014 through 2019, the only general-election runoffs took place in 2018 for the state offices of Secretary of State and Public Service Commissioner and both were held four weeks after election day.

195. In 2020, three statewide general-election races required runoffs: both U.S. Senate seats and a Public Service Commission seat and those were combined due to insurmountable logistical difficulties. *Id.* at ¶¶ 59–60.

RESPONSE: Undisputed that three statewide general election races required runoffs in 2020—both U.S. Senate races and a Public Service Commission seat. **Disputed** because county and state election officials testified that holding a federal runoff election 28 days after a general election would impose significant administrative burdens and hamper voting opportunities, including explaining it would not work. Ex. 217 CDR00009771-773 (email from Cobb County Election Director); Ex. 69 (Sterling Dep. at 185-86); Ex. 128 (Tr. of Feb. 19, 2021 Hrg. of Special Committee on Election Integrity 161:1-162:12).

196. By allowing military and overseas voters to vote in runoffs without requiring another round trip for an absentee ballot, the 45-day requirement of the MOVE Act no longer applied. Germany Dec. [Doc. 610-1] ¶ 62.

RESPONSE: Disputed because citation does not support statement. In the cited paragraph of his declaration, Germany states that the change to allow military and overseas voters to vote via ranked-choice voting was an effort to comply with the 45-day requirement of the MOVE Act. *See* Germany Decl. ¶ 62. In any event, this statement relates only to ranked-choice voting for military and overseas voters and is **not material** to Plaintiffs' claims regarding the shortened runoff period for federal elections from nine-weeks to four-weeks after the general election.

197. In the 2018 general election, 61.4% of registered voters voted (approximately 3.9 million votes). Germany Dec. [Doc. 610-1], ¶ 72.

RESPONSE: Not material. Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

Further, it is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle, Ex. 86 (Burden Sur-
Rebuttal 11); Ex. 83 [ECF 747] ((Grimmer Dep. 48:2-5)), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202, Ex. 83 (Grimmer Dep. 48:18-49:11).

Additionally, both plaintiffs’ expert Dr. Fraga and Defendants’ expert Dr. Grimmer calculate voter turnout rates as a percent of the citizen voting-age

Georgians. In the November 2018 election, the statewide voter turnout rate was 52.7%. Ex. 96 (Fraga ¶ 36, Tbl. 1). The white voter turnout rate was higher than the state average at 55.3% and the Black voter turnout rate was lower at 49.1%. Ex. 96 (Fraga ¶ 36, Tbl.1). Dr. Grimmer calculated the overall voter turnout rate using the citizen voting age population as 54.4% and 54.1% using data from the U.S. Elections Project. Ex. 113 (Grimmer ¶ 26, Tbl. 1).

198. But in the 2018 runoff election, only 22.9% of voters voted (almost 1.5 million votes). Germany Dec. [Doc. 610-1], ¶ 73.

RESPONSE: Not Material. The 2018 runoff is not material here because it was solely a state election. Also, total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2

would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

Further, it is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle Ex. 86 (Burden Sur-Rebuttal, March 2023, at 11), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202. Ex. 83 (Grimmer Dep. 47:17 - 49:11). Voter turnout cannot be the measure of discriminatory impact because the Constitution does not require plaintiffs impacted by an intentionally discriminatory law to show that they have been completely disenfranchised.

199. That changed in 2020, with 69.6% of active voters voting, or nearly 5 million votes cast, in the 2020 general election, and then 61% of active voters voting, or approximately 4.4 million votes cast, in the January 2021 runoff election. *Id.* at ¶ 74.

RESPONSE: Not material. Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”);

Chisom v. Roemer, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

Both Plaintiffs’ expert Dr. Fraga and Defendants’ expert Dr. Grimmer calculate voter turnout rates as a percent of the citizen voting-age Georgians. In the November 2020 presidential election, the total turnout rate was 67.0%. Ex. 96 (Fraga ¶ 37, Tbl. 1). The white turnout rate was higher at 69.2% and the Black turnout rate was lower at 59.9%. Ex. 96 (Fraga ¶ 37, Tbl. 1). In the January 2021 runoff election, the total turnout rate was 59.9%, the white turnout rate was higher at 61.8%, and the Black turnout rate was lower at 54.9%. Ex. 96 (Fraga ¶ 38, Tbl.1). Dr. Grimmer calculated the overall voter turnout rate for the January 2021 runoff election as 60.0% (CVAP Trend) and 61.0% using data from the U.S. Elections Project. Ex. 113 (Grimmer ¶ 26, Tbl. 1 (CVAP Trend, VEP)). In addition, he calculated the white turnout for the January 2021 runoff using the citizen voting population as 59.9% and the Black turnout rate as 52.5%. Ex. 113 (Grimmer ¶ 31, Tbl. 2).

Citation does not support because the citation does not include a link for the number of voters who voted in the 2020 general election.

200. The 2022 runoff showed a similar pattern, when 57.02% of voters voted, or 3.9 million votes cast, in the 2022 general election, and 50.58% of voters voted, or 3.5 million votes cast, in the December 2022 runoff election—even when control of the U.S. Senate was not on the line as it was in 2020. Germany Dec. [Doc. 610-1] ¶ 75.

RESPONSE: Not material. Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

Disputed. Both plaintiffs’ expert Dr. Fraga and Defendants’ expert Dr. Grimmer calculate voter turnout rates as a percent of the citizen voting-age Georgians. The December 2022 runoff election total turnout rate was 47.2%, meaning less than half the eligible Georgia population turned out to vote. Ex. 96 (Fraga ¶ 40, Tbl. 1). The white voter turnout was higher at 49.7% and the Black voter turnout was lower at 43.0%. Ex. 96 (Fraga ¶ 40, Tbl.1). Dr. Grimmer calculated the overall voter turnout rate using the citizen voting age population as 47.3%, as 46.1% using CVAP trend, and 47.0% using data from the U.S. Elections Project. Ex. 113 (Grimmer ¶ 26, Tbl. 1).

Citation does not support because the citation does not include a link for the number of voters who voters in the 2020 general election.

201. In other words, the December 2022 runoff resulted in a smaller decrease in turnout rate when compared with the general election than the January 2021 runoff even with the shorter timeline. Grimmer Report ¶ 30.

RESPONSE: Disputed. Defendants’ expert Dr. Grimmer calculates different figures for the turnout rates than presented in the Ryan Germany declarations on which this statement is based. *See* Ex. 113 (Grimmer ¶ 30, Tbl. 1).

Citation does not support movant’s fact. Grimmer says in ¶ 30 of his Report that “Compared to the proximate general election, the relative decline for each runoff election is quite similar. Using the estimates from Column 3 [in Table 1], in the

runoff in 2022, there was a 10.7% decline from the 2022 general election, while in the runoff in 2021 there was a 10.6% decline from the 2020 general election.” Ex. 131 (Grimmer ¶ 30). When he used VEP, the percentage of decline was identical at 10.6%. Ex. 131 (Grimmer ¶ 30).

Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86 (Burden Sur-
Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202 (Ex. 83 (Grimmer Dep. 48:18-49:11)). Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would

therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”

202. In addition, more voters used weekend voting in the December 2022 runoff than in the January 2021 runoff, with a 58.6% increase in weekend voting in the four-week runoff over the nine-week runoff. *Id.* at ¶¶ 18, 184–185.

RESPONSE: Undisputed but not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86 (Burden Sur-Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202 (Ex. 83 (Grimmer Dep. 48:18-49:11)). Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. Further, voter turnout cannot be the measure of discriminatory impact because the Constitution does not require plaintiffs impacted by an intentionally discriminatory law to show that they have been completely disenfranchised.

203. In fact, voter turnout in Georgia has been increasing for years, even in midterm elections that usually have lower turnout than Presidential election years. *Id.* at ¶¶ 27–28.

RESPONSE: Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86

(Burden Sur-Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202. (Ex. 83 (Grimmer Dep. 48:18-49:11)). Defendants' expert also does not purport to demonstrate the effect of SB 202 on turnout or burden on Black voters versus white voters. Ex. 86 (Burden Sur-Rebuttal 12). Moreover, Defendants ignore Black and Hispanic turnout dropped more sharply than overall turnout from the 2018 midterm to the 2022 midterm. Defendants' expert calculates that the overall voter turnout declined from the midterm election in 2018 to the midterm election in 2022 by 2.8 percentage points. Ex. 113 (Grimmer ¶¶ 8, 27, Tbl. 1(CVAP Trend)). Black turnout dropped more sharply than overall turnout, from 49.5% in 2018 to 41.7% in 2022, a drop of 7.8 percentage points. Hispanic turnout also dropped more sharply than overall turnout, from 27.5% in 2018 to 22.3% in 2022, a drop of 5.2 percentage points. Ex. 113 (Grimmer ¶¶ 32-34 Tbl. 2). The gap between Black voter turnout and white voter turnout increased from the 2018 midterm election to the 2022 midterm election. In 2018, the gap between Black and white voter turnout was 4.4 percentage points. Ex. 113 (Grimmer ¶¶ 33-34, Tbl. 2). In 2022, the gap between Black and white voter turnout was 12 percentage points. Ex. 113 (Grimmer ¶¶ 33-34, Tbl. 2). The gap between Hispanic voter turnout and white voter turnout also increased from the 2018 midterm election to the 2022 midterm election. In 2018, the gap between Hispanic and white voter turnout was 26.4

percentage points. Ex. 113 (Grimmer ¶¶ 33-34, Tbl. 2). In 2022, the gap between Hispanic and white voter turnout was 31.4 percentage points. Ex. 113 (Grimmer ¶ 33-34, Tbl. 2). **Furthermore, disputed and the citation does not support the statement.** According to Defendants' own expert citations, overall turnout decreased from the 2018 midterm election to the 2022 midterm election. Ex. 113 (Grimmer Tbl. 1). Overall turnout also decreased from the 2021 runoff election to the 2022 runoff election. Ex. 113 (Grimmer Tbl. 1).

204. Turnout in both the 2022 general election and 2022 general runoff election was very high, with the turnout rate for the 2022 midterm approximately 81% higher than the turnout rate for the 2014 midterm, which is larger than the increase of the 2020 general election turnout rate over the 2016 general election turnout rate. *Id.*

RESPONSE: Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86 (Burden Sur-Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202 (Ex. 83 (Grimmer Dep. 48:18-49:11)). Voter turnout is not a relevant measure of discriminatory effect because neither the Constitution nor Section 2 requires plaintiffs impacted by an intentionally discriminatory law to show that they have been completely disenfranchised. *See, e.g., Reno v. Bossier Parish Sch. Bd.*, 528

U.S. 320, 359 (2000) (Souter, J., concurring in part and dissenting in part) (“[A]bridgement necessarily means something more subtle and less drastic than the complete denial of the right to cast a ballot, denial being separately forbidden.”); *United States v. Marengo Cnty. Comm’n*, 731 F.2d 1546, 1570 (11th Cir. 1984) (failure to appoint Black poll officials “impaired [B]lack access to the political system and the confidence of [B]lacks in the system’s openness”); *N.C. NAACP v. McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016) (holding that plaintiffs need not show that challenged provisions prevented Black voters from voting at the same levels as they had in the past). Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202.

205. Further, Georgia voter turnout in mid-term elections remains higher than other comparable states after SB 202. *Id.* at ¶¶ 41–42, 44–45.

RESPONSE: Not material. The turnout rates in other states are not relevant to any claim in this case.

206. And the decreases in Black voter turnout in Georgia from 2018 to 2022 that Plaintiffs point to are smaller than in other states that track similar data. *Id.* at ¶¶ 48–50.

RESPONSE: Not material. The turnout rates in other states are not relevant to any claim in this case.

207. In 2022, four-week runoffs were held in June for the May primary, then again in December after the November general election. Germany Dec. [Doc. 610-1], ¶ 63.

RESPONSE: Undisputed.

208. Black candidates regularly were successful in those four-week runoffs in 2022, with Black candidates winning the Democratic nominations for Insurance Commissioner and Labor Commissioner in June and a Black candidate winning the U.S. Senate race in December 2022 in a race with another Black candidate. *Id.* at ¶ 64–65.

RESPONSE: Undisputed that Black candidates were elected in three elections, one of which involved two Black candidates for the U.S. Senate race in December 2020. [ECF 610-1] (Germany Decl. ¶ 65). Disputed as to the use of the term “regularly.” This paragraph concerns two runoff elections in a single year.

209. With these increases in access to early voting, Georgia offers more early voting days than Arkansas, Connecticut, Delaware, Florida, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, and New York. *See* NCSL, *States and Territories with Early In-Person Voting*, <https://www.ncsl.org/elections-and-campaigns/early-in-person-voting> (updated June 13, 2023).

RESPONSE: Not material. The number of days of early voting offered in other states is not material to any claim in this case. SB 202 gave counties full

discretion to limit early voting hours to 9 a.m. to 5 p.m. and to entirely eliminate Sunday early voting. O.C.G.A. § 21-2-385(d). Further, Georgia law only requires early voting "as soon as possible" but not later than the second Monday immediately prior to a runoff election, making a comparison to states with defined early voting days impossible. O.C.G.A. § 21-2-385(d). **Citation does not support movant's fact** because it provides inaccurate information as, among other errors, it does not list Georgia as a state in which local election officials have discretion over whether to offer Sunday early voting. Further, the information provided by the citation does not provide enough information to compare States and the statement does not explain how this comparison was done. **Objection to the admissibility of movant's fact** based on hearsay. Fed. R. Evid. 801. The webpage about early in-person voting from the National Conference of State Legislatures is an out-of-court statement being offered for the truth of the matter asserted.

210. The 2022 election resulted in the continued increase in the use of early in-person voting by Georgia voters. Grimmer Report, ¶¶ 54–55.

RESPONSE: Disputed that early in-person voting "continued" to increase. Overall rates of early in-person voting declined from 2016 to 2018, then increased again in 2020 and 2022. Overall rates of early in-person voting were lower during runoff elections. Ex. 113 (Grimmer Rep. Table 7). **Not material.**

211. That is true of each racial group in the state, with early in-person voting the most-used voting method for Black and white voters in 2020 and 2022. Grimmer Report, ¶¶ 57, 60.

RESPONSE: Undisputed that Black and white voters used in-person early voting more than absentee by mail and in-person Election Day voting in 2020 and 2022. **Not material.** Compared to white voters, early in-person voting by Black voters increased more sharply from 2020 to 2022, while Black mail-in voting decreased more sharply over the same time period. Ex. 113 (Grimmer Rep., Fig. 1, ¶¶ 57, 60). Citation also does not account for rates of early in-person voting among racial groups during the January 2021 and December 2022 runoff elections.

212. In 2022, Black voters cast the largest share of their votes using absentee voting methods. Grimmer Report, ¶ 63.

RESPONSE: Undisputed if “absentee voting methods” includes both absentee by mail and early in person voting.

213. Three Plaintiff groups challenge the changes made to out-of-precinct voting as violations of Section 2 of the VRA, the fundamental right to vote, and violations of the Americans with Disabilities Act: [NGP Doc. 39, ¶ 101], [NAACP Doc. 35, ¶ 159], [AME Doc. 83, ¶ 273].

RESPONSE: Undisputed.

214. Likewise, three Plaintiff groups challenge the processes regulating voter challenges as violations of Section 2 of the VRA and the fundamental right to vote: [NGP Doc. 39, ¶ 106], [NAACP Doc. 35, ¶ 164], [CBC Doc. 1, ¶ 163].

RESPONSE: Undisputed.

215. And two Plaintiff groups challenge the process for temporarily suspending county officials who have a pattern of not following state law: [NAACP Doc. 35, ¶ 163], [CBC Doc. 1, ¶ 167].

RESPONSE: Undisputed that GA NAACP and CBC challenge the provision of SB 202 that allows for the takeover of county election administration by state officials. **Disputed** that the challenged process results in “temporarily suspending” county officials. The suspension of local election superintendents may become permanent if the suspended superintendent does not timely petition for reinstatement. O.C.G.A. § 21-2-33.2(e)(2). And because under SB 202, a local government “shall not expend any public funds for attorneys’ fees or expenses of litigation relating to” such a reinstatement petition, O.C.G.A. § 21-2-33.2(g), suspended superintendents are unlikely to be able to appeal their suspensions, rendering the suspensions permanent.

216. Beginning with the 2018 election, county and state officials saw an increase in the number of out-of-precinct provisional ballots, which led to substantial burdens on election officials. Germany 7/27/2023 Dec., ¶ 108.

RESPONSE: Disputed. Defendants’ own data shows that 8,191 out-of-precinct provisional ballots were cast in 2020, which is a decline from the 10,917 out-of-precinct ballots cast in 2018. Ex. 228 (March 25, 2021 email from B. Evans to SOS staff, “Provisional Ballot 2016 to 2018 to 2020 from Surveys.xlsx” CDR00044731-32). **Objection to the admissibility of movant’s fact** based on hearsay and lack of personal knowledge. Fed. R. Evid. 801, 601. Mr. Germany does not cite to any source for his speculation that out-of-precinct provisional ballots had increased since 2018. To the contrary, an email Mr. Germany received on March 25, 2021 shows that out-of-precinct provisional ballots declined between 2018 and 2020. Ex. 228 (March 25, 2021 email from B. Evans to SOS staff, “Provisional Ballot 2016 to 2018 to 2020 from Surveys.xlsx” CDR00044731-32) (showing 8,191 out-of-precinct provisional ballots cast in 2020, a decline from 2018, when 10,917 out-of-precinct provisional ballots were cast). Mr. Germany also does not cite to any source for any increase in burdens on election officials and lacks personal knowledge for both these propositions. “For a matter to be considered within a witness’s personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation.” *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted).

217. Processing provisional ballots for voters who vote in the wrong precinct requires manual duplication for contests in which the voter is eligible to vote, which is time consuming and impedes the ability of officials to carry out other important tasks. *Id.*

RESPONSE: Undisputed that processing provisional ballots for voters who vote in the wrong precinct requires manual duplication for contests in which the voter is eligible to vote. **Disputed** as to the remainder of the paragraph. Former Richmond County Elections Supervisor Lynn Bailey testified that, prior to the enactment of SB 202, election officials in Richmond County encountered no administrative problems associated with processing duplicative OP ballots. Deposition of Lynn Baily (“Baily Dep.”) [ECF 715] Ex. 49 (Bailey 10/6/22 Dep. 138:1-4). The elections director for the Douglas County Department of Elections and Registration, Milton Kidd, also testified that processing out-of-precinct ballots was not a burden and is “another way in which we’re helping voters exercise their right to vote.” Deposition of Milton Kidd (“Kidd Dep.”) [ECF 703] Ex. 63 (Kidd Dep. 146:9-147:1); Ex. 257 Brower [Jan. 2024] Decl. ¶ 23 (“[C]ounty boards of elections have had experience processing out-of-precinct provisional ballots for almost two decades, and they are able to do so successfully.”). The citations do not support the statement that election officials were “impeded” from doing their jobs properly.

218. Out of precinct provisional ballots also slow down voting on election day and increases concerns about the potential for fraud. *Id.* at ¶¶ 110–11.

RESPONSE: Disputed and objection to admissibility of fact based on lack of personal knowledge. Fed. R. Evid. 602. Mr. Germany’s speculation about what happens at polling places is not based on first-hand knowledge and the “discussion about where the voter is supposed to go, or a discussion about how that voter has been voting in this location for years” would occur whether or not voting out-of-precinct is banned before 5 pm. Similarly, Mr. Germany’s speculation about the concern about voter fraud increasing due to the procedure for processing out-of-precinct ballots, which had been in place for almost 20 years in Georgia, is not supported by any evidence (e.g., no survey data, no peer-reviewed literature, and not even a single complaint from a voter). *See S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted).

219. Unlike other states, it did not ban out of precinct provisional ballots outright, but instead provided a process for directing voters to the correct precinct until 5:00pm, and then allowing voters to vote out of precinct if they were unable to get to their correct polling place after that point. Germany 7/27/2023 Dec. ¶ 114.

RESPONSE: Not material as to how other states manage out-of-precinct voting. **Disputed** that voters are allowed to vote out-of-precinct if they are unable

to get to their correct polling place after 5:00 pm; rather, voters must first “execute a sworn statement, witnessed by the poll official, stating that he or she is unable to voter at his or her correct polling place prior to the closing of the polls and giving the reason therefor,” *see* SB 202 § 34, before they would be permitted to vote an out of precinct ballot. **Undisputed** as to the remainder of the paragraph.

220. Less than half of the states in the United States partially count provisional ballots cast in the wrong precinct. 2022 EAVS Report (attached as Ex. QQQQ), U.S. Election Assistance Commission, p. 84.

RESPONSE: Not material.

221. About half of all states reject out of precinct provisional ballots entirely. *Id.*

RESPONSE: Not material

222. During the runup to the 2021 runoff, electors attempted to use the processes in both statutes to challenge electors. Germany Dep. (3/7) 194:3–9.

RESPONSE: Object for lack of foundation (Federal Rule of Evidence 602). Citation not supported by admissible evidence. Germany does not cite any source for his bald assertion that there were “a lot” of challenges in the lead up to the 2021 runoff. Further, **the citation does not fully support the statement.** Germany did not testify that electors attempted to use both Section 21-2-229 and Section 21-2-230 to challenge electors. Ex. 59 (Germany Dep. (3/7/23) 194:3-9).

223. Counties handled the processes inconsistently, with some counties placing numerical limits on the number of challenges and others refusing to hear the challenges filed by voters. Germany Dep. (3/7) 190:2–19, 193:3–10.

RESPONSE: Disputed and citation does not support statement.

Germany's testimony cited by Defendants directly contradicts the statement that some counties placed numerical limits on the number of challenges. Ex. 59 (Germany Dep. (3/7) 193:3-7 ("Q: Prior to the enactment of SB 202, do you remember while at SOS any complaints about counties limiting the number of voter challenges? A: The complaints that I remember were not really about limiting.")). **Further, object** for lack of foundation (Federal Rule of Evidence 602) and speculative (Federal Rule of Evidence 701). **The statement is not supported by admissible evidence.** Germany provides no support or explanation of what he means by his assertion that he recalls complaints about counties "not dealing with challenges in a timely fashion." Germany does not specify the number of complaints, the nature of the complaints, who they came from, whether they were widespread, or, if true, the reason counties may have deferred addressing challenges. There is no admissible evidence supporting the assertion that counties handled the voter challenge process inconsistently before SB 202 in any of the ways Germany describes.

224. This process is the only statutory option, even when county officials decided to blatantly violate Georgia law. Deposition of Matthew Mashburn (March 7, 2023) [Doc. 709] (“Mashburn (3/7)”) at 215:15–23.

RESPONSE: Citation does not support the material fact. The cited deposition testimony does not address a situation when “county election officials decided to blatantly violate Georgia law.” Mr. Mashburn was asked about a violation of law by the Georgia Secretary of State’s office, and there is no record evidence of “blatant” violations of Georgia law by any county officials. **Object to the admissibility of this fact.** It is vague and ambiguous as to what “This process” refers to. In addition, it is not possible to gauge the relevance of the asserted fact since it is not clear what fact is being asserted. To the extent “this process” refers to the SEB’s ability to order civil penalties, publicly reprimand counties and utilize superior court proceedings to enforce any injunctive relief, the fact is **disputed** in that the SEB may also issue orders that county election officials are required to follow--and do routinely follow--without the need for judicial enforcement. Ex. 21 (Fulton Cnty Dep. 270:10-12); Ex. 15 (Cobb Cnty Dep. 275:20-23); Ex. 18 (DeKalb Cnty Dep. 206:8-12); Ex. 34 (SEB Dep. 195:10; 257:24-258:4.

225. The only other options for SEB enforcement are administrative, such as a fine for violations of the Election Code. Mashburn (3/7) at 215:15–23.

RESPONSE: Object to the admissibility of this fact. It is vague and ambiguous as to what “other” refers to. The term “other” implies the existence of an additional fact, in this case, other options for SEB enforcement. Since the asserted fact does not refer to or otherwise identify other options for SEB enforcement, Plaintiffs are unable to evaluate whether the referenced administrative enforcement mechanisms are the only “other” options. “Other” than what? **Disputed** to the extent “other options” do not include the SEB’s authority to issue orders that county election officials are required to follow--and do routinely follow--without the need for judicial enforcement. Ex. 21 (Fulton Cnty Dep. 270:10-12); Ex. 15 (Cobb Cnty Dep. 275:20-23); Ex. 18 (DeKalb Cnty Dep. 206:8-12); Ex. 34 (SEB Dep. 195:10; 257:24-258:4).

226. Since the adoption of SB 202 in 2021, the only county election officials who have undergone a performance review are the members of the Fulton County Board of Elections and Registration and staff. Declaration of Ryan Germany (July 17, 2023) [CGG Doc. 123-3], attached as Ex. HHHH (“Germany CGG Dec.”), ¶¶ 4–6; Fulton Performance Review Board Report (“Fulton Report”), attached as Ex. 1 to Germany CGG Dec.

RESPONSE: Undisputed.

227. The Fulton County Performance Review was initiated by members of the General Assembly in the local legislative delegation. Fulton Report, p. 5.

RESPONSE: Undisputed.

228. The three-member Review Board personally observed “pre-election, Election Day, and post-election processes at Fulton County in both the 2021 municipal elections and the 2022 general and runoff elections.” Fulton Report at 6.

RESPONSE: Undisputed.

229. Those observations included at least four visits to the Fulton County Election Processing Center and at least 16 visits to different election day polling place and advance-voting locations. Fulton Report at 6.

RESPONSE: Undisputed.

230. The Review Board also worked with the Carter Center to observe Fulton County elections in November 2022 to assist with its review. Fulton Report at 6.

RESPONSE: Undisputed.

231. Finally, the Review Board conducted formal interviews with staff and members of the Fulton County Board of Elections, reviewed procedures, and coordinated with the Secretary’s office for its review. Fulton Report at 7.

RESPONSE: Undisputed.

232. When it issued its report, the Review Board confirmed that, in prior years, “disorganization and a lack of a sense of urgency in resolving issues plagued Fulton County elections.” Fulton Report at 1.

RESPONSE: Undisputed that the Fulton Report contains the quoted language. **Object** to the term “confirmed” as it suggests the existence of facts not in evidence.

233. But the Review Board also recognized the improvement in election administration in Fulton County from 2020 through 2022, at least in part because of the incentives created by the Performance Review itself and Fulton County’s voluntary adoption of many of the Board’s recommendations. Fulton Report at 18.

RESPONSE: Undisputed that the Review Board recognized the improvement in election administration in Fulton County from 2020 through 2022 and that the Fulton Report states that the existence of the Performance Review helped incentivize Fulton County to make improvements to their elections. With respect to assertion that Fulton County’s improvement is attributable, in part, to Fulton County’s voluntary adoption of many of the Board’s recommendations, **Defendants’ citation does not support the fact.**

234. As a result, the Review Board did not recommend any Fulton officials be suspended under the Suspension Rule. Fulton Report at 18–19.

RESPONSE: Undisputed that the Review Board did not recommend any Fulton officials be suspended under the Suspension Rule. **Disputed** that the decision was a “result” of Fulton County’s voluntary adoption of many of the

Board's recommendations, as the **Defendants' citation does not support that fact.**

235. The SEB did not suspend the Fulton officials, has not announced any plans for conducting additional performance reviews, and is not considering suspension of additional county election officials, including the Board Member Plaintiffs here. Germany CGG Dec., ¶¶ 7–8.

RESPONSE: Undisputed.

236. Thus, the SEB has not suspended any county officials, nor has it announced any plans to do so or to investigate any other county at this point. Germany CGG Dec., ¶ 8.

RESPONSE: Undisputed.

237. Out of precinct voting likely disenfranchises voters from participating in local elections. Germany 7/27/2023 Dec. ¶¶ 108–13.

RESPONSE: Disputed. A voter who is unable to make it to their assigned precinct to cast a ballot can vote in at least all statewide and countywide contests and many local contests if allowed to cast an out-of-precinct ballot that will be counted; by contrast, a voter who is unable to make it to their assigned precinct to cast a ballot is completely disenfranchised. *See, e.g.*, Ex. 300 (Mason Decl. ¶¶ 3-8); Ex. 348 (Burns Decl. ¶¶ 12-21).

238. The evidence also demonstrates no burden on the right to vote—thus far, the SEB has suspended *zero* county officials, to say nothing of failing to replace an official that was suspended after a thorough investigative procedure. Germany CGG Dec., ¶¶ 6–8.

RESPONSE: Undisputed that, thus far, the SEB has not suspended any county officials or failed to replace an official that was suspended after an investigative procedure. **Disputed** that the evidence demonstrates the SEB takeover provision places no burden on the right to vote. The provision disempowers Black communities by causing Black voters to feel that their votes don't count and by removing accountability from their local election officials. Ex. 42 (Union Dep. 161:13-21); Ex. 38 (JI Dep. 73:4-9 and 78:13-18).

239. The evidence demonstrates the suspension processes have resulted in improved elections. Fulton Report, pp. 18–19.

RESPONSE: Disputed; Defendants' citation does not support the fact. The Fulton Report does not state that the suspension processes have resulted in improved elections. Rather, the Fulton Report states as follows: “Fulton County has shown improvement in administering elections from 2020 to 2022. This improvement is due to a multitude of factors. Prior staff that oversaw elections, voter registration, redistricting, and absentee ballots are no longer with the office, and new staff can bring new energy and renewed commitment. Training, processes

and procedures, and overall organization have all been improved as well... . The Fulton County Board of Elections and Registration is engaged and helping to drive those improvements.” Ex. 233 (Performance Review Board Report on Fulton County Elections (Jan. 13, 2022) 18). While the Fulton Report does state that “The existence of the Performance Review helped incentivize Fulton County to make improvements to their elections,” *id.*, Plaintiffs dispute that the evidence shows that the suspension process was the driving force behind those improvements. Fulton County Performance Review Board member, Stephen Day, stated that: “Fulton County actually was proactive in instituting things that eliminated a lot of the issues that had popped up [] –prior to us serving on this board.” Ex. 149 (Georgia State Election Board Meeting Transcript (Feb. 7, 2023) 57:25-58:3).

240. SB 202’s Food, Drink, and Gift ban is the latest in a line of Georgia laws aimed at increasing electoral efficiency, preventing voter intimidation, and enhancing voter confidence. Mashburn (3/7) at 104:7–105:7

RESPONSE: Disputed. The Food, Drink, and Gift ban does not increase electoral efficiency, prevent voter intimidation, or enhance voter confidence. Before SB 202, Georgia prohibited campaigning at polling locations or attempting to buy a person’s vote. O.C.G.A. §§ 21-2-414 (2017), 21-2-570. Receiving food and water while waiting in line provided encouragement to voters rather than intimidating them or lessening their confidence in the process. *See* Ex. 312 (T.

Scott Decl. ¶¶ 8-11); Ex. 314 (Sutton Decl. ¶¶ 7-10); Ex. 265 (Calhoun Decl. ¶ 18); Ex. 269 (Cotton Decl. ¶ 10). County election officials encouraged coordinated these line warming activities in their counties. Some election officials encouraged and coordinated line warming activities in their counties. Ex. 63 [ECF 703] (Kidd Dep. 133:2-135:10); Ex. 265 (Calhoun Decl. ¶ 18). And even more county election officials did not oppose at least some line warming activities. *E.g.*, Ex. 49 (Bailey 10/6/22 Dep. 141:6-8 (“[T]hose types of [line warming] activities are [] fine but they need to be 150 feet away.”), 146:14-23); Deposition of Gwinnett County (Kelvin Williams) (“Gwinnett Cnty Williams Dep.”) [ECF 711] Ex. 36 (Gwinnett Cnty Williams Dep. 29:1-13, 30:22-32:21); Ex. 257 (Brower 1/18/24 Decl. ¶ 28 & 33) (line warming made polling places more welcoming to Black voters; he received no complaints about line warming). Prior to SB 202, no group that participated in line-warming activities was referred to the State Attorney General for unlawful line warming activities. Ex. 34 [ECF 709] (SEB Dep. 119:17-22).

Citation does not supported statement. Although Mashburn discusses how Georgia allegedly created a “protection bubble” for the voter to protect them against intimidation and campaign activities, he does not testify that SB 202’s Food, Drink, and Gift ban had a similar aim or that SB 202’s Food, Drink, and Gift Ban is part of a line of Georgia laws aimed at increasing electoral efficiency,

preventing voter intimidation, and enhancing voter confidence. Ex. 34 (SEB Dep. 104:7-105:7).

241. In 2010, the General Assembly passed a bill establishing a 150-foot “Buffer Zone” around buildings used as polling places, with an additional 25-foot “Supplemental Zone” around any voter waiting in line at a polling place. O.C.G.A. § 21-2-414(a) (2010); H.B. 540, 150th Gen. Assemb., Reg. Sess. (Ga. 2010).

RESPONSE: Undisputed.

242. Before 2017, third parties began setting up tables within the Buffer Zone, which became a distraction for voters and officials. Deposition of Matthew Mashburn (March 14, 2023) [Doc. 710] (“Mashburn 3/14”) 124:7–17.

RESPONSE: Disputed; Objection as to admissibility of movant’s fact.

Movant relies on Matthew Mashburn to speak on behalf of most unidentified voters and undefined officials. This is hearsay. Fed. R. Evid. 801. Contrary to movant’s allegation, actual voters did not find the line relief distracting. They found line relief to be encouraging and did not feel pressured to vote for a particular candidate. Ex. 267 [ECF 171-6] (Clarke Decl. ¶¶ 7-9); Ex. 312 (T. Scott Decl. ¶¶ 8-10); Ex. 314 (Sutton Decl. ¶ 10). At least one election official testified that he never saw line relief workers attempt to influence an individual’s vote. Ex. 261 [ECF 171-5] (Brower Decl. ¶ 9).

243. In 2017, after the legislature responded by prohibiting the setting up of tables and booths within either protective zone, third parties began sending representatives to polling places to hand things of value to voters waiting in line to vote. This led state and county officials to receive many complaints and questions. Germany (3/7) Dep. 107:4–108:11; Deposition of Gregory Edwards [Doc. 754] (“Edwards”) 50:4–50:8.

RESPONSE: Citation does not support movant’s fact. Movant has not identified any support for their allegation that individuals were sent to hand things of value to voters, nor have they explained what “of value” was being distributed. Additionally, the cited testimony does not refer to any specific complaints.

244. For instance, poll workers were “inundated with questions” about whether this activity was acceptable. Mashburn Dep. 3/14/22 93:17–94:25.

RESPONSE: Objection as to the admissibility of the movant’s fact as hearsay. Fed. R. Evid. 801. These are unsubstantiated statements of unnamed voters that rely on multiple layers of hearsay. Movant’s fact is also **not material**. Inaccurate perceptions of partisanship or legality do not align with the interests that support modified strict scrutiny under *Burson v. Freeman*, 504 U.S. 191, 199-206 (1992).

245. Officials often had difficulty determining what activities qualified as “campaign activities.” Deposition of Janine Eveler [Doc. 700] (“Eveler”) 143:6–16.

RESPONSE: Disputed. Ms. Eveler stated it was difficult “to know what needed to be enforced as far as campaign material,” but that Cobb County election officials did not change their approach. Ex. 15 (Cobb Cnty Dep. 143:10-12). “We monitor lines in the same way.” Ex. 15 (Cobb Cnty. Dep. 143:17-19). She also testified that she understood the basic parameters of the Cobb County Attorney Office's pre-SB 202 guidance about line relief, including how Cobb County made decisions regarding line relief prior to SB 202. Ex. 15 (Cobb Cnty Dep. 140:23-141:17). She did not describe any illegal activities, but instead shared that individuals were delivering pizzas, setting up bands to entertain voters. *Id.* at 144:3-7. Other County election officials appreciated the efforts to encourage voters and provide comfort items. Ex. 63 (Kidd. Dep. 136:21-10).

246. Voters repeatedly complained that these activities seemed unlawful and intimidating. Declaration of Ryan Germany (6/24/22) [Doc. 197-2], attached as Ex. F (“Germany Decl. 197-2”) ¶¶ 29–30.

RESPONSE: Disputed; Objection as to the admissibility of the movant’s fact as hearsay. Fed. R. Evid. 801. Voting officials never saw or heard any evidence that volunteers who were providing water or food at a polling

location attempted to influence individual's votes. None of the examples described by Germany, even if not hearsay, show that people providing food and water tried to intimidate voters. To the contrary, voters testified no one pressured or tried to influence their decisions to vote. Ex. 267 (Clarke Decl. ¶ 9); Ex. 312 (T. Scott Decl. ¶ 8); Ex. 314 (Sutton Decl. ¶ 10).

247. Given the subjective nature of the law, county officials often struggled to determine whether certain activities were lawful. Deposition of Gabriel Sterling [Doc. 721] ("Sterling") 204:10–205:13; Mashburn 3/14 126:12–127:3; Deposition of Lynn Bailey (October 6, 2022) [Doc. 715] ("Bailey 10/6") 147:6–18; Eveler 138:15–24.

RESPONSE: Disputed. The previous law was not subjective; it clearly prohibited campaigning at polling locations or attempting to buy a person's vote. O.C.G.A. §§ 21-2-414 (2017), 21-2-570. Even though individual officials described the restrictions after SB 202 as simpler, they were still able to identify examples and explain how their monitoring practices remain the same. "We monitor lines in the same way." Ex. 15 (Cobb Cnty. Dep. 143:17-19). While Sterling avers that one of the main reasons to prohibit passing out food and water was because of the impact on the voters—the testimony from actual voters demonstrates how passing out food and water had an encouraging effect. *See e.g.,*

Ex. 312 (T. Scott Decl. ¶¶ 6-11); Ex. 314 (Sutton Decl. ¶¶ 5-9); Ex. 265 (Calhoun Decl. ¶ 18); Ex. 269 (Cotton Decl. ¶ 10).

248. Confusion often led to delays while officials corresponded with supervisors about whether the activity around lines was permissible. Mashburn 3/14 152:20–153:14.

RESPONSE: Movant’s citation does not support the movant’s fact. No where in this cited testimony is there any discussion of officials and supervisors discussing the line activity or any mention of a delay. *See* Ex. 65 (Mashburn 3/14/23 Dep. 152:20-153:14). Mr. Mashburn further testified he could not recall an instance where he discussed a specific incident at the polls. Ex. 65 (Mashburn 3/14/23 Dep. 152:20-25). He provides a hypothetical where law enforcement “would” need to be involved, but he does not discuss anything more than a hypothetical. Ex. 65 (Mashburn 3/14/23 Dep. 153:1-14).

249. As Ryan Germany, General Counsel for the Georgia Secretary of State, explains, polling locations operate under a complicated set of rules that ensure the voting process is free of outside influence, confusion, or harassment. Germany Decl. 197-2 ¶¶ 17–27.

RESPONSE: Movant’s fact is not material. The electioneering or security rules described in Mr. Germany’s declaration 197-2 ¶¶ 17-27 were all instituted before SB 202, as Mr. Germany’s declaration acknowledges. *See id.* This fact does

not show that the procedures previously in place were inadequate, that organizations involved in line relief did not respect the rules, or that officials had difficulty enforcing the rules. *See, e.g.*, Ex. 63 (Kidd Dep. 137:5-10 (“It was very useful for Douglas County to be able to have external organizations take these features and not have to worry about that...”).

250. This complex system led to confusion and questions from election officials about who may engage in what activity in the areas surrounding the polling place. Germany Decl. 197-2 ¶ 31.

RESPONSE: Disputed; movant’s fact is immaterial. Before SB 202 was passed, campaigning at polling locations or attempting to buy a person’s vote was already prohibited. O.C.G.A. §§ 21-2-414 (2017); 21-2-570. None of the examples of questions related to food trucks from Mr. Germany’s declaration show there were questions related to interactions with voters standing in line, with is the material question.

251. Sometimes disagreements led to police involvement. Mashburn 3/14 152:20–153:14; Mashburn 3/14 138:10–13.

RESPONSE: Objection as to the admissibility of the movant’s fact as hearsay. Fed. R. Evid. 801. Further, movant’s fact is **not material**. None of the cited testimony describes interactions with the police that occurred as a result of line relief activities or that implicate the provisions of SB 202.

252. As time progressed, the third parties increased their line-warming activities by providing voters with more valuable items, like phone chargers, candy, clothing, fans, and homemade knitted items. Mashburn 3/14 143:22–144:6; Eveler 288:5–12; Deposition of Chris Harvey [Doc. 719] (“Harvey”) 149:19–25; Mashburn 3/7 104:12–105:7.

RESPONSE: Disputed; Objection as to the admissibility of the movant’s fact based on lack of personal knowledge. Fed. R. Evid. 602. Mr. Mashburn admitted his testimony about phone chargers and clothing was not based on personal knowledge. Ex. 65 (Mashburn 3/14/23 Dep. 143:17-20). The examples of “valuable items” (candy, food, water, knitted items, phone chargers) are actually perceived by voters themselves as messages of hope (Ex. 267 (Clarke Decl. ¶ 9); Ex. 312 (T. Scott Decl. ¶¶ 8-10); Ex. 314 (Sutton Decl. ¶ 8)), and many are items of only nominal value.

253. Along with the increased value of these items, the third parties also began creating more chaotic atmospheres around polling locations by playing loud music, bringing in performers, and otherwise creating a “circus” environment. Bailey 10/6 140:25–141:5; Mashburn 3/7 104:12–105:7, 109:7–13; Deposition of Lynn Bailey (March 21, 2023) [Doc. 716] (“Bailey 3/21”) 217:3–5; Mashburn 3/14 107:24–108:2, 128:1–5, 198:3–11.

RESPONSE: Not material. Nothing in SB 202 prevents music or other interactions that do not include items.

254. In addition to causing confusion and distractions, these activities gave the appearance that political parties were “running the line.” Mashburn 3/14 111:23–113:1; *see also* Mashburn 3/7 101:15–102:16.

RESPONSE: Not material. If the taco bar or individuals providing food identified themselves by their party, this was prohibited activity before SB 202 was enacted. The Plaintiffs did not advocate for any candidates or share or identify their political beliefs when they provided food and water to support and encourage voters. *See* Ex. 278 (Gaymon Decl. ¶ 15); Ex. 281 [ECF 171-27] (Griggs Decl. ¶ 11); Ex. 298 [ECF 171-11] (Khabani Decl. ¶ 12); Ex. 295 [ECF 171-12] (Kilanko Decl. ¶ 7). Voters understood the provision of food and beverages were non-partisan. Ex. 267 (Clarke Decl. ¶ 9); Ex. 268 (Cobham Decl. ¶ 7); Ex. 278 (Gaymon Decl. ¶¶ 14-16); Ex. 297 (Kinard Decl. ¶¶ 13-16); Ex. 309 (Ramirez Decl. ¶ 8); Ex. 310 (Robinson Decl. ¶¶ 6-8); Ex. 312 (T. Scott Decl. ¶ 8); Ex. 314 (Sutton Dec. ¶ 10).

255. State Elections Board (“SEB”) member Matthew Mashburn explained that “the practice of giving out food and drinks ‘got out of hand’ in recent years, with taco bars, buffets and snack stands set up at polling places.” Mark Niese,

Georgia lawmakers under investigation for handing out snacks to voters, ATL. J.-CONST. (May 19, 2021), <https://tinyurl.com/2p92b7se>.

RESPONSE: Objection as to the admissibility of the movant's fact as hearsay. Fed. R. Evid. 801. If the taco bar or individuals providing food identified themselves by their party or advocated for a candidate, this was prohibited activity before SB 202 was enacted. But Plaintiffs did not advocate for any candidates or share or identify their political beliefs when they provided food and water to support and encourage voters. *See* Ex. 278 (Gaymon Decl. ¶ 15); Ex. 281 [ECF 171-27] (Griggs Decl. ¶ 11); Ex. 298 [ECF 171-11] (Khabani Decl. ¶ 12); Ex. 295 [ECF 171-12] (Kilanko Decl. ¶ 7). Voters understood the provision of food and beverages were non-partisan. *See* Ex. 278 (Gaymon Decl. ¶ 15); Ex. 281 [ECF 171-27] (Griggs Decl. ¶ 11); Ex. 298 [ECF 171-11] (Khabani Decl. ¶ 12); Ex. 295 [ECF 171-12] (Kilanko Decl. ¶ 7). Voters understood the provision of food and beverages were non-partisan. Ex. 267 (Clarke Decl. ¶ 9); Ex. 268 (Cobham Decl. ¶ 7); Ex. 278 (Gaymon Decl. ¶¶ 14-16); Ex. 297 (Kinard Decl. ¶¶ 13-16); Ex. 309 (Ramirez Decl. ¶ 8); Ex. 310 (Robinson Decl. ¶¶ 6-8); Ex. 312 (T. Scott Decl. ¶ 8); Ex. 314 (Sutton Dec. ¶ 10).

256. Yet, as retired county elections official Lynn Bailey explained, “there is no practical way for elections officials to ensure that” individuals in this bubble are “not using food or water as a basis to approach a voter and electioneer” or

ensure “that the individual is giving the voter accurate information about voting.”

Expert Report of Lynn Bailey, attached as Ex. AAAA (“Bailey Rep.”) ¶¶ 12.

RESPONSE: Disputed. First, Plaintiffs object that this fact is **not material** because electioneering was already illegal regardless of whether it was accompanied with food or water. Second, line relief volunteers are trained to refrain from wearing partisan material, not to engage or reach to a candidate’s name, or talk to voters about their voting choices or anything partisan while conducting line relief. *See, e.g.*, Ex. 258 (Bray Decl. ¶ 11); Ex. 278 (Gaymon Decl. ¶ 15); Ex. 268 (Cobham Decl. ¶ 7); Ex. 298 [ECF 171-11] (Khabani Decl. ¶ 12); Ex. 295 [ECF 171-12] (Kilanko Decl. ¶ 7); Ex. 297 (Kinard Decl. ¶¶ 11-12); Ex. 307 (Paul Decl. ¶ 8); Ex. 309 (Ramirez Decl. ¶ 8); Ex. 281 [ECF 171-27] (Griggs Decl. ¶ 11).

257. One such organization stated its activities were the “last chance to reach Georgians before they vote” in an election that could “determine control of the U.S. Senate.” Germany 6/24/22 Decl. ¶ 30(c).

RESPONSE: Disputed. The State Elections Board investigated this allegation and determined that the food truck was outside the 150-foot zone and there was no evidence they were trying to influence anyone’s vote. Ex. 148 (CDR 00000367-79).

258. These activities led to complaints, confusion, and concerns about potential confrontations. Germany 3/7 97:10–22, 98:2–10, 107:25–108:11; Deposition of Ryan Germany (April 13, 2023) [Doc. 706] (“Germany 4/13”) 235:25–240:7; Mashburn 3/14 110:12–19, 114:20–25; Deposition of Nadine Williams [Doc. 704] (“N. Williams”) 154:7–155:2; Bailey 10/06 59:25–60:14; Mashburn 3/7 109:7–13.

RESPONSE: Objection as to the admissibility of the movant’s fact as hearsay. Fed. R. Evid. 801. The only cited evidence that supports this statement of fact is Mr. Mashburn’s hearsay testimony discussing a few complaints about the taco truck, which was investigated by the State Elections Board resulting in an unsubstantiated finding. The food truck complied with the requirements of SB 202. *See* Ex. 148 (CDR 00000378).

259. Rather, as the record confirms, this practice was very rare in Georgia before 2018, and even then, it occurred at a much lower level than in 2020. Mashburn 3/7 104:11–105:7; Eveler 287:16–25; Deposition of Shafina Kabani [Doc. 725] (“Kabani”) 111:20–23; Deposition of Keisha Smith [Doc. 702] (“Smith”) 149:16–150:4; Griggs Dep. 48:13–23.

RESPONSE: Disputed. Mr. Mashburn testified that he saw more of line relief “over the past few elections cycles,” not that line relief before 2018 was “rare.” Ex. 34 (SEB Dep. 105:3-5). None of the other cited testimony supports this

fact. *See* Ex. 30 (GMVP Dep. 110:8-23); Ex. 31 (NAACP Dep. 48:18-193); Ex. 15 (Cobb Cnty. Dep. 287:21-25). In fact, witnesses have testified they performed or received line relief before 2018. Ex. 289 [ECF 171-10] (Jackson Decl. ¶ 11); Ex. 297 (Kinard Decl. ¶ 4).

260. In 2020, officials were unclear if handing things of value to voters violated the law against providing items of value for the “purpose of ... voting.” Mashburn 3/14 94:15–25 (“poll managers were getting confused,” and “inundated with questions” about the legality of these activities); Eyleer 138:15–24 (“we didn’t know where the line was, basically”).

RESPONSE: Disputed. The OEB provided guidance to alleviate any confusion that should have reasonably existed. *See* [ECF- 197-2] (Germany Decl. at 24, Ex. B). Also **disputed** as incomplete. There were election officials and administrators that testified that they never experienced confusion or concern regarding line relief and potential violations of handing things of value for the purpose of voting. *See* Ex. 261 [ECF 171-5] (Brower Decl. ¶ 9); Ex. 63 (Kidd Dep. 134:3-135:10). Indeed, some election officials did not oppose line relief activities in their counties. Ex. 49 (Bailey 10/6/2022 Dep. 141:20-142:10). Others encouraged and even coordinated line warming activities themselves. Ex. 63 (Kidd Dep. 131:2-135:10); Ex. 265 (Calhoun Decl. ¶ 18).

261. Indeed, when third-party organizations approach voters in line, there is a “real risk that a voter will feel unwanted pressure and even harassment and not want to vote in future elections.” Declaration of Matthew Mashburn (June 13, 2023) [Doc. 578-4], attached as Ex. M (“Mashburn Decl.”) ¶ 19.

RESPONSE: Objection as to the admissibility of the movant’s fact as speculation and lack of foundation. Disputed. Fed. R. Evid. 602. Voters have stated that line relief was welcome, encouraging, and helpful. *See* Ex. 314 (Sutton Decl. ¶¶ 8 & 9); Ex. 297 (Kinard Decl. ¶ 16); Ex. 310 (Robinson Decl. ¶ 6); Ex. 315 (Tharpe Decl. ¶¶ 8-10); Ex. 312 (T. Scott Decl. ¶ 10); Ex. 267 (Clarke Decl. ¶ 9).

262. These problems could occur anywhere in the voting line as all voters in line are “captive” to someone approaching them and are left with just two options: “forgo his or her place in line and return another time,” or be “subject[ed] ... to the solicitation.” Mashburn Decl. ¶ 21; Bailey 3/21 172:12–173:8.

RESPONSE: Objection as to the admissibility of the movant’s fact as speculation and lack of foundation. Fed. R. Evid. 602. Contrary to movant’s allegation, actual voters did not find the line relief distracting. They found line relief to be encouraging and did not feel pressured to vote for a particular candidate. Ex. 267 (Clarke Decl. ¶¶ 8 & 9); Ex. 312 (T. Scott Decl. ¶ 8); Ex. 314 (Sutton Decl. ¶¶ 7-10).

263. Voters always suspect “always suspect the motives are partisan” when they see organizations approaching voters in line with something of value. Germany 6/24/22 Decl. ¶ 29(d).

RESPONSE: Disputed; Citation does not support movant’s fact; Objection to the admissibility of the movant’s fact as speculative. Fed. R. Evid. 602. Plaintiffs further object to the statements cited in Mr. Germany’s declaration—reciting statements made by Cobb County Board of Elections Director Jamie Eveler about complaints she received from others—as inadmissible hearsay. Fed. R. Evid. 801(c), 802; 805. To the contrary, when groups like NGP engaged in line relief, voters expressed appreciation and gratitude for the support. *See, e.g.*, Ex. 333 [ECF 185-5] (Honor Decl. ¶ 18). Voters also understood the provision of food and beverages were non-partisan. *See* Ex. 267 (Clarke Decl. ¶ 9); Ex. 278 (Gaymon Decl. ¶¶ 14-16); Ex. 297 (Kinard Decl. ¶¶ 13-16); Ex. 309 (Ramirez Decl. ¶ 8); Ex. 310 (Robinson Decl. ¶¶ 6-8); Ex. 312 (T. Scott Decl. ¶ 8); Ex. 314 (Sutton Decl. ¶ 10).

264. Voter concerns are understandable, as third-party groups rarely offer their items of value to non-voters in the area. Mashburn Decl. ¶ 24.

RESPONSE: Disputed; Citation does not support movant’s fact; Objection to the admissibility of movant’s fact based on a lack of personal knowledge. Fed. R. Evid. 602. The citation to Mr. Mashburn’s declaration also

does not support the statement: Mr. Mashburn stated that he could not recall an instance in which an organization passed things out to members of the general public (ECF No. 755-14 (Mashburn Decl. ¶ 24)); he did not offer any observations about how frequently such events occur, nor would he have sufficient personal knowledge to provide such testimony.

265. State election officials also received complaints from counties that these unregulated activities made it “more and more difficult to sort of keep order in the lines.” Harvey 147:11–21; Bailey 3/21 128:7–15.

RESPONSE: Citation does not support movant’s fact; Objection to the admissibility of movant’s fact based on hearsay. Mr. Harvey’s descriptions of complaints communicated from counties are inadmissible hearsay. Fed. R. Evid. 801(c), 802; 805. Citation to Ms. Bailey’s deposition does not support the statement that state officials received complaints about line warming activities because she testified that it was simply her opinion as a county official that activities within the 150-footbuffer zone made the atmosphere disruptive. Ex. 82 (Bailey 3/21/23 Dep. 128:7-15) (Bailey testifying in her personal capacity). Ms. Bailey did not identify complaints she received from voters. Moreover, much of the purportedly disruptive conduct Ms. Bailey mentioned—including bands playing outside the voting site—are not prohibited by the line relief ban.

266. Candidates distributed pizza and other items to voters in line.

Mashburn 3/7 104:13–14.

RESPONSE: Disputed; Objection to admissibility of movant’s fact based on hearsay. Fed. R. Evid. 801(c), 802, 805. Mr. Mashburn’s testimony appears to relate to the 2020 election cycle, and yet the state’s chief investigator for the Secretary of State’s office at that time, Frances Watson, could not recall any electioneering complaints from that election. Ex. 72 [ECF 722] (Watson Dep. 187:3–20). Ms. Watson also could not recall if any electioneering complaints from the 2020 election led to any investigations. *Id.* at 187:21–25.

267. This chaos caused state election officials to worry that voters could “misunderstand interaction with outside individuals that are approaching voters in line, and that it can cause confrontation even amongst the voters themselves standing in line.” Bailey 3/21 128:21–129:2; Germany 3/7 107:25–108:11; Mashburn 3/14 114:20–25.

RESPONSE: Disputed that line warming caused “chaos.” Dwight Brower, a senior election administrator in Fulton County, “neither saw nor heard any evidence that volunteers who were providing water or food at a polling location attempted to influence individuals’ votes.” Ex. 261 [ECF 171-5] (Brower Decl. ¶ 9). He also never received feedback from poll officials or voters that line warming activities were causing chaos, were difficult to control, or were otherwise

disruptive. Ex. 257 (Brower 1/18/24 Decl. ¶ 32); *see also id.* ¶¶ 28-31 (festive atmosphere from line warming made Black voters feel welcome); Ex. 345 (Woodall 1/18/24 Decl. ¶¶ 8-10 (line warming engaged Black voters and help made them feel “safe and comfortable” at the polling place). Another election official testified that his office did not receive any complaints about third parties who engaged in line warming activities. Ex. 63 (Kidd Dep. 134:9-13). **Citation does not support movant’s fact.** Most of the citations do not support the quoted statement in Paragraph 267. The quoted statement from Ms. Bailey—a former county election official—reflects her personal opinion, not the concern of “state election officials.” *See* Ex. 82 (Bailey 3/21/23 Dep. 128:9-15). Citation to Mr. Mashburn’s deposition does not support the statement in Paragraph 267 because the cited testimony reflects Mr. Mashburn’s opinion about what would occur if both political parties tried to take on the role of the government in running a precinct. Ex. 65 (Mashburn 3/14/23 Dep. 114:20-25). **Not Material.** The statement in Paragraph 267 is also immaterial because they reflect concerns about approaching voters in line generally, which is still allowed under Georgia law.

268. Valid concerns of intimidation and the appearance of partisanship persist regardless of the line’s length. Germany 6/24/22 Decl. ¶¶ 30–31; Declaration of Ryan Germany (June 15, 2023) [Doc. 578-3], attached as Ex. E (“Germany 6/15/23 Decl.”) ¶¶ 22, 29

RESPONSE: Disputed. Groups engaged in line relief have trained their volunteers to never discuss particular political topics or issues related to electioneering while engaging in line relief. *See, e.g.*, Ex. 333 (Honor Decl. ¶ 11 & 14); Ex. 276 (Galbreath Decl. ¶ 6). Groups like NGP and BVMF have also never heard of their volunteers violating the rule of providing nonpartisan, nonpolitical support, and sought to provide support to any voter in line who needed it. *See, e.g.*, Ex. 333 (Honor Decl. ¶ 15); Ex. 276 (Galbreath Decl. ¶ 6); Ex. 291 (C. Johnson Decl. ¶ 5). **Citations do not support movant's fact.** No evidence cited demonstrates or proves the “validity” of any intimidation or appearance of partisanship concerns but rather only Mr. Germany's speculation. **Objection to the admissibility of movant's fact based on hearsay.** Mr. Germany's 6/24/22 declaration, which consists of Mr. Germany's descriptions of complaints communicated from other voters and election officials, are inadmissible hearsay and in some cases, hearsay within hearsay. Fed. R. Evid. 801(c), 802; 805.

269. Voters apparently interpreted the conduct in a muddle of ways, including partisanship, electioneering, and bribing voters. Germany 6/24/22 Decl. ¶¶ 29–30.

RESPONSE: Objection to the admissibility of movant's fact because it is based on hearsay, it lacks personal knowledge, and is an improper opinion. Fed. R. Evid. 701, 801(c), 802, 805. The statements referenced in Mr. Germany's

declaration are inadmissible because Mr. Germany lacks personal knowledge of voters' mental impressions and interpretations of line relief, and he is not qualified to offer opinion testimony on such topics.

270. Even those voters who enjoyed the provided items differentiated the "encouragement and support" from the items provided. Declaration of Jauan Durbin [Doc. 547-9], attached as Ex. K ("Durbin Decl.") ¶ 6.

RESPONSE: Citation does not support the statement that voters differentiated between encouragement and support and the material items provided as line relief. Cited passage indicated that Mr. Durbin perceived the food and water he received while waiting in line as encouragement and support. Ex. 53 (Durbin Decl. ¶ 6).

271. The 150-foot bubble had lost its "original purpose of keeping [voters] safe and limiting the opportunities for harassment and intimidation." Mashburn 3/7 117:20-23.

RESPONSE: Citation does not support the statement that the 150-foot bubble had in fact lost its original purpose. Mr. Mashburn, as the Georgia State Election Board's 30(b)(6) designee, is testifying as to the Board's opinion and belief that the 150-foot bubble had allegedly lost its original purpose to explain why he emailed Ryan Germany. But this opinion or belief does not support the

statement that voters actually experienced safety concerns or that they were in fact intimidated or harassed.

272. SB 202's line-warming rules sought to prevent intimidation and undue influence on voters. Sterling 204:6–24, 205:17–206:2.

RESPONSE: Objection to the admissibility of movant's fact because the citations reflect the personal views of Mr. Sterling, who is not a Georgia legislator and is not qualified to offer opinion testimony on such topics and lacks personal knowledge to do so. Fed. R. Evid. 602, 701. **Disputed.** SB 202's line relief ban does not seek to prevent intimidation and undue influence on voters because the law does not ban interactions with voters in line. *See also* Ex. 54 (G. Edwards Dep. 59:11-21) (voters may still be approached in line under SB 202); Ex. 58 (Gammage Dep. 65:9-66:9) (same).

273. These measures sought to give voters a “safe spot to be in.” Bailey 3/21 127:15–128:6.

RESPONSE: Citations do not support movant's fact about the legislature's rationale for targeting the distribution of food and drink to voters in line because Ms. Bailey is not a Georgia legislator and cannot speak to the legislature's rationale. Instead, her testimony reflects her personal views.

Objection to the admissibility of movant's fact based on lack of personal knowledge and improper opinion to the extent that Ms. Bailey is offering her

personal opinion on the legislature's rationale. Ms. Bailey, who is not a Georgia legislator, is not qualified to offer opinion testimony on such topics and lacks personal knowledge to do so. Fed. R. Evid. 602, 701. **Disputed** as to the purpose of the line-warming ban because the law itself does not ban communications with voters in line and there is no evidence that voters needed a "safe spot." *See* Ex. 54 (G. Edwards Dep. 59:11–21) (voters may still be approached in line under SB 202); Ex. 58 (Gammage Dep. 65:9–66:9) (same); Ex. 345 (Woodall 1/18/24 Decl. ¶¶ 8-10) (line warming was used to help Black voters "feel protected at polling places.").

274. And it responded to poll worker confusion by creating a bright-line, easily administrable rule. Mashburn 3/14 93:17–22, 181:17–182:2; Sterling 204:25–205:13; Harvey 148:16–149:18.

RESPONSE: Undisputed that Mr. Mashburn and Mr. Sterling characterize the line warming ban as a bright-line rule. **Objection to the admissibility of movant's fact** based on hearsay, lack of personal knowledge, and improper opinion. Mr. Harvey's description of calls made to him about what voters may be given in line because all such statements are inadmissible hearsay. Fed. R. Evid. 801(c), 802; 805. Because Mr. Sterling, Mr. Harvey, and Mr. Mashburn are not Georgia legislators, they are not qualified to offer opinion testimony on the legislature's intent and they lack personal knowledge to do so. Fed. R. Evid. 602,

701. **Citations do not support movant’s fact** about the legislature’s rationale for targeting certain behavior with the Food, Drink, and Gift ban because Mr. Sterling, Mr. Harvey, and Mr. Mashburn are not Georgia legislators and cannot speak to the legislature’s rationale. Instead, their testimonies reflect their personal views.

275. Additionally, this provision sought to preserve order around the polls and end the “chaotic atmosphere” caused by disruptive activities. Bailey 3/21 128:7–129:4; Mashburn 3/14 198:8–11.

RESPONSE: Disputed that there was a “chaotic atmosphere” that needed to be ended. Dwight Brower, a senior election official in Fulton County, never received feedback from poll officials or voters that line warming activities were causing chaos, were difficult to control or were otherwise disruptive. Ex. 257 (Brower 1/18/24 Decl. ¶ 32); *see also id.* ¶¶ 28-31 (festive atmosphere from line warming made Black voters feel welcome); Ex. 345 (Woodall 1/18/24 Decl. ¶¶ 8-10 (line warming engaged Black voters and help made them feel “safe and comfortable” at the polling place). Another election official testified that his office did not receive any complaints about third parties who engaged in line warming activities. Ex. 63 (Kidd Dep. 134:9-13).

Citations do not support movant’s fact about the legislature’s rationale for targeting the distribution of food and drink to voters in line because Ms. Bailey and Mr. Mashburn are not Georgia legislators. They cannot speak to the legislature’s

rationale. Further, Mr. Mashburn’s deposition testimony does not support movant’s fact because he does not describe preserving order around the polls, a chaotic atmosphere, or disruption of other activities, but instead simply comments that “taco bars” and other “elaborate setups” have “just gotten out of hand.” Ex. 65 (Mashburn 3/14/23 Dep. 198:8-11). Additionally, nothing in the SB 202’s text or in Defendants’ discovery responses refers to preservation of order or prevention of chaos as a motivation for the ban. *See* Sen. B. 202 § 2(13), 2021-2022 Reg. Sess. (Ga. 2022); State Resp. to CBC’s 1st Rogs 4/29/22 at 11-12).

Objection to the admissibility of movant’s fact based on improper opinion and lack of personal knowledge. Because Ms. Bailey and Mr. Mashburn are Georgia legislators, they lack personal knowledge as to the legislature’s rationale and are unqualified to offer opinion testimony on such topics. Fed. R. Evid. 602, 701. Additionally, Ms. Bailey’s statements are speculative and unsupported by admissible evidence, as her testimony about activities around the precinct are “all things that [she] imagine[d] could quite easily happen.” Ex. 82 (Bailey 3/21/23 Dep. 129:3-4). Fed. R. 602.

276. Moreover, this provision sought to increase voter confidence by making it easier to prevent electioneering by decreasing voter interactions with outside groups. Mashburn 3/14 112:1–2, 112:16–18; Mashburn 3/7 101:15–

102:16; Germany 3/7 107:25–108:11; Germany 6/24/22 Decl. ¶¶ 32–33, 35–36; Eveler 288:13–289:14.

RESPONSE: Citations do not support movant’s fact about the legislature’s rationale for targeting certain behavior with the Food, Drink, and Gift ban because Mr. Mashburn, Mr. Germany, and Ms. Eveler are not Georgia legislators. They cannot speak to the legislature’s rationale. Additionally, nothing in the SB 202’s text or in Defendants’ discovery responses refers to voter confidence as a motivation for the criminal relief ban in particular. *See* Sen. B. 202 § 2(13), 2021-2022 Reg. Sess. (Ga. 2022); Ex. 255 (State Resp. to CBC’s 1st Rogs 4/29/22 at 11-12). **Objection to the admissibility of movant’s fact** based on improper opinion and lack of personal knowledge. Because Mr. Mashburn, Mr. Germany, and Ms. Eveler are not Georgia legislators, they lack personal knowledge as to the legislature’s rationale and are unqualified to offer opinion testimony on such topics. Fed. R. Evid. Evid. 602, 701.

277. SB 202 identified the following interests in enacting the Food, Drink, and Gift Ban: increasing voter confidence after accusations of fraud, reducing the burden on election officials, streamlining the elections process, and promoting uniformity in voting. Georgia Senate Bill 202 (2021), attached as Ex. A (“SB 202”) at 4:70–82, 6:126–29.

RESPONSE: Citation does not support movant's fact that the enumerated interests relate specifically to the Food, Drink, and Gift Ban. Additionally, nothing in Defendants' discovery responses refers to these interests as motivations for the criminal relief ban in particular. *See* Ex. 255 (State Resp. to CBC's 1st Rogs 4/29/22 at 11-12).

278. SB 202 responded by creating a clear rule that completely prohibited approaching voters anywhere in line to give them anything of value. Germany 6/15/23 Decl. ¶ 25.

RESPONSE: Citations do not support movant's fact about the legislature's rationale for targeting the distribution of food and drink to voters in line because Mr. Germany is not a Georgia legislator and cannot speak to the legislature's rationale. **Objection to the admissibility of movant's fact** based on lack of personal knowledge and improper opinion. Because Mr. Germany is not a Georgia legislator, he lacks personal knowledge as to the legislature's rationale and is unqualified to offer opinion testimony on the topic. Fed. R. Evid. 602, 701.

279. Clarity is "important when conducting elections," as county officials undertake "hundreds of tasks" each day during an election. Germany 6/15/23 Decl. ¶ 26.

RESPONSE: Undisputed.

280. This clear rule thus ensures that a county official or poll worker is not required to “stop[] what he or she is doing to contact the Secretary of State’s office with a question,” a process that can create the very lines Plaintiffs claim are present in Georgia. Germany 6/15/23 Decl. ¶ 26.

RESPONSE: Citation does not support movant’s fact that the Food, Drink, and Gift ban will ensure that county officials or poll workers will not be required to stop what they’re doing to ask the SOS a question. Mr. Germany’s declaration merely states that clear rules can ensure officials can apply rules easily, not that the Food, Drink, and Gift ban itself is a clear rule that would ensure any particular result on the behavior of election officials. **Disputed.** Elections officials testified that line monitoring was still required post-SB 202. *See, e.g.*, Ex. 15 (Cobb Cnty. Dep. at 143:17-19) (“We monitor lines in the same way.”); Ex. 13 (Athens-Clarke Dep. 149:5-150:10).

281. This provision allows every polling location to provide a self-serve water container. Mashburn 3/14 95:7–25.

RESPONSE: Undisputed.

282. And it allows third parties to provide food and drinks just a few feet from the line. Mashburn 3/14 128:6–10.

RESPONSE: Disputed. Third parties cannot provide food and drinks “just a few feet” from the line; the Food, Drink, and Gift Ban prohibits food and drink

from being distributed within 25 feet of any voter in line. *See* O.C.G.A. § 21-2-414(a)(3).

283. And voters may bring their own food and drinks. Deposition of Lori Wurtz [Doc. 713] (“Wurtz”) 133:15–23.

RESPONSE: Undisputed.

284. The law targets voter intimidation and the appearance of corruption, that result from anyone handing out items of value to voters in line for any reason. Germany 6/15/23 Decl. ¶¶ 21–22, 28.

RESPONSE: Citations do not support the statement; Objection to the admissibility of movant’s fact. The declaration reflects the personal views of Mr. Germany, who is not a Georgia legislator and is not qualified to offer opinion testimony on such topics. His improper lay opinion would be speculation. Fed. R. Evid. 602, 701.

285. The law allows multiple avenues to reach voters with any message—including speaking without giving out items, or giving out items a few feet away from the protective zones. *See* Mashburn Decl. ¶ 24; Germany 6/15/23 Decl. ¶ 28.

RESPONSE: Disputed that the law allows for multiple avenues to reach voters with any message. The Food, Drink, and Gift ban specifically prohibits Plaintiffs from conveying messages of solidarity and support by distributing food, drink, and other support items to individuals waiting in line. *See* Ex. 333 (Honor

Decl. ¶¶ 18, 21-22); Ex. 258 (Bray Decl. ¶¶ 8-9); Ex. 260 [ECF No. 535-10] (Briggins Decl. ¶ 7); Ex. 268 (Cobham Decl. ¶ 4); Ex. 290 [ECF No. 535-11] (Jackson Decl. ¶ 10); Ex. 298 [ECF No. 535-12] (Khabani Decl. ¶ 8); Ex. 304 (Mayes Decl. ¶¶ 7-8); Ex. 295 [ECF No. 535-14] (Kilanko Decl. ¶ 7). And Plaintiffs who provided line relief as well as some volunteers who had previously partnered with BVMF to engage in line relief activity, have completely ceased line relief support to avoid criminal penalties. *See* Ex. 260 [ECF No. 535-10] (Briggins Decl. ¶ 8); Ex. 290 [ECF No. 535-11] (Jackson Decl. ¶ 12); Ex. 298 [ECF No. 535-12] (Khabani Decl. ¶ 14); Ex. 302 [ECF No. 535-13] (Mattox April 13, 2022 Decl. ¶¶ 7-8); Ex. 291 (C. Johnson Decl. ¶ 11).

286. SB 202 also addressed the length of lines in tandem with the Food, Drink, and Gift ban, by ensuring that there were provisions in place for tracking line length and, where necessary, reducing precinct sizes to reduce lines. Germany 6/24/22 Decl. ¶¶ 10–12.

RESPONSE: Undisputed that SB 202 contains provisions that track line length and allow precinct sizes to be reduced. **Disputed** as to whether these provisions will in fact reduce lines because evidence shows that voters still experienced very long lines after SB 202 was passed in the 2022 general and runoff elections. *See* Ex. 107 (Pettigrew Rep. 40-41); Ex. 50 (Brumley Dep. 40:6-18 (voter Ms. Brumley reporting lines up to three hours in the precinct near her

home); Ex. 60 (Giardino Dep. 19:15-20:11) (voter and election observer Ms.

Giardino testifying that weekend voting lines during the 2022 runoff election were longer than she had ever seen, with lines lasting two hours and circling the precinct twice); *id.* 22:13-20 (Ms. Giardino observing very long lines during early voting for the 2022 general election too). **Objection to the admissibility of movant’s fact** to the extent Defendants seek to use Mr. Germany’s declaration—rather than the bill itself—to prove the contents of SB 202. Fed. R. Evid. 1002.

287. Indeed, contrary to Plaintiffs’ claims, turnout in 2022 was near record highs for a midterm election. Supplemental Report of Daron Shaw, attached as Ex. KKKK (“Shaw Suppl. Rep.”) ¶¶ 10, 12, 17, 23.

RESPONSE: Not material. Total turnout reveals nothing about the relative burdens that Black voters and white voters must overcome in order to cast a ballot under SB 202. These burdens, rather than raw turnout, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would

have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”) Further, it is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86 (Burden Sur-Rebuttal at 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202. Ex. 83 (Grimmer Dep. 47:17-49:11); *see also* Ex. 84 (Shaw Dep. 86:24-87:25). Defendants’ experts also do not purport to demonstrate the effect of SB 202 on turnout or burden on Black voters versus white voters, as would be relevant in an analysis under Section 2. Ex. 86 (Burden Sur-Rebuttal at 11-12).

Disputed. Defendants’ expert found that overall voter turnout declined from the midterm election in 2018 to the midterm election in 2022 by 2.8 percentage points. Ex. 113 (Grimmer ¶¶ 8, 27, & Tbl. 1 (CVAP Trend)). Black turnout dropped more sharply than overall turnout, from 49.5% in 2018 to 41.7% in 2022, a drop of 7.8 percentage points. Ex. 113 (Grimmer ¶¶ 32-34, Tbl. 2 (CVAP Trend)). The gap between Black voter turnout and white voter turnout increased from the 2018 midterm election to the 2022 midterm election. In 2018, the gap between Black and white voter turnout was 4.4 percentage points (CVAP Trend). Ex. 113 (Grimmer Tbl. 2). In 2022, the gap between Black and white voter turnout

was 10.9 percentage points (CVAP) and 12 percentage points CVAP Trend. Ex. 113 (Grimmer Tbl. 2). Overall turnout also decreased from the 2021 runoff election to the 2022 runoff election. Ex. 113 (Grimmer Tbl. 1).

288. Recent data also show that only about 4.7% of black or white voters waited more than 30 minutes. Grimmer Report ¶ 218.

RESPONSE: The statement is vague as to time. Insofar as it is intended to refer to the 2022 election, the statement is **disputed**. Dr. Grimmer compares data from a 2022 survey with data from a different survey conducted from 2014 to 2020. Ex. 86 (Burden Sur-Rebuttal 9). The 2022 survey was conducted by a different survey organization and used a “substantially different methodology,” rendering the comparison “unreliable.” Ex. 86 (Burden Sur-Rebuttal 9). For example, the surveys from 2014 to 2020 were “conducted by YouGov via the Internet by drawing on a subset of panelists match to state demographic characteristics.” *Id.* The 2022 survey, by contrast, “was conducted by the University of Georgia via cell phone and land line phone calls using phone numbers where they could be obtained from commercial sources for individuals listed as registered to vote.” Ex. 86 (Burden Sur-Rebuttal 9). The UGA survey also only included “self-reported voters” so it would not include anyone who decided not to vote including because of a lengthy wait. *See* Ex. 84 (Shaw Dep. 102:20-103:5).

Further, the UGA survey does not meet the standard of academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022 to December 6, 2022 so it captures people surveyed the same day or the day after they voted in the runoff election. Ex. 81 (Pettigrew Dep. 143:1-144:11). People therefore could have been reporting on their experiences in the November general election or the December runoff election or both. Ex. 81 (Pettigrew Dep. 143:1-144:11). The inconsistency weakens the quality of the data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:1-144:11

289. In the 2022 elections, the State did not receive the complaints about this provision they had received following the 2020 election cycle. Deposition of Marie Watson [Doc. 722] (“Watson”) 185:13–19.

RESPONSE: Citation does not support movant’s fact. In this excerpt of Ms. Watson’s deposition, Ms. Watson testifies that she does not specifically recall whether the State received complaints about line relief activities following the passage of SB 202, not that State did not in fact receive any complaints about line relief activities. Ex. 72 (Watson Dep. 185:13-19). Also **disputed** as incomplete. In the same deposition, Ms. Watson testified that she was unable to compare the

complaints related to providing food and drink before the passage of SB 202 to after the passage of SB 202 because she had not worked on the same size elections prior to SB 202 and after the passage of SB 202 to make a proper comparison between complaints received in those time periods. Ex. 72 (Watson Dep. 186:22-187:2).

290. Georgia voters of all races reported “high levels of satisfaction” with the electoral process. Survey Rsch. Ctr., Sch. of Pub. & Int’l Affs. Univ. of Ga., 2022 Georgia Post-Election Survey 252 (2023), attached as Ex. YYYY (“SPIA Survey”).

RESPONSE: Undisputed that the quoted language says what it says.

Disputed that the survey methods properly captured everyone. Changes in voter turnout are an incomplete metric for gauging the impact of election law policies or changes in policies on the burdens citizens face when exercising the franchise. Ex. 97 (Fraga Sur-Rebuttal ¶ 12). The fact that voters take steps to counter a “higher barrier” to voting, and subsequently vote, is not evidence that the barrier does not exist. Ex. 97 (Fraga Sur-Rebuttal ¶ 13).

291. All precincts are now required to measure line wait times at least three times. Germany 6/24/22 Decl. ¶¶ 10–11.

RESPONSE: Not material. Defendant’s own expert, Dr. Shaw, admits that precinct-level data masks the “variance[s] in individual level experiences.” Ex. 84

(Shaw Dep. 55:6-10). Evaluating the impact on voters using precinct-level data collected a certain number of times during the day only shows that one precinct had a zero minute wait time and another had a sixty minute wait time. It does not show that a few dozen voters experienced no wait time, but hundreds or thousands of voters had to wait sixty minutes. Ex. 109 (Pettigrew Resp. to Decls. at 3).

292. All precincts with any reported wait time greater than one hour and more than 2,000 electors in the last general election must now take corrective action, such as providing more voting equipment or more poll workers, or reducing precinct size. Germany 6/24/22 Decl. ¶ 12.

RESPONSE: Not material; disputed. The ameliorating effect of these “corrective action” is disputed. Splitting the precinct or just reducing the size of the polling place would likely exacerbate the problem of long wait times. Ex. 81 (Pettigrew Dep. 232:7-21). Splitting the precinct would also likely split the equipment and, at best, maintain the ratio of voting equipment, poll workers, and voting check-in machines. **Citation does not support movant’s fact.** Mr. Germany does not, and cannot, claim that SB 202 requires counties to provide additional voting equipment. ECF197-2 (Germany Decl. ¶ 12). In fact, the efforts that were implemented by counties, such as the use of electronic poll pads, were not required by SB 202, could have been implemented without SB 2020, and cannot be attributed to SB 202. Ex. 108 (Pettigrew Sur-Rebuttal 4). Without a

requirement, rather than an option, to provide additional voting equipment, the corrective action required by SB 202 is unlikely to bring any improvement to wait times. Ex. 107 (Pettigrew Rep. 41).

293. Considering other provisions of SB 202, lines have been substantially reduced in Georgia. Grimmer Report ¶ 218.

RESPONSE: Disputed; movant's fact is not material. It is possible for a law to impose higher barriers or increase the cost of voting overall, while turnout to vote remains the same or even increases, as Defendants' expert, Dr. Grimmer, acknowledged. *See* Ex. 83 (Grimmer Dep. 50:8-51:5). It is exceedingly difficult for social scientists to determine whether changes in voter turnout can be causally attributed to voting laws like SB 202. Ex. 97 (Fraga Sur-Rebuttal ¶¶ 15-18). Dr. Grimmer admitted that he did not purport to claim that SB 202 caused substantial reduction in voter lines. Ex. 83 (Grimmer Dep. 48:2-5).

294. Voters returning absentee ballots to drop boxes do not have to wait in line with those seeking to vote in person. ADAPT Dep. Vol. I 31:8-17; 108:21-109:2.

RESPONSE: This is the same fact as #329. Disputed. Not material. Plaintiffs challenge the policy of forcing counties to place drop boxes inside. Regardless, the citation Defendants provide actually shows that voters "couldn't reach the boxes" because "they didn't know they didn't have to wait in line." Ex.

22 (ADAPT Dep. 2/20/23 108:23-109:2); see also *id.* (31:8-17 (“the line went out the door, and so people that wanted to drop off their absentee ballot waited in line and didn’t know to go inside and drop it off”)). Moreover, the record shows that people with disabilities in 2022 were forced to wait in line to access indoor drop boxes, along with those waiting to vote in person, because it was not clear to voters that the drop box was located inside. Ex. 317 (Thornton Decl. ¶ 21 [Doc. 546-13]); see also Ex. 112 (Schur Rebuttal ¶ 11).

295. Disabled voters, like all voters, may obtain water from a self-serve receptacle at the polling location, or from third-party organizations standing just feet from the voting line. Mashburn 3/14 95:7–25, 128:6–10.

RESPONSE: Disputed. The text of SB 202 does not require, just allows, county officials to provide self-serve water receptacles, and many counties have not done so. E.g., Ex. 15 (Cobb Cnty. Dep. 142:23-25); Ex. 18 (DeKalb Cnty. Dep. 184:18-22). And individuals leaving the line may lose their spot in line, and if waiting past 7 pm, would lose their chance to vote. Ex. 107 (Pettigrew Rep. 28).

296. Before 2020, no statute or regulation authorized the use of drop boxes in Georgia elections. Mashburn 3/7 73:18–75:5.

RESPONSE: Disputed. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

(a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building."

O.C.G.A. § 21-2-382(a) (2020) (emphasis added). This section does not state that the alternative site must be inside of a building. When SB202's provisions regarding drop boxes were enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate "additional site" for "voting absentee ballots" and changed "locations" to "buildings." *Compare* O.C.G.A. § 21-2-382(a) (2020) *with* O.C.G.A. § 21-2-382(a) (2022).

The longtime General Counsel for the Secretary of State's office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. In an email dated January 3, 2022, Ryan Germany wrote, "What most people don't realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing

pressure from liberal groups.” Ex. 198 (CDR00056863-64). Mashburn also noted that prior to SB 202 there were “neither restrictions nor permissions” in the statute related to drop boxes. *See* Ex. 65 (Mashburn 3/14/23 Dep. 73:16-24).

297. There was no evidence that ballot drop boxes had been used in the State before 2020. Mashburn 3/7 73:18–75:5.

RESPONSE: Undisputed.

298. Only 8 states had explicit statutory authorization for drop boxes before 2020. Nat’l Conf. of State Legislatures, *The Evolution of Absentee/Mail Voting Laws, 2020 through 2022*, tbl. 8 (updated Oct. 3, 2023), <https://tinyurl.com/emwd67uy>, attached as Ex. EEEEE.

RESPONSE: Not material.

299. In 2020 the SEB, acting under emergency authorization, issued an emergency rule authorizing the use of absentee ballot drop boxes. Ga. Comp. R. & Regs. 183-1-14-0.8 to .14 (Ex. VVVV).

RESPONSE: Disputed to the extent that this paragraph implies that drop boxes were not permitted under State law prior to the SEB’s rule in 2020. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

(a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar’s offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381

and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.”

O.C.G.A. § 21-2-382(a) (2020) (emphasis added). This section does not state that the alternative site must be inside of a building. When SB202’s provisions regarding drop boxes were enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate “additional site” for “voting absentee ballots” and changed “locations” to “buildings.” *Compare* O.C.G.A. § 21-2-382(a) (2020) *with* O.C.G.A. § 21-2-382(a) (2022).

The longtime General Counsel for the Secretary of State’s office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. In an email dated January 3, 2022, Ryan Germany wrote, “What most people don’t realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups.” Ex. 198 (CDR00056863-64).

300. The 2020 elections took place under COVID-19's temporary emergency rules. SB 202 at 5:113–118 (Ex. A); Ga. Comp. R. & Regs. 183-1-14-0.8 to .14 (Ex. VVVV).

RESPONSE: Undisputed.

301. There is no evidence that any voter was deterred from voting because drop boxes were not available in the last four days of the 2022 elections. Deposition of Barry Burden [Doc. 743] (“Burden”) 161:22–162:2.

RESPONSE: Disputed and citation does not support movant's fact. Dr. Burden's testimony that he did not look for evidence of “any analysis of those who received an absentee ballot, intent on returning it but because they got to the last four days before the election and without a drop box, chose not to return the ballot at all,” does not support the statement that there is no evidence that any voter was deterred from voting because drop boxes were not available in the last four days of the election cycle. Ex. 78 [ECF 743] (Burden Dep. 161:22-162:2). Rather, there is a wealth of evidence in the record that “The elimination of drop boxes on the final four days of the election cycle, coupled with sharp reductions in the availability and usefulness of drop boxes on other days, will disproportionately burden Black voters compared to white voters.” Ex. 85 (Burden 20); *see also* Ex. 85 (Burden 12-19) (Black voters more likely than white voters to return absentee ballots in the last four days of the election cycle).

302. Collecting ballots daily from numerous drop boxes in 2020 imposed burdens on local election officials. Germany 7/27/2023 Decl. ¶ 76; Eveler 156:25–157:13; Declaration of Ryan Germany [Doc. 592-2], attached as Ex. D (“Germany 6/29/23 Decl.”) ¶ 18; Harvey 123:23–124:7.

RESPONSE: Disputed. In 2020, counties were permitted to choose the number of drop boxes they used (*see* Ex. 142 (USA-04333-34) (SEB Emergency Rule 183-1-14-0.6-.14 providing no limitation on the number of drop boxes)), so collecting from those drop boxes was not an “imposed burden,” but rather, a choice by the county as to how best serve the needs of its voters. Indeed, county election officials found the drop boxes to be a great benefit and advocated that they be allowed to remain outside and available 24 hours a day. For example, Richmond County Director of Elections Lynn Bailey testified before the House Special Committee on Election Integrity that “our jurisdictions used drop boxes in November with great success. Our voters loved it. We didn’t have any issues with it.” Ex. 128 (AME_000207, Tr. 2/19/21 House EIC Hearing, lines 12-25). Douglas County Elections Director Milton Kidd also testified that “drop boxes were a great tool that served us very well in our community.” Ex. 129 (AME_000361, Tr. 2/22/21 House EIC Hearing, lines 1-2).

303. There also reports of vigilantes stationed at drop boxes and following election workers who were transporting ballots. Germany 6/29/23 Decl. ¶ 18.

RESPONSE: Objection to the admissibility of the movant's fact based on hearsay, lack of personal knowledge, and improper opinion. Fed. R. Evid. 801, 602, 701. The cited paragraph in Mr. Germany's 6/29/23 Declaration offers an opinion as to the intent of the legislature and the basis of that rationale that workers were being followed by vigilantes, but the declaration provides no evidence to show that Germany has personal knowledge of these complaints. *See, e.g., Purdee v. Pilot Travel Ctrs., LLC*, No. CV407-028, 2009 WL 423976, at *2 (S.D. Ga. Feb. 19, 2009) (striking a portion of an affidavit where the declarant never stated "the basis for his knowledge"). "For a matter to be considered within a witness's personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation." *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted). To the extent the statement about vigilantes is based on conversations with others, it is hearsay because it is being offered for the truth of the matter asserted and cannot be reduced to an admissible form because Germany has not identified who the complaints are from. *See Saunders v. Emory Healthcare, Inc.*, 360 F. App'x. 110, 112-13 (11th Cir. 2010).

304. The SEB and Georgia Secretary of State (SOS) received numerous complaints of ballot harvesting—the gathering and deposit of multiple ballots by

unauthorized persons—associated with the emergency drop boxes. Mashburn 3/7 73:18–77:25, 81:16–83:9; Germany 3/7 209:15–211:3; Deposition of Milton Kidd [Doc. 703] (“Kidd”) 118:8–21; Germany 6/29/23 Decl. ¶¶ 7, 13.

RESPONSE: Objections to the admissibility of the movant’s fact. The fact relies on hearsay to prove individuals made complaints about ballot harvesting to the SEB and SOS by individuals. Fed. R. Evid. 801. The general rule is that inadmissible hearsay “cannot be considered on a motion for summary judgment.” *See Macuba v. Deboer*, 193 F.3d 1316, 1322 (11th Cir. 1999). In addition, movant’s **citation does not support the movant’s fact.** The State Board of Elections testified that there were “several” allegations of ballot harvesting that could not be substantiated by further investigation. Ex. 34 [ECF 709] (SEB Dep. 82:19-83:1). Further, Mashburn did not consider voters’ concerns about ballot harvesting to be “based in fact.” Ex. 65 (Mashburn 3/14/23 Dep. 81:1-12). Nor did he find any complaints regarding ballot harvesting in the 2020 election to have merit. Ex. 65 (Mashburn 3/14/23 Dep. 75:15-22). The citation to Mr. Kidd’s deposition is simply a definition of ballot harvesting. He in fact notes voters in his county really liked drop boxes. Ex. 63 (Kidd Dep. 118:22-119:8). Mr. Germany’s deposition testimony references claims made only by True the Vote.

305. Because drop box ballots could not be collected and taken to the county election office until after the polls were closed, the perception arose that the

ballots delivered after polls closed were “late ballots.” Germany 4/13 282:1–20; Bailey Rep. 26–28.

RESPONSE: Undisputed that in 2020 drop box ballots could not be collected and taken to the county election office until the drop boxes closed at the same time the polls closed. **Disputed and citation does not support movant’s fact** that the perception arose that the ballots delivered after the polls closed were “late ballots.” Mr. Germany and Ms. Bailey’s claims that there were “confidence issues” or “speculation” about late-ballots are post-hoc justifications, created for purposes of this litigation, that contradict the statements they made just after the 2020 election and during the 2021 legislative session. On February 19, 2021, Richmond County Director of Elections Lynn Bailey testified before the House Special Committee on Election Integrity that “our jurisdictions used drop boxes in November with great success. Our voters loved it. We didn’t have any issues with it.” She did not mention “speculation” about “late ballots.” Ex. 128 (AME_000207, Tr. 2/19/21 House EIC Hearing). On December 3, 2020, Ryan Germany testified before the Senate Government Oversight Committee, explaining the drop box procedures in place in 2020, with no mention of “confidence issues” or “late ballots” and concluding, “[W]e think the drop boxes worked well.” Ex. 121 (AME_001934-1936 Tr. 12/3/2020 Sen. Gov. Oversight Hearing).

306. Counties received complaints about drop boxes. Germany 3/7 209:10–211:3; Germany 4/13 283:24–284:7; Deposition of Kelvin Williams [Doc. 711] (“K. Williams”) 69:21–70:2.

RESPONSE: Citation does not support movant’s fact. Although Mr. Germany discusses alleged issues concerning drop boxes, he does not say that counties received complaints about drop boxes—either in his personal capacity or as the designated 30(b)(6) representative for the Secretary of State. *See* Ex. 59 (Germany 3/7/23 Dep. 209:10-211:3); Ex. 33 (SOS Dep. 283:24-284:7). The cited testimony of Mr. Williams’ states only that he heard on the news about “instances of concerns with ballot drop boxes,” but not that he, in his capacity as elections director of Gwinnett County, received complaints about drop boxes. Ex. 36 (Gwinnett Cnty Williams Dep. 69:13-16) (“Pre Senate Bill 202, you know, I did hear, you know, some information through — through news of concerns about the ballot drop boxes . . .”).

307. Counties received public records requests for the surveillance video related to the drop boxes. Germany 3/7 209:10–211:3; Germany 4/13 283:24–284:7; K. Williams 69:21–70:2; Germany 6/29/23 Decl. ¶ 16.

RESPONSE: Citation does not support the statement as to the cite to the Willam’s deposition, which mentions nothing about requests for video surveillance. *See* Ex. 36 (Gwinnett Cnty Williams Dep. 69:21-70:2). **Object to the**

admissibility of movant's statement as it relates to Mr. Germany's depositions and declaration because they are based on hearsay. Fed. R. Evid. 801. *See, e.g.*, Ex. 59 (Germany 3/7/23 Dep. 283:24-284:7) (Mr. Germany relates that True the Vote told him that the organization had requested video surveillance from a county); ECF 592-2 (Germany Decl. ¶ 16).

308. In many cases, drop box surveillance video quality was too poor to be useful in evaluating the complaints. Mashburn 3/7 77:18–25; Germany 7/27/23 Decl. ¶ 66.

RESPONSE: : Citation does not support the movant's fact. The citations do not support that there were “many” instances where the quality was too poor to be used. Mr. Mashburn only said it happened sometimes but offered no quantifiable number. Ex. 34 (SEB Dep. 77:13-25). Mr. Germany only referenced two instances. ECF 601-3 (Germany Decl. ¶ 66).

309. Some voters viewed drop boxes as susceptible to abuse because they could be placed unattended, and not properly monitored, in remote locations. Germany 4/13 55:19–56:2; Mashburn 3/7 76:18–24, 167:2–170:7; Mashburn 3/14 81:2–83:15; Watson 194:14–24.

RESPONSE: Citation does not support the movant's fact. The State provides no evidence that the complaints came from voters. The citation to Germany's deposition makes no mention at all of drop boxes being unattended, not

properly monitored, or placed in remote locations. Ex. 33 (SOS Dep. 55:19-56:2).

In addition, the State Board of Elections testified that it viewed many of these complaints as “just craziness.” Ex. 34 (SEB Dep. 40:5-16). **Objection to the admissibility of the movant’s fact.** The citations are summaries of complaints that are offered at least in part for the truth of those complaints, which makes this hearsay evidence. Fed. R. Evid. 801. *See Macuba v. Deboer*, 193 F.3d 1316, 1322 (11th Cir. 1999).

310. Several counties did not properly secure drop boxes. Mashburn 3/14 75:8–13, 77:17–25; Mashburn 3/7 81:16–83:9, 76:12–18, 82:13–18; Germany 7/27/23 Decl. ¶ 66.

RESPONSE: Citation does not support the movant’s fact. Mashburn gives no indication of how many counties or give any specific county names. Ex. 65 (Mashburn 3/14/23 Dep. 75:8-13, 77:17-25). The SEB only mentions Fulton and Telfair counties. Ex. 34 (SEB Dep. 81:16-83:9, 76:12-18). And Mr. Germany only mentions Fulton and Dekalb counties. ECF 601-3 (Germany Decl. ¶ 66). **Not material**, as there is no evidence that this alleged fact was known to or considered by the General Assembly when it considered and passed SB 202.

311. One county left a key in the drop box. Mashburn 3/14 76:12–18.

RESPONSE: Objection to the admissibility of the movant’s fact based on lack of personal knowledge. Fed. R. Evid. 602. It is unclear what personal

knowledge the SEB had of this incident. The testimony is also vague; there is no mention of which county or when this occurred. **Not material**, as there is no evidence that this alleged fact was known to or considered by the General Assembly when it considered and passed SB 202.

312. One county used an unsecured cardboard box as a drop box.
Mashburn 3/7 82:13–18.

RESPONSE: Objection to the admissibility of the movant’s fact based on lack of personal knowledge. Fed. R. Evid. 602. It is unclear what personal knowledge the SEB had of this incident or if this was even a formal complaint to the SEB. **Not material**, as there is no evidence that this alleged fact was known to or considered by the General Assembly when it considered and passed SB 202.

313. Fulton County placed some drop boxes outside without the required video surveillance. Mashburn 3/7 82:15–18; Germany 7/27/23 Decl. ¶ 66; Mashburn 3/14 77:17–24.

RESPONSE: Objection to the admissibility of the movant’s fact based on lack of personal knowledge. Fed. R. Evid. 602. It is unclear what personal knowledge either of these witnesses has of this incident. **Citation does not support the movant’s fact.** The SEB testified that an issue with the Fulton County drop boxes “comes to mind” but no other information is provided. Ex. 34 (SEB Dep. 82:9–18). Mr. Mashburn’s 3/14 testimony does not mention Fulton or

surveillance, but instead discusses the lack of ballot harvesting. Ex. 65 (Mashburn 3/14/23 Dep. 77:14-24).

314. People put materials other than ballots into drop boxes. Germany 7/27/23 Decl. ¶ 66.

RESPONSE: Citation does not support movant's fact. The paragraph of Mr. Germany's declaration mentions nothing about people putting materials other than ballots into drop boxes. ECF 601-3 (Germany Decl. ¶ 66).

315. The emergency authorization allowing drop boxes expired after the January 2021 runoff. Mashburn 3/14 72:14–73:24; Mashburn 3/7 74:11–14.

RESPONSE: : Disputed that the emergency authorization “allowed” drop boxes. Rather, Georgia law already permitted drop boxes. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

- (a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.

O.C.G.A. § 21-2-382(a)(2020)(emphasis added). This section does not specifically state that the alternative site must be inside of a building. When SB202’s provisions regarding drop boxes were enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate “additional site” for “voting absentee ballots” and changed “locations” to “buildings.” *Compare* O.C.G.A. § 21-2-382(a)(2020) *with* O.C.G.A. § 21-2-382(a)(2022).

The longtime General Counsel for the Secretary of State’s office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. In an email dated January 3, 2022, Ryan Germany wrote, “What most people don’t realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups.” Ex. 198 (CDR00056863-64). Mr. Mashburn also noted that prior to SB 202 there were “neither restrictions nor permissions” in the statute related to drop boxes. *See* Ex. 65 (Mashburn 3/14/23 Dep. 73:16-24). **Undisputed** that the emergency authorization expired after the January 2021 runoff.

316. The emergency authority merely permitted drop boxes, but SB 202 required each county to have at least one drop box, with larger counties having

additional drop boxes in proportion to the county's population. Mashburn 3/14 72:14–73:24; Mashburn 3/7 74:11–14; O.C.G.A. § 21-2-382(c).

RESPONSE: Undisputed that SB 202 requires each county to have at least one drop box, with one additional drop box permitted for every 100,000 voters.

Disputed that the emergency authorization “merely permitted drop boxes.” Rather, Georgia law already permitted drop boxes. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

- (a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.

O.C.G.A. § 21-2-382(a)(2020)(emphasis added). This section does not state that the alternative site must be inside of a building. The longtime General Counsel for the Secretary of State's office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. Germany also suggested that “liberal groups” would have put pressure on GA counties to continue to use drop boxes if the General Assembly had not changed the law. In an email dated January 3, 2022, Ryan Germany wrote, “What most

people don't realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups." Ex. 198 (CDR00056863-64). Mr. Mashburn also noted that prior to SB 202 there were "neither restrictions nor permissions" in the statute related to drop boxes. *See* Ex. 65 (Mashburn 3/14/23 Dep. 73:16-24).

Disputed that the additional drop boxes are "in proportion to the county's population." As the General Assembly was aware when it considered election legislation in 2021, the United States Election Assistance Commission ("EAC") recommends one drop box for every 15,000-20,000 voters. *See* U.S. Election Assistance Comm'n, *Ballot Drop Box*, available at https://www.eac.gov/sites/default/files/electionofficials/vbm/Ballot_Drop_Box.pdf (last visited Jan. 16, 2024). Alkima Kendoker, Georgia State Director for All Voting is Local, testified at a hearing of the Senate Ethics committee on March 26, 2021 that the "United State[s] Election Assistance Commission, the EAC, recommends at least one drop box for every 15 to 20,000 registered voters." Ex. 131 (AME_001373:23-74:1, Tr. 3/16/21 Sen. Ethics Hearing). She further explained that "[u]nder HB 531, drop boxes would be limited to 1 per 100,000 voters, far less than the recommended amount. This mandate would make the drop

box codification meaningless as voters will not have enough of them to use, as we would lose 194 drop boxes statewide.” Ex. 131 (AME_001374-6, Tr. 3/16/21 Sen. Ethics Hearing). SB 202 limits counties to one drop box unless there are over 100,000 voters in the county; counties may offer one additional drop box for every 100,000 voters. O.C.G.A § 21-2-382. These limits fall far short from the EAC’s recommendation and do not allow for drop boxes “in proportion” to a county’s population for the State’s counties with over 20,000 voters.

317. During 2020, concerns were raised about political influences on the selection of drop box locations. Germany 7/27/23 Decl. ¶ 78 (Ex. C).

RESPONSE: Objection to the admissibility of the movant’s fact based on lack of personal knowledge and hearsay. Fed. R. Evid. 602, 801. Germany’s declaration offers a statement about concerns or complaints but provides no evidence to show that Mr. Germany has personal knowledge of these concerns. *See* ECF 601-3 (Germany Decl. ¶ 78). *See, e.g., Purdee v. Pilot Travel Ctrs., LLC*, No. CV407-028, 2009 WL 423976, at *2 (S.D. Ga. Feb. 19, 2009) (striking a portion of an affidavit where the declarant never stated “the basis for his knowledge”). “For a matter to be considered within a witness’s personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation.” *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10,

2015) (citation and internal marks omitted). Likewise, Mr. Germany's statement about the existence of concerns contains no information upon which to assess the source or reliability of those concerns.

Mr. Germany's statement also constitutes hearsay because he refers to "concerns" of unnamed other people. Fed. R. Evid. 801. A court may only consider hearsay evidence at summary judgment if it "could be reduced to admissible evidence at trial or reduced to admissible form," *Saunders v. Emory Healthcare, Inc.*, 360 F. App'x. 110, 112-13 (11th Cir. 2010). Because these "concerns" are offered for the truth of the matter asserted—at least as to the subject of the concerns—and because Mr. Germany has not identified who expressed these concerns, they cannot be reduced to an admissible form at trial, and thus cannot be considered for summary judgment.

318. Placing unattended drop boxes outdoors prompted voter concerns about election security. Germany 7/27/23 Decl. ¶ 68 (Ex. C); Mashburn 3/7 76:18–24 (Ex. JJ).

RESPONSE: Citation does not support movant's fact. Paragraph 68 of Mr. Germany's declaration does not mention unattended drop boxes. ECF 601-3 (Germany Decl. ¶ 68). Nor does the SEB in its deposition. Ex. 34 (SEB Dep. 76:18-24). **Objection to the admissibility of the movant's fact** based hearsay. Fed. R. Evid. 801. The testimony summarizes some unidentified complaints and is

being offered for the truth of the matter that the concerns were caused by the drop boxes being “unattended” and “outdoors.” A court may only consider hearsay evidence at summary judgment if it “could be reduced to admissible evidence at trial or reduced to admissible form,” *Saunders v. Emory Healthcare, Inc.*, 360 F. App’x. 110, 112-13 (11th Cir. 2010). Because these “concerns” are offered for the truth of the matter asserted—at least as to the cause of the concerns—and because Mr. Germany has not identified who expressed these concerns, they cannot be reduced to an admissible form at trial, and thus cannot be considered for summary judgment.

319. Placing drop boxes indoors and under the surveillance of a live person increases actual and perceived security. Mashburn 3/7 76:18–24 (Ex. JJ); Germany 7/27/23 Decl. ¶ 78 (Ex. C).

RESPONSE: Objection to the admissibility of the movant’s fact based on lack of personal knowledge and improper opinion. Fed. R. Evid. 602, 701. Mr. Germany and Mr. Mashburn do not provide any basis to show they have personal knowledge that having drop boxes inside and under the surveillance of a live person increases actual and perceived security. To the extent they are offering an expert opinion on how live surveillance and placing drop boxes indoors affects the security of drop boxes, they lack the background and expertise to do so.

320. The ability to begin processing (though not counting) all drop box ballots before election day reduces delays in results. Bailey 10/6 155:23–156:7 (Ex. FFF); Germany 7/27/23 Decl. ¶ 73; Bailey 3/21 157:9–158:11.

RESPONSE: Not material.

321. The only data encompassing more than one Georgia county shows that Black voters used drop boxes less frequently or no more frequently than White voters in 2020 and 2022. Grimmer Rep. ¶ 149 (Ex. DDDD); Updated Report of Dr. Justin Grimmer, attached as Ex. EEEEE (“Grimmer Updated Rep.”) 3–4, 7–11; Grimmer 184:14–24 (Ex. OOO); Transcript of Preliminary Injunction Hearing, attached as Ex. YYY (“PI Hr’g Tr.”) 233:20–234:14; 10/11/23 Order at 34 [Doc. 686].

RESPONSE: Disputed. The surveys upon which Dr. Grimmer relies and the analysis he conducted do not support this conclusion. First, Dr. Grimmer improperly confined his analysis to survey respondents who reported that they voted absentee, rather than including all Georgia voters in the analysis, which produces misleading estimates of the differences in rates of drop box use by Black and white Georgians. Ex. 341 (Fraga 1/16/24 Supp. Dec. ¶¶ 14-16). Second, the sample sizes on which Grimmer relied are too small to draw reliable conclusions about drop box usage statewide. The SPAE dataset (2020) includes only 122 people in Georgia who were drop box users--and that number is accepting Dr.

Grimmer's overly broad definition of drop box usage--only 33 of whom are Black. Ex. 87 (Burden Suppl. Decl. Aug. 24 at 2). "These small samples sizes are not reliable bases on which to make comparisons between racial groups, let alone to estimate a multivariate regression model." Ex. 87 (Burden Suppl. Decl. Aug. 24 at 2). The CES datasets on which Dr. Grimmer relies "suffer from most of the same problems as the SPAE and thus provides unreliable evidence about the relative rates of usage of drop boxes by Black and white voters in Georgia elections." Ex. 87 (Burden Suppl. Decl. Aug. 24 at 2). The CES dataset from 2020 includes only 142 individuals who reported using drop boxes; even applying the survey weights to account for distortions in the sample and draw on objective information from the State voter file, analysis of these data still results in "confidence intervals that are too wide to yield reliable conclusions about which racial group used drop boxes at higher rates." Ex. 87 (Burden Suppl. Decl. Aug. 24 at 3). The dataset from 2022 includes only 12 respondents who reported using drop boxes. *Id.*

In contrast to Dr. Grimmer's use of sparse survey data that cannot support his conclusions, there is a large body of evidence from many sources to support that Black voters were disproportionately likely to use drop boxes in 2020. First, Black voters in 2020 cast absentee ballots at higher rates than white voters. Ex. 85 (Burden 11, Table 5). Second, 64.65% of the 550,000 absentee ballots returned via drop box in November 2020 were cast in just eight counties in which 53.2% of the

State's Black population but only 29.1% of the State's white population reside—Fulton, Cobb, DeKalb, Gwinnett, Douglas, Chatham, Rockdale, and Clayton. Ex. 85 (Burden 40-44); Ex. 86 (Burden Sur-Rebuttal 7); Ex. 174 (GPB article); and Ex. 169 (Census data). Third, Black voters disproportionately returned absentee ballots during the last four days of the November 2020 election period (i.e., Saturday 10/31-Tuesday 11/3). Ex. 85 (Burden Report 14-20). And during this four-day period, nearly 70% of absentee ballots returned were returned by drop box. Ex. 86 (Burden Sur-Rebuttal 6). Individual-level data from Douglas County confirm what the available evidence elsewhere in Georgia shows: Black voters were more likely than white voters to use drop boxes. Ex. 85 (Burden 34.).

In addition, an analysis by Plaintiffs' expert, Dr. Fraga, using the same 2020 CES dataset that Dr. Grimmer used but including all Georgia voters (i.e., both absentee and non-absentee voters), found that in November 2020, Black voters in Georgia were more likely than white voters in Georgia to use drop boxes. Ex. 341 (Fraga 1/16/24 Supp. Decl. ¶ 5). Specifically, Dr. Fraga's analysis shows that 20.2% of all Black voters voted by drop box, compared to just 14.2% of all white voters. *Id.* The disparity he documents is statistically significant at the 95% confidence level. *Id.*

322. In the 2022 elections, the SEB and SOS did not receive the complaints about drop boxes they had received following the 2020 election cycle. Germany 6/29/23 Decl. ¶ 21 (Ex. D); Mashburn 3/7 83:18–21 (Ex. JJ).

RESPONSE: Objection to the admissibility of movant’s fact based on improper lay opinion and lack of personal knowledge. Fed. R. Evid. 701, 602. Mr. Germany offers lay opinions about the quantity and type of complaints received after both the 2020 and 2022 elections but does not offer sufficient foundation to show that he has sufficient personal knowledge to offer these opinions. To offer lay opinion testimony a witness must have personal knowledge and any declaration that offers a lay opinion must establish the foundation for such opinion. *See Riley v. Univ. of Alabama Health Servs. Found.*, P.C., 990 F. Supp. 2d 1177, 1186–87 (N.D. Ala. 2014) (“The nature and extent of the contacts and the observations of the witness should be as detailed as possible, but it must be recognized that an adequate foundation for opinion testimony by a layman is established when the testimony discloses that the witness through contacts with the subject had a reasonable opportunity to form an opinion.”) (internal quotation marks and citation omitted). A party’s belief or speculation is not based on personal knowledge and is not competent summary judgment evidence. *See id.* at 1187. To the extent this opinion is being offered on Germany’s expert knowledge, it is an inadmissible expert opinion. Mr. Germany is engaging in scientific or technical analysis when

he analyzes the complaints received by the SEB and SOS, but he was never disclosed as an expert in this case and counsel for the State has explicitly stated he was not being offered as an expert witness. *See* PI Tr. 195:5-196:6 (Counsel for the State making clear Germany was not being offered as an expert). Unlike identified experts, who must show the data relied on and the steps of that analysis so that others may test their conclusions, *see* FRE 702, Germany's aggregation of complaints prejudices plaintiffs by proffering expert analysis, without an opportunity to test that analysis. *See e.g. Lebron v. Sec'y of Fla. Dep't of Child. & Fams.*, 772 F.3d 1352, 1372 (11th Cir. 2014) ("While lay witnesses may testify about their own immediate perceptions, testimony that blurs into supposition and extrapolation crosses the line into expertise.")

323. In 133 counties comprising 34.7% of Georgia's black population, there were the same number or more drop boxes in 2022 than in 2020. 10/11/23 Order at 14, 32–33 [Doc. 686-1]; Report of Dr. Barry Burden, attached as Ex. TTTT ("Burden Rep.") at 28–29.

RESPONSE: Disputed and not material. Disputed because the evidence shows that only 132 counties had the same number of drop boxes or more drop boxes under SB 202 than in November 2022. Ex. 85 (Burden 41-44 Tbl A1) and Ex. 174 (Georgia Public Broadcasting spreadsheet on drop boxes) (showing Rockdale County had 8 drop boxes in 2020, not 1 as listed in Dr. Burden's Tbl A1,

so that county lost 7 rather than retaining the same number). The fact is **not material** because the relevant comparison is not Black voters who gain a drop box to Black voters who lost *many* drop boxes but, rather, how Black voters' access to drop boxes compares to white voters' access to drop boxes. On that measure, the evidence shows that Black voters fared considerably worse than white voters under SB 202: 75% of Black registered voters lost at least one drop box in their county, compared to just 54% of white registered voters. Ex. 96 (Fraga ¶¶ 148-150 & Tbl. 15).

324. There is no consistent pattern when racial groups return mail-in absentee ballots. *See* Grimmer Rep. ¶¶ 81–85 (Ex. DDDD); PI Hr'g Tr. 236:22–238:5 (Ex. YYY).

RESPONSE: Disputed. Even before 2018—when Black voters became more likely than white voters to vote absentee—Black voters in Georgia were more likely to cast absentee ballots in the final four days of the election cycle. Ex. 85 (Burden 12-20); Ex. 86 (Burden Sur-Rebuttal 2). **Citation does not support movant's fact** because the cited paragraphs from Grimmer's report discuss absentee ballot applications, not absentee ballots. *See* Ex. 113 (Grimmer ¶¶ 81-85).

325. There is at most a barely one-point difference between white and black voters' proportion of ballots received in the last four days before the 2020 and 2022 general elections. *See* Grimmer Rep. ¶¶ 81, 84–85 (Ex. DDDD).

RESPONSE: Citation does not support movant’s fact. The cited paragraphs relate to absentee ballot *applications*, not absentee *ballots*. Ex. 113 (Grimmer ¶¶ 81, 84-85). **Not material.** The share of absentee ballots returned by Black voters and white voters in the final four days of the election cycle tells us nothing about whether Black voters were more likely than white voters to submit absentee ballots during those last four days. Ex. 86 (Burden Sur-Rebuttal 2).

326. In 2020, there were approximately 300 drop boxes statewide. Burden Rep. at 28 (Ex. TTTT).

RESPONSE: Undisputed.

327. There are many more mailboxes and post offices in Georgia than there were drop boxes in 2020. Grimmer Rep. ¶ 106 (Ex. DDDD); *e.g.*, <https://mailboxlocate.com/states/GA/cities/ATLANTA>.

RESPONSE: Not material. A voter using a drop box to return an absentee ballot is guaranteed that it will be received on time to be counted, but a voter returning a ballot via the postal service cannot be certain it will be received by the elections office by the deadline. Ex. 85 (Burden 12); Ex. 5 (Hugley Decl. ¶ 9); Ex. 257 (Brower 1/18/24 Decl. ¶ 11) (“Based on my experience, drop boxes are a more efficient way to return an absentee ballot than using a U.S. mailbox” because they “were retrieved by County elections department employees and returned directly to the County elections department that same day without the added delay of being

processed by the U.S. Postal Service,” so “absentee ballots placed in a drop box prior to the close of voting on Election Day” were guaranteed to arrive on time.).

328. Counties put drop boxes in “handicapped accessible” locations. N. Williams 258:10–24; K. Williams 65:13–18.

RESPONSE: Disputed. Movant’s fact is not material. Whether counties put drop boxes in “handicapped accessible” locations is not relevant: Plaintiffs challenge the policy of forcing counties to place drop boxes inside as opposed to outside locations, where they may be more accessible. Dr. Schur testified that the unequal access to absentee voting created by the drop box restrictions is not simply a matter of whether buildings are ADA compliant, because even in ADA-compliant buildings, people with disabilities face extra burdens to use drop boxes as compared to nondisabled people. Ex. 111 [Doc. 546-3] (Schur Rep. ¶ 99(a)). Regardless, even if the accessibility of individual drop box locations were relevant, the record offers facts disputing whether drop boxes have been placed in accessible, ADA compliant locations. *See, e.g.*, Ex. 63 (Kidd Dep. 128:23-29:18 (voters have complained about the “accessibility” of drop boxes); 160:12-161:20 (for someone in a manual wheelchair or walker, reaching a drop box requires “a lot of effort” because drop boxes are located “on the basement floor of [a] courthouse”)). Plaintiff GAO has also testified that “many registrar’s offices where drop boxes may be located are physically inaccessible” and that “accessible routes

may be poorly marked or otherwise difficult to locate.” Ex. 305 (Orland Decl. ¶ 26 [Doc. 546-7]).

329. Voters returning absentee ballots to drop boxes do not have to wait in line with those seeking to vote in person. *See* ADAPT Dep. 2/20/23 31:8–17; 108:25–109:2 (Ex. CC).

RESPONSE: Disputed; movant’s fact is not material. Plaintiffs challenge the policy of forcing counties to place drop boxes inside. Regardless, the citation Defendants provide actually shows that voters “couldn’t reach the boxes” because “they didn’t know they didn’t have to wait in line.” Ex. 22 (ADAPT Dep. 2/20/23 108:23-109:2; *see also* 31:8-17 (“the line went out the door, and so people that wanted to drop off their absentee ballot waited in line and didn’t know to go inside and drop it off”)). Moreover, the record shows that people with disabilities in 2022 were forced to wait in line to access indoor drop boxes, along with those waiting to vote in person, because it was not clear to voters that the drop box was located inside. Ex. 317 (Thornton Decl. ¶ 21 [Doc. 546-13]); *see also* Ex. 112 (Schur Rebuttal ¶ 11).

330. Plaintiffs’ witnesses who experienced trouble personally accessing a drop box had alternative means of returning their ballot or assistance clearly available under the statute. *See* Declaration of Wendell Halsell [Doc. 546-14], attached as Ex. AAAAA (“Halsell Decl.”) ¶ 8; Declaration of Jacqueline Wiley

[Doc. 546-25], attached as Ex. BBBBB (“Wiley Decl.”) ¶ 7; AME PI Order [Doc. 615] at 18.

RESPONSE: Disputed; movant’s fact is not material. Disputed. First, Plaintiffs object that this fact is not material: Whether Plaintiffs’ individual witnesses ultimately voted or not is not relevant, as they have been deprived of an equal opportunity to use absentee voting. Requiring disabled people to use a voting program “with the assistance of a third party” “at best provides these individuals with an inferior voting experience not equal to that afforded others.” *Cal. Council of the Blind v. Cnty. of Alameda*, 985 F. Supp. 2d 1229, 1239 (N.D. Cal. 2013) (quoting 28 C.F.R. § 35.130(b)(1)(ii)). Further, access is not meaningful if Plaintiffs have to rely on “workarounds and alternate means” to accessing the service, program, or activity. *Am. Council of the Blind of N.Y., Inc. v. City of N.Y.*, 495 F. Supp. 3d 211, 235 (S.D.N.Y. 2020). Regardless, Plaintiffs dispute this fact. A GAO member who had previously been able to drive to a drop box and submit his absentee ballot without leaving his car was surprised to learn in 2022 that the drop box was no longer accessible to him. Ex. 305 (Orland Decl. ¶ 17 [Doc. 546-7]). He was not able to use the drop box: he can ambulate about 10 yards but could not ascertain whether the drop box was reachable to him because it was inside the building, and poll workers refused to assist him. *Id.* He cannot rely on family to assist him with his ballot, so with the drop box restrictions, he risks being

disenfranchised. *Id.* Plaintiff ADAPT is aware of several more people who were not able to use drop boxes in 2022 because they are located inside. Thornton Decl. ¶ 23 [Doc. 546-13].

331. Halsell's nephew, who drove him to the drop box, could return the ballot for him. See Halsell Decl. ¶ 8 [Doc. 546-14] (Ex. AAAAAA); AME PI Order at 18 [Doc. 615].

RESPONSE: Movant's citation does not support the movant's fact.

Whether Mr. Halsell's nephew, who drove him to the drop box, could or could not return the ballot for him is not discussed in the declaration Defendants cite. Rather, Mr. Halsell testifies "my nephew might have been able to put my ballot in the dropbox" but that he was not "given...information about who can return [his] ballot" and "with the confusing rules about getting help with absentee ballots [he] would be nervous about asking [his] nephew to do something that might be illegal" and that "it is important to me to see my vote cast." Ex. 283 [Doc. 546-14] (Halsell Decl. ¶ 8). Regardless, Plaintiffs respond that this fact is not material. The issue is whether drop boxes were accessible to Mr. Halsell. Requiring disabled people to use a voting program "with the assistance of a third party" "at best provides these individuals with an inferior voting experience not equal to that afforded others." *Cal. Council of the Blind v. Cnty. of Alameda*, 985 F. Supp. 2d 1229, 1239 (N.D. Cal. 2013) (quoting 28 C.F.R. § 35.130(b)(1)(ii)). Further, access is not

meaningful if Plaintiffs have to rely on “workarounds and alternate means” to accessing the service, program, or activity. *Am. Council of the Blind of N.Y., Inc. v. City of N.Y.*, 495 F. Supp. 3d 211, 235 (S.D.N.Y. 2020).

332. Wiley could and did return her son’s ballot. *See* Wiley Decl. ¶ 7 [Doc. 546-25] (Ex. BBBB); AME PI Order at 18 [Doc. 615].

RESPONSE: Movant’s fact is not material. The issue is whether drop boxes were accessible to Mr. Wiley, not his mother. Requiring disabled people to use a voting program “with the assistance of a third party” “at best provides these individuals with an inferior voting experience not equal to that afforded others.” *Cal. Council of the Blind v. Cnty. of Alameda*, 985 F. Supp. 2d 1229, 1239 (N.D. Cal. 2013) (quoting 28 C.F.R. § 35.130(b)(1)(ii)). Further, access is not meaningful if Plaintiffs have to rely on “workarounds and alternate means” to accessing the service, program, or activity. *Am. Council of the Blind of N.Y., Inc. v. City of N.Y.*, 495 F. Supp. 3d 211, 235 (S.D.N.Y. 2020).

333. Anyone could have helped Papadopoulos open a mailbox so that he could mail his own ballot. AME PI Order at 18 [Doc. 615].

RESPONSE: Disputed. Mr. Papadopoulos testifies that “due to the lack of a definition of ‘caregiver’” he is “not sure whether different roles within the facility like a social worker, administrator, activities director, or other role qualify as a ‘caregiver.’” Ex. 306 (Papadopoulos Decl. ¶ 14). With that “vague language”

“staff members are reluctant to provide assistance” to him with voting. *Id.* ¶ 13-14. The Secretary of State’s office and the State Election Board have not defined what it means to be a “caregiver.” Ex. 33 (SOS 30(b)(6) Dep. 195:8-22).

334. There is no evidence that mobile voting units were ever used for the benefit of voters with disabilities. N. Williams 177:23–178:3, 178:22–25, 267:19–268:8 (Ex. AA).

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the ban on mobile voting units discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision on this ground, and no other plaintiffs raised such a challenge. Further, the past use of mobile voting units is not material to whether accessible mobile voting units could be used to accommodate voters with disabilities. To the extent material, disputed. No evidence as to the disability status of any voter who used a mobile voting unit in Georgia’s 2020 election has been produced. At least one voter with disabilities would use accessible mobile voting units if they were available in the future. Ex. 22 (ADAPT Vol. I Dep.). If the mobile voting units were made accessible it could be used to help people with disabilities vote more easily. Ex. 21 (N. Williams Dep. 177:23–178:25, 267:19–268:21).

335. Mobile Voting Units could not serve residential facilities for the elderly in 2020. N. Williams 177:23–178:3, 178:22–25, 267:19–268:8 (Ex. AA).

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the ban on mobile voting units discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision on this ground, and no other plaintiffs raised such a challenge. Further, the past use of mobile voting units is not material to whether accessible mobile voting units could be used to accommodate voters with disabilities. To the extent material, disputed. At least one senior center requested mobile voting units in 2020, but concerns about COVID prevented their use. If the mobile voting units were made accessible it could be used to help people at facilities like nursing homes vote more easily. Ex. 21 (N. Williams Dep. 177:23–178:25, 267:19–268:21).

336. Mobile Voting Units were less accessible to persons with disabilities than ADA-compliant stationary polling places. N. Williams 177:23–178:3, 178:22–25, 267:19–268:8 (Ex. AA).

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the ban on mobile voting units discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision on this ground, and no other plaintiffs

raised such a challenge. Further, the past use of mobile voting units is not material to whether accessible mobile voting units could be used to accommodate voters with disabilities. To the extent material, disputed. The cited deposition testimony does not support this fact, and there is no evidence regarding the comparable accessibility of stationary polling places with mobile voting units.

337. There is no evidence that mobile voting units increased turnout among people with disabilities. Deposition of Lisa Schur [Doc. 749] (“Schur”) 189:21–25 (Ex. UUU).

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the ban on mobile voting units discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision on this ground, and no other plaintiffs raised such a challenge. Further, absolute voter turnout is not probative of whether S.B. 202 results in discrimination against voters with disabilities. To the extent material, disputed. This fact mischaracterizes Dr. Schur’s testimony that bringing voting equipment closer to voters with mobility limitations and travel restrictions makes it easier for those people to vote. Ex. 349 (ECF 749 Schur Dep. 189:3-190:19).

338. Mailboxes are often accessible without getting out of a vehicle. Burden 146:17-20 (Ex. HHH).

RESPONSE: Movant’s fact is not material. Drop boxes provide a benefit to voters—the opportunity to submit their ballots without relying on the uncertainty and expense of U.S. mail—that must be made fully accessible to voters with disabilities. *See, e.g.*, Ex. 266 (Chicoine Decl. ¶ 4); Ex. 283 Halsell Decl. ¶ 7 [Doc. 546-14]. The regulations implementing the ADA make clear that persons with disabilities must have the “opportunity to participate in or benefit from the aid, benefit, or service” in a way that is “equal to that afforded others.” 28 C.F.R. § 35.130(b)(1)(ii) (emphasis added). Access is not meaningful if Plaintiffs have to rely on “workarounds and alternate means” to accessing the service, program, or activity. *Am. Council of the Blind of N.Y., Inc. v. City of N.Y.*, 495 F. Supp. 3d 211, 235 (S.D.N.Y. 2020).

339. No Georgia county used mobile polling places in modified buses until Fall 2020, when Fulton County used two units. N. Williams 174:11–175:2 (Ex. AA); Mashburn 3/14/23 194:14–20 (Ex. KK); Germany 3/7 171:21–172:3 (Ex. HH).

RESPONSE: Undisputed.

340. Mobile voting units on buses or similar vehicles were unknown in the United States until 2010. Report of Kevin Kennedy, attached as Ex. FFFF) (“Kennedy Rep.”) 39.

RESPONSE: Citation does not support the statement. The report says that mobile units have been in use at least since 2010; it does not offer a categorical statement that mobile units were never used before then.

341. Mobile voting units on buses or similar vehicles not widespread in the United States. Kennedy Rep. 18 (Ex. FFFF).

RESPONSE: Undisputed.

342. Mobile voting units generated many complaints that they might be allocated unfairly, and that county officials would place the units in politically favorable precincts while avoiding unfavorable ones. Germany 3/7/23 172:4–11, 172:6–11, 173:11–175:2 (Ex. HH); Mashburn 3/14 38:23–39:19, 173:14–175:2 (Ex. KK).

RESPONSE: Disputed. Mr. Mashburn testified that he received “less than five” telephone calls about mobile voting units from concerned individuals, none of whom lodged formal complaints with the SEB. Ex. 65 (Mashburn Dep. 40:8-16, 41:8-16, 45:16-22). Mr. Germany could not recall how many complaints the Secretary of State’s office received about mobile voting units. Ex. 59 (Germany Dep. 173:11-12; 174:6-8). Moreover, Fulton County received positive feedback and no complaints about the use of the mobile voting units, and Fulton County was careful to ensure the mobile voting units were distributed evenly across the county.

See Ex. 21 (Fulton Cnty Dep. 182:14-18; 175:14-17; 174:19-23). **Not supported by citation** to Mashburn 3/14 173:14-175:2.

343. There were concerns that mobile units gave an advantage to counties that could afford them. Mashburn 3/14/23 51:12–52:3 (Ex. KK).

RESPONSE: Not supported by citation. The cited testimony discusses a hypothetical complaint, not an actual “concern” (or complaint) received by the SEB. Mr. Mashburn testified as to what he would do “if it came up,” referring to a complaint. Ex. 65 (Mashburn Dep. 52:4). He also testified that the SEB received no such complaints. Ex. 65 (Mashburn Dep. 53:10-14).

344. Voters had less notice where mobile voting units would be located on a given day than was available with stationary polling places. Germany 3/7/23 173:11–174:2 (Ex. HH).

RESPONSE: Citation does not support the statement that voters had less notice about mobile voting unit locations, and immaterial. Disputed that voters did not have advance notice of where a mobile voting unit would be located on a given day. Fulton County provided notice in advance of the early voting period about where the mobile voting units would be located on every day of early voting. *See* Ex. 21 (Fulton Cnty Dep. 176:2-12); Ex. 249 (FULTON-COUNTY-SB202-00079055-56) (Fulton County Mobile Voting Schedule).

345. There is no evidence on how many voters with disabilities used the absentee ballot drop boxes in 2020/2021 “after hours.” *See* Schur 75:16–25, 103:15–18 (Ex. UUU).

RESPONSE: Disputed; movant’s citation does not support the movant’s fact. Close to one-sixth (15.7%) of voters with disabilities used a drop box in 2020. Ex. 111 [Doc. 546-3] (Schur Rep. ¶ 19). Unrebutted testimony from Plaintiffs’ expert Dr. Lisa Schur concludes the drop box restrictions make it harder for many people with disabilities to vote, due to mobility challenges in getting to and going inside an election office to deliver a ballot. *Id.*

346. There was no evidence that any voters with disabilities were prevented from voting absentee in 2022 due to the location and hours of the drop boxes. *See* Schur 75:16–25, 103:15–18 (Ex. UUU).

RESPONSE: Disputed; movant’s citation does not support the movant’s fact. Close to one-sixth (15.7%) of voters with disabilities used a drop box in 2020. Ex. 111 [Doc. 546-3] (Schur Rep. ¶ 19). Unrebutted testimony from Plaintiffs’ expert Dr. Lisa Schur concludes the drop box restrictions make it harder for many people with disabilities to vote, due to mobility challenges in getting to and going inside an election office to deliver a ballot. *Id.*

347. There is no evidence respecting how many, if any, drop boxes in 2020 were placed where a voter could drive up and put a ballot in the drop box without leaving the vehicle. See Schur 75:16–25 (Ex. UUU).

RESPONSE: Undisputed.

348. More votes were cast in the 2022 midterm election than in any other midterm. Ga. Sec’y of State, *Georgia Voters Lead Southeast in Engagement, Turnout* (May 17, 2023), <https://tinyurl.com/2huchh3h>, attached as Ex. FFFFF.

RESPONSE: Not material.

349. The 2022 midterm also reflected the most votes ever cast by mail in a Georgia midterm. Ga. Sec’y of State, *Georgia Voters Lead Southeast in Engagement, Turnout* (May 17, 2023), <https://tinyurl.com/2huchh3h>, attached as Ex. FFFFF.

RESPONSE: Not material.

350. The 2022 midterm election had the highest share of early in-person ballots in Georgia’s history. Supplemental Report of Daron Shaw, attached as Ex. KKKK (“Shaw 2/14/23 Rep.”) 15–16 & tbl. 7.

RESPONSE: Not material.

351. Georgia turnout in the 2022 midterm election was several percentage points higher than the average in other states. Grimmer Rep. ¶¶ 42, 44 (Ex. DDDD).

RESPONSE: Not material.

352. In 2022, the turnout gap between black and white voters increased slightly to 9.7% in the general and decreased slightly to 6.7% in the runoff. Sur-Rebuttal Report of Bernard Fraga [Doc. 566-47], attached as Ex. CCCC (“Fraga Sur-Rebuttal Rep.”) 15 tbl. 1.

RESPONSE: Disputed. The turnout gap between Black voters and white voters increased to 12 percentage points in 2022, up from 9.9 percentage points in 2020 and 4.2 percentage points in 2018. Ex. 85 (Burden Tbl. 4). Defendants’ expert Dr. Grimmer found the turnout gap between Black voters and white voters increased to 12 percentage points in 2022, up from 9.9 percentage points in 2020 and 4.2 percentage points in 2018. Ex. 113 (Grimmer Rep., Tbl 2).

353. Black turnout in 2022 dropped less in Georgia than in most other states. Rebuttal Report of Daron Shaw, attached as Ex. LLLL (“Shaw 2/24 Rep.”) ¶¶ 46-52.

RESPONSE: Not material.

354. In 2022, voter participation of both Black and white voters remained near record highs for a midterm election. Shaw 2/24 Rep. ¶¶ 21-22; Shaw 2/14 Rep. ¶¶ 10, 12, 17, 23; Grimmer Rep. ¶¶ 8, 158-64.

RESPONSE: Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86

(Burden Sur-Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202 (Ex. 83 (Grimmer Dep. 47:17-49:11); *see also* Ex. 84 (Shaw Dep. 86:24-87:25)).

Defendants' experts also do not purport to demonstrate the effect of SB 202 on turnout or burden on Black voters versus white voters, as would be relevant in an analysis under Section 2. Ex. 86 (Burden Sur-Rebuttal 11-12). **Disputed.** In 2022, after the passage of SB 202, Black turnout fell compared to the previous midterm election in 2018 even though white turnout rose over that same time period. In 2022, the share of voters who were Black fell to its lowest point since 2014. Ex. 85 (Burden 4-10, Tbl.4). Overall voter turnout declined from the midterm election in 2018 to the midterm election in 2022 by 2.8 percentage points. Ex. 113 (Grimmer ¶¶ 8, 27, Tbl. 1 (CVAP Trend)). Black turnout dropped more sharply than overall turnout, from 49.5% in 2018 to 41.7% in 2022, a drop of 7.8 percentage points. Ex. 113 (Grimmer Report ¶¶ 32-34, Tbl. 2 (CVAP Trend)). The gap between Black voter turnout and white voter turnout increased from 4.4% in the 2018 midterm election to 10.9 % using CVAP and 12% using CVAP trend in the 2022 midterm election. Ex. 113 (Grimmer Report ¶¶ 33-34, Tbl. 2).

355. In 2022, Georgia saw an increase in the percentage of both Black and white voters choosing to vote absentee by mail. Grimmer Rep. ¶¶ 8, 52-54, 60, 62; Shaw 2/14 Rep. ¶¶ 24-25; Shaw 2/24 Rep. ¶ 20; Grimmer 102:24 – 103:5.

RESPONSE: Disputed. The percentage of Black and white voters who voted absentee by mail in 2022 was down sharply from November 2020 and January 2021. Ex. 85 (Burden 11, Tbl. 5); Ex. 96 (Fraga Tbl. 2).

356. Indeed, a higher percentage of Black voters voted absentee by mail in 2022 than in any prior midterm election. Shaw 2/24 Rep. ¶ 20.

RESPONSE: Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle (Ex. 86 (Burden Sur-Rebuttal 11); Ex. 83 (Grimmer Dep. 48:2-5)), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202 (Ex. 83 (Grimmer Dep. 47:17-49:11); *see also* Ex. 84 (Shaw Dep. 86:24-87:25)). Defendants' experts also do not purport to demonstrate the effect of SB 202 on turnout or burden on Black voters versus white voters, as would be relevant in an analysis under Section 2. Ex. 86 (Burden Sur-Rebuttal 11-12). **Disputed.** The percent of Black voters who voted absentee-by-mail was 7.3% in November 2022 which was slightly higher than their 7.1% rate in November 2018. However, in December 2022, the Black absentee-by-mail voting dropped to 5.5%. Ex. 96 (Fraga Tbl. 2). White voters were the only group to have their rate of mail voting remain higher than the 2018 figure by the December 2022 election. Ex. 96 (Fraga ¶ 61, Tbl. 2). Black and AAPI voters voted by mail at a lower rate in the December 2022 runoff than in November 2018. Ex. 96 (Fraga ¶ 61, Tbl. 2).

357. A survey performed by the University of Georgia’s School of Public & International Affairs (“SPIA”) found that more than 90% of black voters and nearly 85% of other minority voters found voting in 2022 to be either just as easy or easier than in previous elections. Survey Rsch. Ctr., Sch. of Pub. & Int’l Affs. Univ. of Ga., 2022 Georgia Post-Election Survey 13 (2023), attached as Ex. YYYY (“SPIA Survey”); Shaw 2/14 Rep. ¶ 73; Shaw 2/24 Rep. ¶ 31.

RESPONSE: Citation does not support the movant’s fact and movant’s fact is not material. The survey cited does not meet the standard of academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022 to December 6, 2022 so it captures people surveyed the same day or the day after they voted in the runoff election. Ex. 81 (Pettigrew Dep. 143:1-144:11). People therefore could have been reporting on their experiences in the November general election or the December runoff election or both. Ex. 81 (Pettigrew Dep. 143:1-144:11). The inconsistency weakens the quality of the data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:1-144:11.

358. The SPIA survey reported that 99.5% of black voters reported no problem when voting, and not black voters reported poor experiences when voting.

SPIA Survey 13 (Ex. YYYY); Order at 31–32 [Doc. 686-1]; PI Hr’g Tr. 116:10–22, 251:2–9 (Ex. YYY); Shaw 2/24 Rep. ¶ 30; Shaw 2/14 Rep. ¶ 74.

RESPONSE: This fact is identical to ¶ 421. Movant’s citation does not support the movant’s fact and movant’s fact is not material. The survey cited does not meet the standard of academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022, to December 6, 2022, so it captures people surveyed the same day or the day after they voted in the runoff election. People therefore could have been reporting on their experiences in the November general election or the December runoff election or both. The inconsistency weakens the quality of the data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:4-144:11.

359. The SPIA survey reported that 97% of Black voters and 96% of white voters rated their experience as either “excellent” or “good” and no Black voters rated their experience as “poor.” SPIA Survey 8 (Ex. YYYY); Shaw 2/14 Rep. ¶ 74; Shaw 2/24 Rep. ¶ 74; PI Hr’g Tr. 250-51.

RESPONSE: Movant’s citation does not support the movant’s fact and movant’s fact is not material. The survey cited does not meet the standard of

academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022, to December 6, 2022, so it captures people surveyed the same day or the day after they voted in the runoff election. People therefore could have been reporting on their experiences in the November general election or the December runoff election or both. The inconsistency weakens the quality of the data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:4-144:11.

360. The SPIA survey reported that, in November 2022, more than 95 percent of Georgia voters who voted in person reported waiting in line for fewer than 30 minutes. SPIA Survey 5 (Ex. YYYY); Grimmer 196:19-23.

RESPONSE: Movant's citation does not support the movant's fact and movant's fact is not material. The survey cited does not meet the standard of academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022, to December 6, 2022, so it captures people surveyed the same day or the day after they voted in the runoff election. People therefore could have been reporting on their experiences in the

November general election or the December runoff election or both. The inconsistency weakens the quality of the data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:4-144:11.

361. Secretary of State data for the 2022 midterm election shows an “average wait time on Election Day” varying from “0 minutes to approximately 10 minutes.” Shaw Rebuttal Rep. ¶ 38 (Ex. LLLL).

RESPONSE: Movant’s fact is not material, as it solely reflects data on Election Day without accounting for any early voting days or the runoff election, where there were long wait times, as the State Elections Director Blake Evans acknowledged. Ex. 57 (Evans Dep. at 180:19-181:2). Georgia had the second longest lines of any state for early in-person voting in 2022. Ex. 81 (Pettigrew Dep. at 124:13-17). On the Friday of early voting during the 2022 Senate runoff election, every single one of Fulton County’s 24 early voting locations had a line of at least 30 minutes at some point, and 21 of 24 locations had a line of at least 60 minutes. In Gwinnett County, all 11 early voting sites reported a wait of at least 45 minutes. Early voting sites in DeKalb County avoided lines in excess of two hours, but 11 of their 16 sites reported a line over 1 hour. Lines in Cobb County were the best of these five counties, and yet 8 of their 12 early voting locations reported a line longer than 30 minutes. Ex. 107 (Pettigrew Rep. 35); Ex. 15 (Cobb Dep. at

135:5-6 (ECF No. 700)); Ex. 35 (Gwinnett (Manifold) Dep. at 41:2-14 (ECF No. 712)); Ex. 21 (Fulton Dep. at 206:22-25 (ECF No. 704)).

362. Secretary of State data for the 2022 midterm election show that the average wait time in the November election statewide was 2 minutes and 19 seconds, and that the average wait time for the December 2022 runoff was 1 minute and 45 seconds. Germany 6/15/23 Decl. ¶¶ 10–11 (Ex. E); *see* Deposition of Zachary Manifold [Doc. 712] (“Manifold Dep.”) 30:11–17 (Ex. MM); Wurtz 59:15–19 (Ex. NN).

RESPONSE: Disputed and movant’s citation does not support

Movant’s statement of fact. Movant relies on testimony from Zachary Manifold as evidence that average wait time for December 2022 was short—around one or two minutes. Mr. Manifold testified, however, that during the runoff election in December 2022 there were “significant” lines, “longer than an hour.” Ex. 35 [ECF 712] (Gwinnett County Dep. (Zachary Manifold) 1/12/23 Dep. 30:24-31:1).

Further, on the Friday of early voting during the 2022 Senate runoff election, every single one of Fulton County’s 24 early voting locations had a line of at least 30 minutes at some point, and 21 of 24 locations had a line at least 60 minutes. In Gwinnett County, all 11 early voting sites reported a wait of at least 45 minutes. Early voting sites in DeKalb County avoided lines in excess of two hours, but still have 11 of their 16 sites report a line over 1 hour. Lines in Cobb County were the

best of these five counties, and yet 8 of their 12 early voting locations reported a line longer than 30 minutes. Ex. 107 (Pettigrew Rep. at 35); Ex. 15 (Cobb Dep. at 135:5-6 (ECF No. 700)); Ex. 35 (Gwinnett (Manifold) Dep. at 41:2-14 (ECF No. 712)); Ex. 21 (Fulton Dep. at 206:22-25 (ECF No. 704)).

363. Voters in 2022 were more likely to vote by mail than in the non-pandemic, midterm election of 2018. Grimmer Rep. 42 tbl. 7 (Ex. DDDD).

RESPONSE: Not material. It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle, Ex. 86 (Burden Sur-Rebuttal, March 2023, at 11), and the Defendants' expert does not purport to attribute any trends in turnout to SB 202. Ex. 83 (Grimmer Dep. 47:17 - 49:11). Defendants' experts also do not purport to demonstrate the effect of SB 202 on turnout or burden on Black voters versus white voters, as would be relevant in an analysis under Section 2. Ex. 86 (Burden Sur-Rebuttal at 11-12). Dr. Grimmer's report shows that overall rate of mail voting increased from 5.6% in 2018 to 6.2 % in November 2022 and then decreased to 5.3% in the December 2022 runoff. Ex. 113 (Grimmer Rep. 42 Tbl. 7). The percent of Black voters who voted absentee-by-mail was 7.3% in November 2022 which was slightly higher than their 7.1% rate in November 2018. However, in December 2022, the Black absentee-by-mail voting dropped to 5.5%. Ex. 96 (Fraga Rep. at 23, Tbl. 2). White voters were the only group to have their rate of mail voting remain higher than the

2018 figure by the December 2022 election. Black and AAPI voters voted by mail at a lower rate in the December 2022 runoff than in November 2018. Ex. 96 (Fraga Rep. ¶ 61).

364. Since before enactment of SB 202, Georgia has maintained a system of automatic voter registration via the State's Department of Driver Services.

Germany 7/27/23 Decl. ¶ 122.

RESPONSE: Undisputed.

365. In the wake of the 2018 gubernatorial election, multiple lawsuits were filed challenging Georgia's electoral laws. Germany 7/27/23 Decl. ¶ 5.

RESPONSE: Undisputed.

366. In response to concerns about the 2018 election in Georgia, the State's General Assembly considered dozens of bills related to elections and held at least ten hearings during the 2019 legislative session. Germany 7/27/23 Decl. ¶ 9.

RESPONSE: Disputed. These bills were not largely in response to the 2018 election, but rather in response to years of concerns about voting machines. *See, e.g.,* House Governmental Affairs Elections Subcommittee Hearing, Video of Proceedings (February 19, 2019) (Ex. 167 (House Gov. Affairs 2/19/19 Video 19:27-22:23)) (Fleming describing the purpose of HB 316 as making the necessary legislative changes to implement the change to BMDs.); Ex. 157 (SAFE Commission Report, 3-4.)

367. At the end of the 2019 legislative session, the General Assembly passed an omnibus election statute, HB 316, which was sent to the governor 32 days after the measure was introduced in the Assembly. Germany 7/27/23 Decl. ¶ 11.

RESPONSE: Disputed. HB 316 was introduced on February 14, 2019 (entered House Hopper) and the governor signed it on April 2, 2019, which is 47 days. *See* HB 316 History, <https://www.legis.ga.gov/legislation/54991>.

368. In the wake of the 2020 general election, multiple lawsuits were filed by supporters of the losing presidential candidate that challenged various aspects of Georgia's election administration. Germany 7/27/23 Decl. ¶ 18.

RESPONSE: Undisputed.

369. Before 2020, there was no Georgia statute or regulation that expressly authorized use of absentee-ballot dropboxes. Mashburn 3/7 74:20–75:2.

RESPONSE: Undisputed that no regulation of statute mentions the term drop box, but **disputed** that drop boxes were not authorized prior to SB 202. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

- (a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-

381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.

(Emphasis added). This section does not specifically state that the alternative site must be inside of a building. When SB202's provisions regarding drop boxes was enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate "additional site" for "voting absentee ballots" and changed "locations" to "buildings."

The longtime General Counsel for the Secretary of State's office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. Germany also suggested that "liberal groups would have put pressure on GA counties to continue to use drop boxes if the General Assembly had not changed the law. In an email dated January 3, 2022, Ryan Germany wrote, "What most people don't realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups." Ex. 198 (CDR00056863-64). Mashburn also noted

that prior to SB 202 there were “neither restrictions nor permissions” in the statute related to drop boxes. *See* Ex. 65 (Mashburn Dep. (3/14) 73:16-24).

370. In response to the COVID pandemic, the State Election Board (SEB) issued an emergency rule authorizing use of absentee-ballot dropboxes by counties, but by the time of SB 202’s enactment, the emergency rule had expired. Germany 7/27/23 Decl. ¶ 15; Mashburn 3/7 74:11–14.

RESPONSE: Undisputed that the SEB issued an emergency rule regarding drop boxes. Disputed that the emergency rule authorized drop box usage because drop boxes were already authorized under state law prior to the emergency rule. Prior to SB 202, O.C.G.A. § 21-2-382(a) gave authority to boards of elections to establish additional “places” or “sites” for the purpose of receiving voted absentee ballots:

- (b) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar’s offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, another government building generally accessible to the public, or a location that is used as an election day polling place, notwithstanding that such location is not a government building.

(Emphasis added). This section does not specifically state that the alternative site must be inside of a building. When SB202’s provisions regarding drop

boxes was enacted in O.C.G.A. § 21-2-382(c), SB 202 also amended O.C.G.A. § 21-2-382(a) to eliminate “additional site” for “voting absentee ballots” and changed “locations” to “buildings.”

The longtime General Counsel for the Secretary of State’s office admitted that drop boxes were legal before the promulgation of the emergency SEB rule and remained so after that rule expired. In an email dated January 3, 2022, Ryan Germany wrote, “What most people don’t realize is that before the General Assembly changed the law in SB 202 (after the 2020 election), that Georgia law already authorized counties to utilize drop boxes. None of them had yet, but I guarantee you that the Democrat-controlled counties would have after facing pressure from liberal groups.” Ex. 198 (CDR00056863-64). Mashburn also noted that prior to SB 202 there were “neither restrictions nor permissions” in the statute related to drop boxes. *See* Ex. 65 (Mashburn Dep. (3/14) 73:16-24).

371. During the 2020 election cycle, there were instances of counties failing to properly secure their dropboxes—namely, by using cardboard boxes, leaving the keys in the box, failing to use the required chain of custody procedures for returned ballots, and using video surveillance that did not produce clear footage of dropboxes. Mashburn 3/7 75:8–14, 82:9–18; Mashburn 3/14 76:15–19; Germany 7/27/23 Decl. ¶ 66.

RESPONSE: Not material. There is no evidence in the record that the General Assembly was aware of any of these incidents when it considered and passed SB 20 and no evidence that these isolated incidents led to any fraudulent activity.

372. During the 2020 election cycle, the SEB and Georgia Secretary of State received multiple complaints from voters who were concerned that dropboxes were being used in unlawful ballot-harvesting activities. Kidd 118:5–21.

RESPONSE: Citation does not support the statement. Mr. Kidd’s testimony mentions nothing about complaints received by the SEB and Georgia Secretary of State.

373. Although officials were not able to confirm these voters’ complaints regarding unlawful ballot harvesting using dropboxes, the complaints still required officials to devote time and resources to investigating voters’ concerns. Germany 7/27/23 Decl. ¶ 74.

RESPONSE: Citation does not support the statement. Paragraph 74 of Mr. Germany’s declaration does not mention ballot harvesting. **Statement is not supported by admissible evidence.** Paragraph 74 of Germany’s declaration offers an opinion as to the effects of moving drop boxes inside, but does not provide any foundation that Germany has personal knowledge of this information. To offer lay opinion testimony, a witness must have personal knowledge, and any declaration

that offers a lay opinion must establish the foundation for such opinion. *See Riley v. Univ. of Alabama Health Servs. Found., P.C.*, 990 F. Supp. 2d 1177, 1186–87 (N.D. Ala. 2014). In addition, he does not cite any evidence to support this contention, the statement constitutes an inadmissible expert opinion. *See* PI Tr. 195:5-196:6 (Counsel for the State making clear Germany was not being offered as an expert); *see also See e.g. Lebron v. Sec’y of Fla. Dep’t of Child. & Fams.*, 772 F.3d 1352, 1372 (11th Cir. 2014) (“While lay witnesses may testify about their own immediate perceptions, testimony that blurs into supposition and extrapolation crosses the line into expertise.”)

374. Some counties opted not to use dropboxes in the 2020 election cycle. Germany 7/27/23 Decl. ¶ 75.

RESPONSE: Undisputed.

375. In pre-SB-202 elections Georgia, there were instances of third-party groups giving things of value to voters waiting in line—including food, drinks, phone chargers. Eveler 288:5–12.

RESPONSE: Undisputed.

376. Prior to SB 202’s enactment, there were incidents in which party operatives and candidates for office were handing out things of value to voters waiting in line. Mashburn 3/7 101:15–102:16, 118:12–17, 185:20–186:7.

RESPONSE: Not material. The activities referenced in the statement would have violated Georgia’s longstanding law against campaigning within 150 feet of the polling cite. O.C.G.A. §§ 21-2-414 (2017), 21-2-570.

377. The practice of third-party groups giving out things of value to voters waiting in line prompted multiple complaints to State and county officials from voters who saw these activities as a form of improper influence. Germany 3/7 96:7–98:10, 103:11–104:2; Watson 185:20–24; K. Williams 30:22–31:1; Eveler 138:9–24.

RESPONSE: Citation does not support the statement. Ms. Watson agreed that her division received “complaints about people giving food and drinks to elections in line, just general complaints.” She did not testify as to the number of complaints, who made the complaints (voters or other people or organizations), or the specific nature of the complaints (i.e., she did not testify that the complaints stated that these activities were perceived as a form of “improper influence”). Mr. Germany also does not testify about the number of complaints or that the complaints were that these activities were a “form of improper influence;” rather he testified that they were “partisan motivated.” Mr. Williams testified that his office received “inquiries” from people who were interested in providing line relief and wished to learn the “the process...for providing this and any regulations,” Williams Dep. 31:1-9, not that he received complaints from voters.

378. Prior to SB 202, poll officials had to monitor attempts by third-party groups to give things of value to voters waiting in line, so that the officials could identify unlawful attempts at influence peddling by such groups. Eveler 138:9–14, 288:13–289:14; Germany 3/7 102:24–103:5; Sterling 204:10–205:13.

RESPONSE: Not material. Both before and after SB 202, poll officials must monitor the lines to identify unlawful attempts at soliciting votes, as required by Georgia’s long-standing prohibition on electioneering within 150 feet of the polling place. O.C.G.A. §§ 21-2-414 (2017), 21-2-570. Elections officials testified that line monitoring was still required post-SB 202. *See, e.g.*, Ex. 15 (Cobb Cnty. Dep. at 143:17-19) (“We monitor lines in the same way.”); Ex. 13 (Athens-Clarke Dep. 149:5-150:10).

379. During the 2020 election cycle, Georgia experienced a sharp increase in absentee voting, but rates of absentee voting in the State have declined somewhat in subsequent elections. Germany 7/27/23 Decl. ¶ 93.

RESPONSE: Statement is unsupported by admissible evidence. Mr. Germany’s statement about absentee rates lacks foundation and personal knowledge and is vague (“declined somewhat”). **Undisputed** that absentee voting rates among Black voters and white voters increased in 2020 relative to 2018 and decreased in 2022 relative to 2020. Ex. 85 (Burden Rep. at 11, Tbl. 5).

380. Prior to enactment of SB 202, voters could apply for absentee ballots as late as the Friday before election day, but ballots requested the week before election day were usually not voted in time to be counted. Bailey 3/21 98:8–21, 109:19–110:1; Germany 4/13 77:17–78:7; Germany 3/7 129:22–130:4; Germany 7/27/23 Decl. ¶ 99; Harvey 179:8–180:7; Eveler 182:2–10; Deposition of Charles Adams [Doc. 714] (“Adams”) 102:5–103:10.

RESPONSE: Disputed that, prior to enactment of SB 202, ballots requested the week before election day were usually not voted in time to be counted. Ex. 87 (Burden Supp. Decl. at 4-5) (showing that in November 2020, a majority of absentee ballot applications submitted in the last week voters were permitted to submit applications were returned and accepted). **Undisputed** that prior to enactment of SB 202, voters could apply for absentee ballots until the Friday before election day.

381. The week before election day is the busiest time for early voting in Georgia. Germany 7/27/23 Decl. ¶ 95.

RESPONSE: Not material.

382. Prior to SB 202’s enactment, many voters who requested absentee ballots during the week before election day nonetheless turned out to vote in person on election day, requiring poll workers to cancel each of those voters’

applications for an absentee ballot. Germany 7/27/23 Decl. ¶ 102; Kidd 191:25–193:5.

RESPONSE: Undisputed that voters who have requested absentee ballots and not voted or canceled those ballots prior to Election Day must have those applications canceled before they may vote. **Citation does not support statement** that “many voters who requested absentee ballots during the week before election day nonetheless turned out to vote in person on election day.” Both Mr. Germany’s declaration and the cited lines of Mr. Kidd’s testimony simply explains the process for canceling an absentee-ballot request.

383. Prior to SB 202’s enactment, Georgia law permitted voters who arrived at the incorrect precinct to vote a provisional ballot that would count for certain races. Germany 7/27/23 Decl. ¶¶ 108, 111.

RESPONSE: Undisputed.

384. Of the last five elections in Georgia, 2018’s had the highest overall share of votes (0.22%) classified as provisional for any reason. Grimmer Rep. ¶ 66.

RESPONSE: Not material. There are at least seven reasons that voters may cast a provisional ballot in Georgia (*see* Ex. 236 (USA-BUTTS-000005.001)), and the total share of voters who cast a provisional ballot for *any* reason is not relevant to any claim in this case, both because the total numbers reveal nothing about the

relative burdens faced by Black voters compared to white voters and because only out-of-precinct ballots are at issue in this case.

385. During the 2018 election, 0.34% of Black Georgia voters cast a provisional ballot, compared to 0.13% of White Georgia voters. Grimmer Rep. ¶¶ 67–68.

RESPONSE: Not material. There are at least seven reasons that voters may cast a provisional ballot in Georgia (*see* Ex. 236 (USA-BUTTS-000005.001)). Data on the relative rates of casting *any* type of provisional ballot is not relevant to any claim in this case, as only out-of-precinct ballots are at issue in this case.

386. For each ballot cast out of precinct during the pre-SB-202 era in Georgia, a group of election officials manually duplicated the provisional ballot onto another ballot, meaning the act of processing an out-of-precinct voter took between 15 and 20 minutes. Germany 7/27/23 Decl. ¶¶ 108, 111; Manifold 95:11–18.

RESPONSE: Not material. There is no evidence in the record that the General Assembly was aware of the process or the time required for processing an out of precinct ballot when it considered and passed SB 202. **Citations do not support statement.** The cited paragraphs of Mr. Germany’s declaration do not state how long processing OP ballots took other than the generalization that it was “time consuming.” And Mr. Manifold did not work in elections in Georgia until

August 2021, several months after SB 202 passed, so does not have knowledge of “the pre-SB-202 era in Georgia.” Ex. 35 (Manifold Dep. 15:4-15; 19:17-21).

387. Some voters who observed the pre-SB-202 process of manually duplicating out-of-precinct ballots lodged complaints on the mistaken belief that officials copying ballots were involved in election meddling. Germany 7/27/23 Decl. ¶¶ 108, 111.

RESPONSE: Citation does not support the statement. The paragraphs of Mr. Germany’s declaration mention nothing about voters who observed the manual duplication of OP ballots and nothing about any complaints lodged about the manual duplication of OP ballots. Indeed, both paragraphs note that this duplication process takes place after the polls close (i.e., when voters have left).

388. A voter who casts an out-of-precinct ballot is, for that reason, unable to vote in some down-ballot races. Bailey 3/21 43:1–23, 134:1–10, 132:14–23, 135:2–136:16; Mashburn 3/14 88:3–20; Deposition of Joseph Blake Evans [Doc. 717] (“Evans”) 88:7–16.

RESPONSE: Disputed. Only some—but not all—voters who cast an OP ballot would be unable to vote in some down-ballot races.

389. Prior to SB 202’s enactment, Georgia’s method of verifying the identities of voters requesting or voting absentee ballots was by comparing the voter’s signature on the request form or ballot with an image of the voter’s

signature in a database. Bailey 3/21 123:24–125:25. If it was unclear whether the signatures matched, the county official would then have another official compare the signatures. *Id.* 125:5–13. And sometimes a third official would need to make a final determination. *Id.* 125:13–15.

RESPONSE: Undisputed.

390. Georgia had been sued over its signature-matching method of confirming absentee voters' identities. Sterling 95:22–96:16.

RESPONSE: Undisputed.

391. While the previous absentee identification method of signature matching took three to four minutes per voter, objective identification methods (i.e., using a driver's license or other identification document allowed under SB 202) takes less than one minute. Bailey 3/21 125:22–126:12.

RESPONSE: Citation does not support the statement that signature matching universally takes three to four minutes and identification verification takes less than one. Citation lacks foundation that Ms. Bailey had any knowledge of the time it took to verify voter identities in counties other than Richmond County.

392. 96.5% of Georgia voters have either a State driver's license or identification number associated with their voter file. Report of Dr. Marc Meredith, attached as Ex. HHHH ("Meredith Rep.") ¶ 2(g) (identifying roughly 243,000 such

voters); Ga. Sec’y of State, Georgia Active Voters, <https://sos.ga.gov/georgia-active-voters-report> (identifying 7,004,034 active voters).

RESPONSE: Undisputed.

393. 99% of registered Georgia voters have either a driver’s license number or a social security number. Pls.’ PI Mot. at 19 [Doc. 566-1], attached as Ex. NNNN.

RESPONSE: Undisputed.

394. During the 2020 election cycle, Georgia election officials received multiple complaints from voters regarding absentee-ballot applications sent by third-party groups—including 1) complaints from voters who mistook these applications for actual ballots, 2) complaints that these applications would facilitate fraud, and 3) complaints that the applications were pre-filled with incorrect information. Declaration of Ryan Germany in VoteAmerica, attached as Ex. G (“Germany VoteAmerica Decl.”) ¶¶ 13, 22–23, 41, 49–50; Kidd 190:6–22; Bailey 10/6 50:3–24, 126:8–127:1; Watson 127:25–128:8.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

395. Many voters who received multiple absentee-ballot applications in the mail then returned multiple absentee-ballot applications, even if those voters did

not intend to vote absentee. Germany 4/13 51:2–18; Germany VoteAmerica Decl. ¶ 43.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

396. In the June 2020 primaries, the Georgia Secretary of State sent absentee-ballot applications to all registered voters to help facilitate absentee by mail voting given the global COVID-19 pandemic. Harvey 52:10–15; Sterling 52:5–12.

RESPONSE: Undisputed.

397. After June 2020, the Georgia Secretary of State did not send absentee-ballot applications to all registered voters, though some Georgia counties opted to do so. Germany 3/7 60:15–22; Smith 63:16–23.

RESPONSE: Undisputed.

398. In the 2020 general election, there was a higher rate (about 15%) of voters cancelling their requested absentee ballots and chose to vote in person than the corresponding rates in 2018 and 2022 (4.3% and 3.6%, respectively). Grimmer Rep. ¶¶ 98–99.

RESPONSE: Not material.

399. During the 2020 election cycle, mobile voting units were used, but not widely so, with only two counties (Fulton and Douglas) even having buses

outfitted for use as mobile voting units. Mashburn 3/14 194:14–18; Eveler 240:18–241:8; Germany 3/7 171:21–172:3.

RESPONSE: Undisputed that during the 2020 election cycle, mobile voting units were used in Fulton County. **Disputed** that during the 2020 election cycle, mobile voting units were used in Douglas County. Douglas County ordered a mobile voting unit in October 2020, but did not receive the unit until 2021. Ex. 63 (Kidd Dep. 170:4-11).

400. Election officials received multiple complaints from voters who were concerned that mobile voting units could be strategically placed in a way that could affect electoral outcomes. Mashburn 3/14 39:2–19, 51:16–52:3; Germany 3/7 173:11–174:22.

RESPONSE: Disputed. Mr. Mashburn testified that he received “less than five” telephone calls about mobile voting units from concerned individuals, none of whom lodged formal complaints with the SEB. Ex. 65 (Mashburn Dep. 40:8-16, 41:8-16, 45:16-22). Mr. Germany could not recall how many complaints the Secretary of State’s office received about mobile voting units. Ex. 59 (Germany Dep. 173:11-12; 174:6-8). Moreover, Fulton County received positive feedback and no complaints about the use of the mobile voting units, and Fulton County was careful to ensure the mobile voting units were distributed evenly across the county. *See* Ex. 21 (Fulton Cnty Dep. 182:14-18, 175:14-17, 174:19-23). Additionally, the

statement of unidentified voters' views on mobile voting units is inadmissible hearsay. Fed. R. Evid. 801(c), 802.

401. During the 2020 election cycle, there was no way for the SEB to ensure uniform distribution of mobile voting units across the State, given that the SEB does not have the funds in its budget to fund use of mobile voting units.

Mashburn 3/14 195:9.

RESPONSE: Undisputed that there is no way for the SEB to ensure uniform distribution of mobile voting units across the State, given that the SEB does not have the funds in its budget to fund use of mobile voting units. To the extent the fact suggests that lack of funding for mobile voting units was limited to the 2020 election cycle and that such funding is now available, it is **disputed**. The cited testimony was not limited to the 2020 election cycle and the lack of SEB funding continues to pertain today, post-SB 202 enactment. Ex. 65 (Mashburn Dep. 195:2-9).

402. Originally, Georgia held its runoffs for both State and federal offices according to a four-week schedule (i.e., four weeks between the general election and the runoff), but a 2017 court order required the State to change the federal runoff schedule to nine weeks to accommodate overseas voters. Sterling 184:4–15; Eveler 278:4–7.

RESPONSE: Undisputed, but incomplete. The citation does not support the statement.

403. The nine-week timetable for federal runoffs that was created by the 2017 court order gave Georgia counties discretion over how many days of early voting to mandate, with most counties having days available for voting that they chose not to utilize. Sterling 198:25–199:8.

RESPONSE: Undisputed, but immaterial as to the fact that SB 202 reduced mandatory early voting period that would have otherwise been available to counties, regardless of whether they historically chose to use each early voting day available to them. Ex. 69 (Sterling 199:23–200:1).

404. Prior to SB 202’s enactment, Georgia law did not expressly authorize counties to hold advance voting on Sundays. Sterling 150:15–25.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

405. Prior to SB 202’s enactment, Georgia law did not establish limits on the number of challenges that electors could bring to qualifications of other electors. Germany 3/7 229:4–9; Germany 4/13 223:14–24; Sterling 231:17–232:4.

RESPONSE: Disputed to the extent it implies that SB 202 did not change the law on voter challenge limits. SB 202 changed the law by specifically permitting unlimited challenges to be brought by a registered voter in the same

county as the challenged voters under both Georgia Code Section 21-2-229 and Section 21-2-230. Ex. 34 (SEB Dep. 217:1-6); Ex. 15 (Cobb Cnty Dep. Tr. 148:6-19); SB 202 Sections 15, 16. **Object as stating a legal conclusion (Federal Rule of Evidence 703). Citation to Germany 3/7 does not support statement.**

Germany testifies only to his opinion as to whether SB 202 expanded the ability to challenge voters and does not cite to any authority for the proposition. **Citation to Germany 4/13 does not support statement.** Germany only says, without reference to authority, that prior to 2020 he can “recall hundreds” of challenges being made but in a much different context--municipal elections where there was a concern about whether individuals lived in the city. Ex. 33 (SOS Dep. 223:14-24). He goes on to testify that “it was just kind of a different type of thing.” *Id.* 223:24-25. **Citation to Sterling does not support statement.** Sterling only offers legal conclusion, not supported by authority, that the word “unlimited” was added to the statute but that challenges were “already unlimited because it was silent.” Ex. 69 (Sterling 231:17-232:4).

406. During the 2020 election cycle, there were mass challenges to voters’ qualifications based on the National Change of Address database, but these challenges were dismissed for lack of probable cause by election officials. Deposition of Charlotte Sosebee [Doc. 699] (“Sosebee”) 218:13–18; Watson 207:2–5; Germany 4/13 226:20–227:8; Germany 3/7 208:18–25.

RESPONSE: Disputed. Not all mass challenges in the 2020 election cycle were dismissed for lack of probable cause. *See, e.g., Majority Forward v. Ben Hill Cnty. Bd. of Elections*, 512 F. Supp. 3d 1354, 1361 (M.D. Ga. 2021) (recounting the Muscogee County Board of Elections “voted unanimously to find that probable cause existed to sustain the challenge” to certain individuals named in a mass challenge based on the National Change of Address database). **Citation to Sosebee does not support statement** because citation does not discuss NCOA data. Sosebee also states that the December 2020 challenge was the first one the county received before SB 202. Ex. 13 (Athens Dep. 217:12-22). **Citation to Watson does not support statement.** With respect to the challenges, Watson says “I know that some of them were” based on NCOA data, “but I can’t speak to all of them.” Ex. 72 (Watson Dep. 206:15-207:5). **Citation to Germany 4/13 does not support statement.** Germany is discussing voter challenges after the implementation of SB 202 (not before), does not mention NCOA, and only speculates “I think Gwinnett County ended up determining there was no probable cause on some official -- on some challenges they later received.” Ex. 33 (SOS Dep. 4/13 226:20-227:8). **Citation to Germany 3/7 does not support statement.** Germany does not discuss mass challenges during the 2020 election cycle, NCOA data, or whether any counties dismissed challenges for lack of probable cause. Ex. 59 (SOS Dep. 3/7 208:18-25).

407. Each of Georgia's 159 counties has its own elections office and staff. Germany 3/7 43:8–14.

RESPONSE: Undisputed.

408. Georgia election officials received numerous complaints from voters regarding unlawful ballot harvesting during the 2020 election cycle. Watson 131:5–12, 203:20–204:10, 174:5–176:19; Sterling 161:21–24.

RESPONSE: Not material. Purported ballot harvesting is not relevant to any of the challenged provisions of SB 202. **Citation does not support the statement.** Watson refused to quantify the number of complaints received. Sterling's testimony is a description of a movie about ballot harvesting and does not discuss how many complaints were received by Georgia election officials. Additionally, **object to the admissibility of movant's fact**, as the statement of unidentified voters' complaints about purported ballot harvesting is inadmissible hearsay. Fed. R. Evid. 801(c), 802.

409. In an April 2020 interview, Speaker of the Georgia House of Representatives David Ralston stated that sending out absentee-ballot applications to all registered voters "will be extremely devastating to Republicans and conservatives in Georgia." Pls.' PI Mot. at 9 [Doc. 566-1] (Ex. NNNN); Mark Niesse, *Ralston says his concern that mail vote hurts GOP is about fraud*, Atl. J.-Const. (Apr. 20, 2020), <https://tinyurl.com/fac6r9v2>.

RESPONSE: Undisputed.

410. In an op-ed published on November 15, 2020, Georgia House of Representatives member Barry Fleming wrote that, “[i]f elections were like coastal cities, absentee balloting would be the shady part of town down near the docks you do not want to wander into because the chance of being shanghaied is significant.” Pls.’ PI Mot. at 16 [Doc. 566-1] (Ex. NNNN).

RESPONSE: Undisputed.

411. Chairman Barry Fleming, appointed to head the Georgia House’s Special Committee on Election Integrity, held the first committee meeting on February 4, 2021, adopting committee rules and amending the draft rules at the suggestion of a Democratic member. Germany 7/27/23 Decl. ¶ 22.

RESPONSE: Not Material as to the committee amending the draft rules at the suggestion of a Democrat. The amendment changed the number required for a quorum from five to six and is not relevant to any claim in this case. Ex. 125 (SOS0003134:11-SOS0003135:12). **Undisputed** as to the remainder of the paragraph.

412. More than ten special committees and special working groups have been used in the Georgia House on particular topics since 2017. Germany 7/27/23 Decl. ¶ 23.

RESPONSE: Not Supported by Citation. Mr. Germany does not cite a source for this information, nor does he cite how many of these committees considered and passed bills. Germany 7/27/23 Decl. ¶ 23. **Not material.** Mr. Germany does not point to any other special committee used for election-related bills and he cannot, because for at least 16 years including the passage of HB 316 and HB 244 (Voter ID and No-Excuse absentee voting) Governmental Affairs Committee had considered election bills in the House. *See* Ex. 4 (Burnough Decl. ¶¶ 23-25); Ex. 116 (HB 244 Status History, Georgia General Assembly 2005-2006 Regular Session, <https://www.legis.ga.gov/legislation/14446>); Ex. 153 (HB 316 Status History, Georgia General Assembly 2019-2020, <https://www.legis.ga.gov/legislation/54991>).

413. During the 2021 session when SB 202 was considered, four of the 14 members (almost 30%) of the Special Committee on Election Integrity were Black representatives. Germany 7/27/23 Decl. ¶ 24.

RESPONSE: Undisputed (28.57%)

414. A democratic member of the House Special Committee on Election Integrity during the 2021 legislative session called the changes that were made to the initial bill based on Democrats' input a "good faith effort" to improve election administration in Georgia. Germany 7/27/23 Decl. ¶¶ 26-27.

RESPONSE: Disputed Mr. Germany's declaration mischaracterizes Rep. Calvin Smyre's statement. The quote is part of Rep Smyre's longer comments. After getting clarification from Rep. Fleming regarding the proposed change to the absentee ballot application deadline, Smyre indicates that the change to the absentee ballot deadline is still "weighing" on him and that he knows that "this is a good faith effort," and he believes that they are "almost there." In the footnote to Par. 27 of Mr. Germany's declaration he once again mischaracterizes Rep. Smyre's full statement asking for time for to be able to look and digest the bill. Rep. Smyre says that the bill should not be passed in this legislative session so that legislators have sufficient time to vet the proposals. Rep. Smyre's commendation was "at least you put it all in one place" but made follow-up comments that the bill was too much for the legislature to sufficiently analyze without more time. Exs. 126-127 (SOS0003117:13-SOS0003118:7; SOS0003080:2-SOS0003083:3) ("I think something of this magnitude requires a lot of vetting. . . I'm just asking for some time for us to be able to look at this, digest it. . . .").

415. During the 2021 legislative session, the Georgia House of Representatives held twelve full hearings and meetings and four subcommittee hearings regarding election-related issues, and the State Senate held thirteen such hearings or meetings during the same period. Hearings & Meetings of H. Special Comm. on Election Integrity, 2021 Leg., Reg. Sess. (Ga. 2021) [videotape archive

available at <https://tinyurl.com/y2cc262t>], attached as Ex. SSSS; Hearings Before the S. Comm. on Ethics, 2021 Leg., Reg. Sess. (Ga. 2021) [videotape archive available at <https://tinyurl.com/3zw27wzm>]; Germany 7/27/23 Decl. ¶ 56.

RESPONSE: Undisputed as to the number of hearings, and the fact that those hearings regarded election related bills.

416. Of the various election bills introduced and debated at the conclusion of the 2021 regular session, SB 202 was the only election bill to pass the Georgia General Assembly. Germany 7/27/23 Decl. ¶ 52.

RESPONSE: Undisputed.

417. The Georgia Senate heard testimony from over 60 witnesses regarding the Senate's version of HB 531, which served as a template for SB 202. Germany 7/27/23 Decl. ¶ 40; Pls.' PI Mot. at 16 [Doc. 566-1] (Ex. NNNN).

RESPONSE: Disputed. The information regarding the number of speakers that Mr. Germany provided is incorrect. The Georgia Senate heard from 29 witnesses. Exs. 131 & 132 (AME_001352:18-AME_001416:16; AME_001421:9-AME_001448:13). Comments were limited to two minutes per speaker. Ex. 131 (AME_001351:6-9) **Undisputed** as to the rest of the paragraph.

418. After nearly two hours of questions and debate, the Georgia House of Representatives voted 100-75 to pass the revised version of SB 202. Germany 7/27/23 Decl. ¶ 52.

RESPONSE: Not supported by citation as to the hours of questions and debate. **Undisputed** as to the rest of the paragraph.

419. The Georgia Senate passed the same legislation by a vote of 34–20, and SB 202 was signed by the governor later that day. Germany 7/27/23 Decl. ¶¶ 54–55.

RESPONSE: Undisputed.

420. Even as debate in the Georgia Senate regarding SB 202 wrapped up, a Democratic Senator acknowledged “that the majority leader did do substantial research on voting laws before bringing pieces of this bill and other bills forward.” Germany 7/27/23 Decl. ¶ 47.

RESPONSE: Disputed. Mr. Germany mischaracterized Senator Harrell’s statement. Senator Harrell acknowledged that the majority leader did do substantial research on “national voting laws...” Senator Harrell then explains that “the hard part of that is forcing all these national laws from all over the country to fit Georgia’s unique election system made up of so many counties. Some of them very small and rural and some huge and urban.” Harrell then says that SB 202 “isn’t close to finished, yet” and that there are fears that SB 202 will have unintended consequences and undue expenses for local governments. Ex. 133 (AME_001750:8-20).

421. A survey by the University of Georgia’s School of Public & International Affairs found that 99.5% of black voters reported no problem when voting, and no black voters reported poor experiences when voting. Survey Rsch. Ctr., Sch. of Pub. & Int’l Affs. Univ. of Ga., 2022 Georgia Post-Election Survey 6, 8 (2023) (“SPIA Survey”), <https://tinyurl.com/4kxeb373> (Ex. YYYY); Shaw Rebuttal Rep. ¶ 38 (showing wait times averaged “0 minutes to approximately 10 minutes”); Germany 6/15/23 Decl. ¶¶ 10–11 (average wait of 1 minute 45 seconds); Manifold 30:11–17 (stating that “we don’t have lines nearly as much as they used to have in the past[.]”).

RESPONSE: This fact is identical to ¶ 358. Movant’s citation does not support the movant’s fact and movant’s fact is not material. The survey cited does not meet the standard of academic rigor to draw scientifically valid conclusions. Ex. 81 (Pettigrew Dep. 142:16-22). The demographic compositions are outside of the margin of error. *Id.* 143:1-4. The poll purports to capture the experiences of people from the November 2022 election but the poll ran from November 13, 2022 to December 6, 2022 so it captures people surveyed the same day or the day after they voted in the runoff election. People therefore could have been reporting on their experiences in the November general election or the December runoff election or both. The inconsistency weakens the quality of the

data, especially insofar as it reflects what was happening in November 2022 specifically. *Id.* 143:4-144:11.

422. Georgia's voter turnout rate (among the population of eligible voters) was 3.2% higher than the national average during the 2018 election cycle and 5.6% higher than the national average during the 2022 election cycle. Grimmer Rep. ¶¶ 42, 44.

RESPONSE: Not material.

423. According to a recent study published by the MIT Election Data & Science Lab, During the 2022 election, fewer than 10% of Georgia voters reporting waiting in line for more than 30 minutes in order to vote. Germany 6/15/23 Decl. ¶ 13.

RESPONSE: Movant's fact is not material. Regardless of the number of voters who had to wait in line more than 30 minutes, the 2022 election data from the Center of Employment Statistics shows that there was a 50% increase in the rate of Black versus white voters who waited more than 30 minutes. Ex. 81 (Pettigrew Dep. at 120:8-13). Notably, counties where more than 50% of the statewide population of people of color reside (*see* Ex. 106 (Palmer Rep. ¶ 15 & Tbl. 1)) reported wait times of more than 30 minutes during the 2022 election. For example, every single one of Fulton County's 24 early voting locations had a line of at least 30 minutes at some point, and 21 of 24 locations had a line of at least 60

minutes. In Gwinnett County, all 11 early voting sites reported a wait of at least 45 minutes. Early voting sites in DeKalb County avoid lines in excess of two hours, but 11 out of 16 sites reported a line over 60 minutes. In Cobb County, 8 out of 12 early voting locations reported a line longer than 30 minutes. Ex. 107 (Pettigrew Rep. at 35).

424. Georgia election officials processed a record number of absentee-ballot applications (compared with past midterms) during the 2022 election cycle. The Carter Ctr. for Fulton Cnty. Bd. of Elections & Reg. and Performance Rev. Bd., *2022 General Election Observation: Fulton County, Georgia* 16 (2022), <https://tinyurl.com/346s8tdy>, Ex. 34 to Germany 7/27/2023 Decl.

RESPONSE: Not material. In a state with a growing population, *see* Ex. 85 (Burden Rep. 12/30/2022 at 8-9 (examining growing population and active voters in the state)), increases in the raw number of voters, including those requesting absentee ballots, would be expected. Like turnout rates overall, the total numbers of absentee ballot applications among all races do not show the relative burdens faced by Black voters after the adoption of SB 202. *See, e.g.,* Ex. 97 (Fraga Sur-Rebuttal (3/3/2023) at ¶¶ 12-13, 86-87). These burdens, rather than raw numbers of absentee voters, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm'n*, 739 F.2d 1529, 1538-39 (11th Cir. 1984) (voter registration location and

hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle, Ex. 86 (Burden Sur-Rebuttal, March 2023, at 11), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202. Ex. 83 (Grimmer Dep. 5/1/23 - 47:17 - 49:11).

425. During the 2022 election cycle, Georgia voters voted early at a higher rate than in any previous midterm election. Grimmer Rep. at 42 tbl. 7.

RESPONSE: Not Material. Like turnout rates overall, the rate of early voting among all voters does not show the relative burdens faced by Black voters after the adoption of SB 202. *See*, e.g., Ex. 97 (Fraga Rep. (3/3/2023) at ¶¶ 12-13, 86-87). These burdens, rather than raw numbers of voters who voted early, are the appropriate measure of discriminatory impact. *See McCrory*, 831 F.3d 204, 232-33 (4th Cir. 2016); *United States v. Dallas Cty. Comm’n*, 739 F.2d 1529, 1538-39

(11th Cir. 1984) (voter registration location and hours that were disproportionately burdensome for Black residents “hindered access to the political process by [Black voters]”); *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting) (“If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for [B]lacks to register than whites, [B]lacks would have less opportunity “to participate in the political process” than whites, and § 2 would therefore be violated—even if the number of potential [B]lack voters was so small that they would on no hypothesis be able to elect their own candidate.”)

It is almost impossible to isolate the influence of an election law such as SB 202 in the context of a single election cycle, Ex. 86 (Burden Sur-Rebuttal, March 2023, at 11), and the Defendants’ expert does not purport to attribute any trends in turnout to SB 202. Ex. 83 (Grimmer Dep. 5/1/23 - 47:17 - 49:11).

426. During the 2022 election cycle in Georgia, 99.75% of absentee-ballot applications arrived before SB 202’s deadline—with 0.27% of Black voters’ applications and 0.25% of White voters’ applications arriving after that deadline. Grimmer Rep. ¶¶ 89–90.

RESPONSE: Not material. Dr. Grimmer’s method of calculation does not take into account the cumulative effect of SB 202’s various changes, the increased burdens on Black voters, or the impact of small numbers of ballots on close

statewide elections. Further, Dr. Fraga found that Black voters' applications were disproportionately likely to be rejected for arriving too late in 2022 and that the rate of Black voters' absentee ballot applications being rejected as too late jumped from November 2018 to November 2022. Ex. 96 (Fraga (1/27/23) ¶¶ 99-100 & Tbl. 7). Further, a greater percentage of all applications were rejected post-SB 202 for being "too late" than before SB 202, and the increase was greatest for Black voters. Ex. 96 (Fraga (1/27/23) ¶¶ 99-100 & Tbl. 7).

427. The State received complaints from Democrats about the election process following 2018 election. PI Hr'g Tr. 183:1-5, 11-17; Declaration of Ryan Germany (October 30, 2023), attached as Ex. B ("Germany 10/30/23 Decl.") ¶ 5-8; Mashburn 3/7 62:3-7.

RESPONSE: Undisputed.

428. Some of the 2018 Complaints concerned signature matching on absentee ballot applications, including claims it was subjective, slow, and the election officials were not properly qualified to conduct a signature match. Mashburn 3/14 196:23-24, 197:2-4; Sterling 95:25 – 96:16; PI Hr'g Tr. 191:11-20; Germany 10/30/23 Decl. ¶ 17, 71-76.

RESPONSE: Undisputed.

429. There were also complaints in 2018 about election integrity. Germany 10/30/23 Decl. ¶ 5.

RESPONSE: Disputed. The complaints during the 2018 election cycle were focused on voter suppression, including long lines. *See* Ex. 4 (Burnough Decl. ¶ 25).

430. Following the 2020 elections, Georgia received complaints from Republicans. PI Hr’g Tr. 190:17-21; Germany 10/30/23 Decl. ¶ 18.

RESPONSE: Undisputed.

431. In Georgia, there was significant criticism of the signature match process for absentee voting. Germany 10/30/23 Decl. ¶ 17-18; Mashburn 3/14 196:23-24 (lawsuits over signature match) 197:2-4 (lack of expertise on signature match); Sterling 95:25–96:16.

RESPONSE: Undisputed.

432. Signature matching was seen as too subjective and, in 2020, with the sheer volume of absentee ballot applications, many claimed that ballots were being sent to individuals without proper verification of their identity. Sterling 95:25-96:16 (subjectivity makes it difficult to train workers); Bailey 10/6/22 90:21-91:5; Harvey 186:14-23; Bailey 10/6/22 90:21-91:5 (subjectivity causes concerns of fraud); Germany 10/30/23 Decl. ¶ 73.

RESPONSE: To the extent the witnesses’ statements are being imputed to the legislature or used as evidence of the purpose of SB 202’s ID requirements, Plaintiffs **object** that the testimony lacks foundation and constitutes inadmissible

hearsay. None of the witnesses are legislators, nor are they qualified to offer opinion testimony on the motives of legislators. Furthermore, the **citations do not provide a basis** for the statement that many ballots were being sent to individuals without proper verification of their identity.

433. In 2020, some questioned whether counties were spending sufficient time per application to adequately conduct thorough signature matching. Germany 10/30/23 Decl. ¶ 18, 74–75.

RESPONSE: Disputed, and the statement is not supported by admissible evidence. First, multiple county election officials informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003). Second, nothing in the cited evidence supports the claim that “some questioned whether counties were spending sufficient time per [absentee ballot] application” in 2020. Third, statements in paragraph 75 of Mr. Germany’s declaration are inadmissible hearsay, speculation, and/or not based on personal knowledge. *See, e.g.*, Germany 10/30/23 Decl. ¶ 75; *see also* F.R.C.P. 56(c)(4); *infra* response to SMF ¶ 491.

434. In June 2020, the Secretary of State had sent absentee ballot applications to all registered voters in Georgia in response to reports that some

counties were sending out unsolicited absentee ballot applications so that the process would be fair to all voters. Harvey 52:10-15; Sterling 52:5-9; Germany 10/30/23 Decl. ¶ 24.

RESPONSE: Undisputed.

435. The Secretary of State chose not to send out unsolicited absentee ballot applications for the November 2020 general election, although some Georgia counties chose to do so. Germany 3/7 60:1–22; Smith 63:16–23; Bailey 10/6 126:12 – 127:1; Germany 3/7 58:5-23.

RESPONSE: Undisputed.

436. There was a significant increase in Georgia voters using the absentee option in 2020 due to the pandemic, resulting in numerous duplicate applications for the same voters. Grimmer Rep. ¶ 8, 54; Sterling 53:3-20, 54:7-9; Germany 3/7 183:3-9, 183:16-21.

RESPONSE: Undisputed that there was a significant increase of Georgia voters using absentee ballots in 2020 due to the pandemic. **Disputed** that duplicate applications were “numerous” in that they played a small part of the more than half a million absentee ballots voted in November 2020 in the State. *See* Germany 10/30/23 Decl. ¶ 60 (noting that the State only received 6,455 duplicate applications for the November 2020 election). **Objection on hearsay grounds** to Ryan Germany’s testimony in the 3/7/23 deposition where he reported “hearing

stories” without citation to any record evidence. **Citation to Sterling deposition does not support the statement**, in that the cited language on pages 53 and 54 do not quantify the extent of duplications and does not support the asserted fact that any duplicates were numerous.

437. Voters who *received* multiple applications often returned multiple applications. Deposition of Ryan Germany in VoteAmerica, attached Ex. II (“Germany VoteAmerica”) 49:20-21; Germany 10/30/23 Decl. ¶¶ 59-61.

RESPONSE: Citations to Germany’s deposition do not support the statement that voters *often* returned multiple applications. *See* Germany VoteAmerica Dep. 49:20-21 (Ex. II) (saying nothing about voters returning multiple applications); Germany 10/30/23 Decl. ¶¶ 59-61 (citing an example of only one person who submitted multiple applications).

438. In some instances, they did so even though they did not intend to vote by absentee ballot. Germany 10/30/23 Decl. ¶¶ 59, 61; Transcript of Hearing in VoteAmerica Prelim. Inj. (June 10, 2022), attached as Ex. ZZZ (“VoteAmerica Hr’g Tr.”) 28:12–16, 42:16–22; Germany VoteAmerica 199:13–25; Declaration of Ryan Germany in VoteAmerica (May 20, 2022), attached as Ex. G (“Germany 5/20/22 VoteAmerica Decl.”) ¶ 43.

RESPONSE: Objection to testimony in the Germany 10/30/23 Declaration that is not supported by evidence produced during discovery or otherwise part of

the record in this case. Further objection to the Germany 10/30/23 declaration as hearsay. Paragraph 61 of Mr. Germany's declaration is **inadmissible because Mr. Germany lacks personal knowledge** as to the intent of unspecified voters. He does not identify how he knows the intent of specific voters. "For a matter to be considered within a witness's personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation." *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted).

439. This required election officials to divert their finite resources to processing many unnecessary absentee-ballot applications. VoteAmerica Hr'g Tr. 28:16–21; Germany 10/30/23 Decl. ¶¶ 60-61.

RESPONSE: Movant's citation does not support the statement. The VoteAmerica Hearing transcript does not support the statement made; rather it covers the cancellation process generally and is not tied to duplicate applications. As to the Germany declaration, paragraph 48 of the 10/30/23 declaration, without citation to record evidence, claims that 318,096 absentee ballots were cancelled in November 2020, but elsewhere in paragraph 60 (again with no citation to record evidence) notes that only 6,455 were duplicate applications, indicating that the vast majority of cancellations were not due to

duplicate applications. Further objection to the testimony in the Germany 10/30/23 Declaration that is not supported by evidence produced during discovery or otherwise part of the record in this case. Further objection to the Germany 10/30/23 declaration as hearsay. Paragraph 61 of Mr. Germany's declaration is inadmissible because Mr. Germany lacks personal knowledge as to the intent of unspecified voters. He does not identify how he knows the intent of specific voters. "For a matter to be considered within a witness's personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation." *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted).

440. Then, on Election Day, officials were required to process many absentee-ballot cancellations when voters who had submitted absentee-ballot applications arrived to vote in person, leading to longer lines. VoteAmerica Hr'g Tr. 29:25–30:4; Germany VoteAmerica 199:13–200:7; Germany 10/30/23 Decl. ¶¶ 47–48, 89.

RESPONSE: Disputed. Citation does not support the proposition that the number of cancelled absentee ballots was due to duplicate absentee ballot applications (versus other reasons voters might decide to vote in person). Paragraph 48 of the 10/30/23 declaration, without citation to record evidence,

claims that 318,096 absentee ballots were cancelled in November 2020, but elsewhere in paragraph 60 (again with no citation to record evidence) notes that only 6,455 were duplicate applications. **Objection** to testimony in the Germany 10/30/23 Declaration that is not supported by evidence produced during discovery. Further objection to the Germany 10/30/23 declaration as hearsay. Lack of personal Knowledge. Germany, who has never worked as a county election official, does not identify how he knows that these were actual administrative issues faced by county election officials. “For a matter to be considered within a witness’s personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation.” *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal marks omitted).

441. In 2020, Georgia voters also complained about receiving multiple absentee-ballot applications, including from Democratic organizations who again made significant outreach efforts to encourage voters to utilize the vote by mail system during the pandemic. Germany 5/20/22 VoteAmerica Decl. ¶¶ 39, 41–42; 3/18/21 Tr. at 21:1–23:7, *Hearings & Meetings of H. Special Comm. on Election Integrity*, 2021 Leg., Reg. Sess. (Ga. 2021); VoteAmerica Hr’g Tr. 19:23–20:5, 22:4–14; Germany 3/7 92:13 – 94:7.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

442. Voters were worried that these applications presented an open invitation for voter fraud—a concern exacerbated by voters believing that the *applications* themselves were actually *ballots*. Germany 5/20/22 VoteAmerica Decl. ¶ 42; VoteAmerica Hr’g Tr. 20:3–5; Kidd 190:6–22; Bailey 10/6 50:3–24.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

443. Having received multiple absentee ballot applications led some voters submitting duplicate applications when they weren’t sure of the status of their initial applications and to numerous reports of voters showing up to vote in person having forgotten that they had submitted a request for absentee ballot, which requires the time-consuming process of cancelling absentee ballots discussed below and led to complaints of fraud. Germany 10/30/23 Decl. ¶ 47–48, 89; Bailey 10/6 124:23–126:7 (2020–9,700 duplicate absentee ballot applications); Eveler 185:2–11; Smith 66:13–67:2; Kidd 188:24–91:5; Germany 3/7 183:3–9.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

444. Election officials also received numerous calls and complaints where voters seemed to be confusing absentee ballot applications with actual absentee

ballots. Germany 10/30/23 Decl. ¶ 58; Watson 178:6–179:4, 200:18–201:13; Mashburn 3/7 62:3–9.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

445. Similarly, throughout the 2020 cycle, the number of requested and subsequently cancelled absentee ballots was extremely large—upwards of 15% of all absentee ballots requested were subsequently cancelled so the voter could instead vote in person compared to 4.3% in 2018 and only 3.6% in 2022. Grimmer Rep. ¶ 98-99.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

446. For the 2020 general election, for instance, there were 289,050 absentee-ballot applications cancelled by voters when they arrived to vote in person, either during Early Voting (260,085) or on Election Day (28,965) compared with only 16,072 such cancelled applications during the 2018 general election (with 12,000 during Early Voting and 4,072 on Election Day), and 11,659 cancelled applications during the 2022 general election (with 10,067 during Early Voting and 1,592 on Election Day). Grimmer Rep. ¶¶ 94–99, tbls. 14, 16.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

447. Before SB 202, some organizations increased their use of pre-filled absentee-ballot applications. Germany 5/20/22 VoteAmerica Decl. ¶¶ 20; Bailey 10/6 131:3–24 (issues with pre-filled applications); Watson 127:13–128:8 (lots of complaints about wrong addressees and concerns about fraud).

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

448. Pre-filled information by third parties was often incorrect. Germany 5/20/22 VoteAmerica Decl. ¶ 21.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

449. For instance, many voters complained that the pre-filled applications listed individuals who no longer (or never) lived at the address, who no longer (or never) lived in Georgia at all, were minors, or were deceased and even pet names. Watson 127:13–128:8; Bailey 10/6 126:8–127:1, 131:3-24.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

450. Other voters complained to the State that the applications were pre-filled with incorrect information. Watson 127:13–128:8; Bailey 10/6 126:8–127:1; Germany 10/30/23 Decl. ¶¶ 32–35, 38–42.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

451. These errors caused many Georgia voters to contact the Secretary of State's office with questions and concerns about potential fraud. Watson 127:13–128:8; Bailey 10/6 126:8–127:1; Germany 5/20/22 VoteAmerica Decl. ¶ 22; 3/18/21 Tr. at 22:2–9, *Hearings & Meetings of H. Special Comm. on Election Integrity*, 2021 Leg., Reg. Sess. (Ga. 2021) (Ex. SSSS); VoteAmerica Hr'g Tr. 22:4–14; Deposition of Matthew Mashburn in VoteAmerica, attached as Ex. SSS (“Mashburn VoteAmerica”) 83:20–84:4.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

452. Voters submitting an absentee ballot application with incorrect information (including pre-filled information) results in either the application being denied, the local election officials sending a cure notice and the voter being required to submit the correct information, or potentially an absentee ballot being mailed to an incorrect location or voter. Germany 4/13 89:11–90:19; Germany 10/30/23 Decl. ¶ 50.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

453. The large number of absentee ballot applications, duplicate applications and cancelled absentee ballots created extreme burdens on election administrators and raised questions and confusion from voters. Evans 102:18–103:21; Germany 10/30/23 Decl. ¶ 49, 88; VoteAmerica Hr’g Tr. 28:5–30:4.

RESPONSE: Not material. Movant’s citations do not support the facts.

None of movant’s citations support the claim that absentee applications, duplicate applications, and cancelled absentee ballots “created extreme burdens on election administrators.”

Mr. Germany’s testimony in the Vote America Hearing sets out the process of cancelling a voter’s absentee ballot application when that voter appears to vote in person. It does not support the allegation that “cancelled absentee ballots created extreme burdens on election administrators and raised questions and confusion from voters.”

The cited lines of Mr. Evans’ deposition testimony do not support the fact that the number of absentee ballot applications, duplicate applications, or cancelled absentee ballots “created extreme burdens on election administrators.” Mr. Evans testifies that in 2020 there were an increase in absentee applications and cancelled absentee ballots, that cancelling an absentee ballot can “make the check-in process longer” for an in-person voter, and that some voters experienced confusion.

Movant's fact is not supported by admissible evidence. Mr. Germany's claims in paragraphs 49 and 88 of his declaration regarding the substance of voters' complaints are inadmissible hearsay because they are being offered for the truth of the complaints, and because the voters are unidentified they cannot be distilled into an admissible form at trial. *See Saunders v. Emory Healthcare, Inc.*, 360 Fed. Appx. 110, 112-13 (11th Cir. 2010); *see* Fed. R. Evid. 801-802. These claims also lack foundation, as Mr. Germany has not established that he observed these events or the basis for his claims. And Mr. Germany's claims about what voters "may or may not have heard" and whether voters cancelling absentee ballot applications "potentially exacerbat[ed] wait times" are inadmissible speculation, not Mr. Germany's personal knowledge. *See* Fed. R. Evid. 602; *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) ("For a matter to be considered within a witness's personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation.").

It is **undisputed** that some voters expressed confusion about whether or not they submitted an absentee ballot application during the 2020 elections.

454. Indeed, many voters simply forgot they had applied for absentee ballots, which again caused administrative burdens and cast doubt on the election process. Bailey 3/21 99:25–101:1; Germany 10/30/23 Decl. ¶ 45.

RESPONSE: Not material. Movant’s citations do not support the allegation that voters forgetting they had applied for an absentee ballot “caused administrative burdens.” **Object** on grounds that the statement lacks foundation and is supported by inadmissible hearsay. The alleged complaints described by Germany are being offered for the truth of those complaints, and are therefore inadmissible. **Undisputed** that some voters forgot they had applied for an absentee ballot in 2020.

455. In addition to administrative burdens and costs to the state sending out unrequested absentee ballot applications to 6.9 million registered voters, this process resulted in many questions regarding the integrity and legitimacy of the 2020 election results. Bailey 3/21 100:3–12; Sterling 38:16-39:2; 54:13–18; Watson 200:18–201:13; Germany 10/30/23 Decl. ¶ 25–27.

RESPONSE: Disputed that sending unsolicited absentee ballot applications was an administrative burden, because several counties voluntarily opted to send unsolicited absentee ballot request to their registered voters during the 2020 elections. *See, e.g.*, Ex. 63 (Kidd Dep. 49:6-25); Ex. 18 (DeKalb Cnty. Dep. 63:17-23); Ex. 49 (Bailey 10/6/22 Dep. 49:7-21, 118:19-119:15); Ex. 15 (Cobb Dep. 183:15-184:1).

Movant’s citations do not support the facts. The portion of Ms. Bailey’s deposition is related to voters who did not recall applying for an absentee ballot,

and does not support any part of this fact, as it is not related to any questions about the “integrity and legitimacy of the 2020 election results” nor about any “administrative burdens and costs” associated with sending unrequested absentee applications. In fact, Ms. Bailey testified that Richmond County sent unsolicited absentee ballot applications to all registered voters in her county during the November 2020 elections. *See* Ex. 49 (Bailey 10/6/22 Dep. 49:7-21, 118:19-119:15).

In addition, the portions of Ms. Watson’s deposition do not support any part of this fact. Ms. Watson’s testimony cited here relates to voters having received multiple absentee ballot applications and does not reference “questions regarding the integrity or legitimacy of the 2020 election results” or “administrative burdens and costs” associated with the State sending unsolicited absentee ballot applications.

Further, **we object to the admissibility of this fact to the extent it is supported by inadmissible evidence** in paragraphs 25-27 of Mr. Germany’s declaration. Paragraphs 25-27 rely on inadmissible hearsay and speculation, not Mr. Germany’s personal knowledge. *See* Fed. R. Evid. 602; see also *Purdee v. Pilot Travel Centers, LLC*, No. CV407-028, 2009 WL 423976, at *2 (S.D. Ga. Feb. 19, 2009) (striking a portion of an affidavit where the declarant never stated “the basis for his knowledge.”) Germany also offers improper lay opinions when

he attributes unsolicited absentee ballots as the cause of voter questions or concerns. To offer lay opinion testimony a witness must have personal knowledge and any declaration that offers a lay opinion must establish the foundation for such opinion. *See Riley v. Univ. of Alabama Health Servs. Found., P.C.*, 990 F. Supp. 2d 1177, 1186–87 (N.D. Ala. 2014) (“The nature and extent of the contacts and the observations of the witness should be as detailed as possible, but it must be recognized that an adequate foundation for opinion testimony by a layman is established when the testimony discloses that the witness through contacts with the subject had a reasonable opportunity to form an opinion.”). A party’s belief or speculation is not based on personal knowledge and is not competent summary judgment evidence. *See id.* at 1187.

It is **undisputed** that sending unsolicited absentee ballot applications to all registered voters in the State required administrative coordination and resulted in some costs to the State, all of which the State undertook voluntarily.

456. Before SB202, Georgia voters often complained to the State about absentee-ballot applications they received from third-party organizations, which did not have a consistent, required form prior to 2020. *See Germany* 10/30/23 Decl. ¶¶ 32–34; *Germany* 5/20/22 *VoteAmerica* Decl. ¶¶ 13, 23, 41, 49–51; *Germany* *VoteAmerica* 181:7–12; *Mashburn* *VoteAmerica* 90:11–23, 91:2–13; *Bailey* 10/6 126:8–127:1.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

457. In 2020, voters also complained about receiving applications that were pre-filled with incorrect information. K. Williams 103:24–104:17; Bailey 10/6 126:13–127:1.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

458. Voters also complained about receiving duplicate applications. Germany 3/7 182:23–183:9; Germany 10/30/23 Decl. ¶ 57.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

459. Further, voters called telling election officials they were confused about who was sending them an application and why. K. Williams 105:20–106:14; Germany 10/30/23 Decl. ¶ 32, 54–58; Bailey 10/6 126:8 – 127:1, 127:7-13, 129:4-16; Mashburn 3/7 62:3-15.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

460. In many instances, voters thought they came from the State, and thus they contacted election officials with questions. Germany 10/30/23 Decl. ¶ 64–67; Mashburn VoteAmerica 90:11–23; Germany 5/20/22 VoteAmerica Decl. ¶ 49

(Noting that one county election supervisor explained that the misimpression that each such application was sent by the State would lead “people [to] feel the need to complete and sign [the] form without really paying attention to what it is for.”).

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

461. Georgia voters also complained about receiving multiple absentee-ballot applications from third party organizations. Germany 5/20/22 VoteAmerica Decl. ¶¶39-42; VoteAmerica Hr’g Tr. 19:25–20:5, 22:4–14.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

462. Election officials received duplicate absentee ballot applications from voters. Germany 3/7 183:3-9, 183:17-21; Sterling 53:18-20; Germany 10/30/23 Decl. ¶ 59–60.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

463. Local election officials were inundated with duplicate applications from the same voters in 2020. Germany 10/30/23 Decl. ¶ 59-60; Bailey 10/6 124:23 – 126:6 (2020 – 9,700 duplicate absentee ballot applications); Eveler 185:5-11; Smith 66:16-20; Kidd 30(b)(6) 189-90; Germany 3/7 183:3-9.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

464. Local election officials received lots of calls and complaints in 2020 believing the later applications were actually ballots. Germany 10/30/23 Decl. ¶ 58, 67; Watson 178:11–179:4, 200:23–201:13.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

465. Voters were worried that these applications presented an open invitation for voter fraud—a concern exacerbated by voters believing that the *applications* themselves were actually *ballots*. Germany 5/20/22 VoteAmerica Decl. ¶ 42; VoteAmerica Hr’g Tr. 20:3–5; Kidd 190:8-22; Bailey 10/6 50:3-24.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

466. In trying to keep up with the volume and address the large number of duplicate applications resulting from so many different groups sending out absentee ballots indiscriminately, voting officials were overwhelmed. Sosebee 167:6-10, 170:2-3 (overwhelmed administrators with so many applications in 2020); Williams 107:10-20 (ton of applications received in 2020, but lots of duplicates).

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

467. One county even admitted that approximately 20 voters received duplicate *ballots* based on duplicate applications. Watson 3/14/23 201:14 – 202:9 (20 people got duplicate ballots because of duplicate applications); Sosebee 169:16-19 (few times when voter got more than one ballot – count first one to return).

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

468. One man attempted to sell his 2nd ballot (not application) received on the internet. Mashburn 3/7 63:5-7.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

469. Fulton County sent 10 ballots (not applications) to one house. Mashburn 3/7 62:21-63:4.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

470. The large number of duplicate applications and then cancelled absentee ballots in 2020 created extreme burdens on election administrators having to collect the canceled ballot or affidavits from voters who no longer had the ballot

and raised questions about what happened to official ballots that were no longer accounted for. Evans 102:21-103:21; Germany 10/30/23 Decl. ¶¶ 27 (time consuming to cancel, can lead to longer lines), 46-48, 88.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

471. There were also concerns about ballot harvesting with so many vote by mail ballots and the use of drop boxes to return those ballots which the State had to investigate even if there was no evidence presented to support the allegations. Watson 3/14/23 203:24 – 204:10 (investigated claims of ballot harvesting in 2020); Sterling 161:21-24 (referring to the file “2000 Mules”); Germany 10/30/23 Decl. ¶ 95.

RESPONSE: Citations do not support the fact that any concerns about “ballot harvesting” were caused by the volume of vote by mail ballots or use of drop boxes. **Objection to the admissibility of this fact to the extent it is supported by inadmissible hearsay.** Fed. R. Evid. 801(c), 802, 805. **Not material**, as “ballot harvesting” was already illegal under Georgia law prior to SB 202. *See* O.C.G.A. § 21-2-385(a) (2020); *see also* Ex. 187 (SOS Answers to Frequently Asked Questions, Nov. 19, 2020, CDR00146329 at ¶ 11) (“Since the passage of HB 316, ballot harvesting is explicitly forbidden by Georgia code.”);

Ex. 198 (CDR00056863-64) (“banning ballot harvesting” was “the first thing” the Secretary of State’s office worked on with the General Assembly in 2019).

472. The area of the voting process that has long been considered the most susceptible to fraud, and that was the source of a large portion of the complaints from voters and activists from both political parties, is the absentee voting process. Germany 10/30/23 Decl. ¶ 17, 23; The Carter Ctr., *2022 General Election Observation: Fulton County, Georgia* 16 (2022) (Germany 7/27/23 Decl., Ex. 34 (Ex. C)); U.S. Election Assistance Comm’n, *Election Crimes: An Initial Review and Recommendations for Future Study* 8, 10, 12, 18–19 (Dec. 2006), attached as Ex. ZZZZ; Germany 3/7 90:1–11; Sterling 102:11–18.

RESPONSE: Disputed. Multiple state officials admitted that the absentee ballot and voting process was safe, secure, and did not result in voter fraud. Ex. 59 (Germany Dep. 57:17-20); Ex. 69 (Sterling Dep. 55:14-17 (no widespread fraud in 2020 absentee voting); 60:15-61:6 (SOS not concerned about fraud before, during, or after sending AB applications prior to June 2020)); Ex. 82 (Bailey Mar. 21, 2023 Dep. 175:8-12) (no fraud re absentee ballots); Ex. 15 (Cobb Dep 185:16-19) (no fraud re absentee ballots). Further, the House Government Affairs Committee’s Investigation Report for the June 2020 Primary did not find or mention there was voter fraud. Ex. 134 (H. Gov’t Affairs Comm. 2020 Primary Election Invest. Rep., USA-03076 - USA-03080). It was only “[a]fter minority voters began voting

absentee at much higher rates in 2018 and 2020 [that] Republicans suddenly switched their view on the security of absentee voting and sought to require stricter identification requirements for absentee voting.” Ex. 5 (Hugley Decl. ¶ 23). When Georgia passed its voter ID law in 2005—and most absentee voters were white—the legislators who advanced the voter ID law “were only concerned about identification requirements for in-person voting. They did not seek to apply the same identification requirements to absentee voting.” *Id.* ¶¶ 19-20.

473. A voter may obtain a copy of an absentee ballot application by downloading it from the Secretary of State or county election official’s website (or numerous other websites), picking it up in person at the county election office, or by calling the local election office and asking for one to be mailed to the voter. Germany 10/30/23 Decl. ¶ 31.

RESPONSE: Undisputed.

474. Sending 6.9 million unsolicited absentee ballot applications in 2020 created a large expense for the State and confusion for voters. Germany 10/30/23 Decl. ¶ 25 (substantial cost); Sterling 38:21-22 (6.9 million sent).

RESPONSE: Disputed. Many Black voters were “incentivized . . . to mail in their ballots” and “happy to have received” unsolicited absentee ballot applications in the mail. Ex. 4 (Burnough Decl. ¶ 13); Ex. 5 (Hugley Decl. ¶ 10). Also, the **cited evidence does not support the statement** that sending unsolicited

absentee ballot applications caused confusion for voters; nor does it establish the cost to the State of mailing 6.9 million absentee ballot applications.

475. In addition to administrative burdens and costs to the state sending out unrequested absentee ballot applications to 6.9 million registered voters, this process resulted in many questions regarding the integrity and legitimacy of the 2020 election results. Germany 3/7 182:23-183:3; Bailey 3/21 100:3-12; Sterling 54:13-18; Watson 200:23-201:13; Germany 10/30/23 Decl. ¶¶ 26-27.

RESPONSE: This fact is duplicative of SMF 455, except for an additional citation to Mr. Germany's deposition testimony.

Disputed that sending unsolicited absentee ballot applications was an administrative burden, because several counties voluntarily opted to send unsolicited absentee ballot requests to their registered voters during the 2020 elections. *See, e.g.,* Ex. 63 (Kidd Dep. 49:6-25); Ex. 18 (DeKalb Cnty. Dep. 63:17-23); Ex. 49 (Bailey 10/6/22 Dep. 49:7-21, 118:19-119:15); Ex. 15 (Cobb Dep. 183:15-184:1).

Movant's citations do not support the facts. The portion of Mr. Germany's deposition does not support any part of this fact. Mr. Germany's testimony cited here notes that some voters were confused by having received multiple absentee applications, and other voters had forgotten that they submitted absentee applications and had to cancel their applications when they appeared to

vote in person, which could “cause a bit of a delay.” That this process caused “extra work for election officials,” does not constitute “administrative burdens.”

The Defendants’ cited portion of Ms. Bailey’s deposition is related to a couple of voters who did not recall applying for an absentee ballot, and does not support any part of this fact, as it is not related to any questions about the “integrity and legitimacy of the 2020 election results” nor about any “administrative burdens and costs” associated with sending unrequested absentee applications. In fact, Ms. Bailey testified that Richmond County sent unsolicited absentee ballot applications to all registered voters in her county during the November 2020 elections and that the County’s distribution of those unsolicited absentee ballot applications did not raise any particular security concerns. *See* Ex. 49 (Bailey 10/6/22 Dep. 49:7-50:1, 118:19-119:15).

In addition, the portions of Ms. Watson’s deposition do not support any part of this fact. Ms. Watson’s testimony cited here relates to voters having received multiple absentee ballot applications and does not reference “questions regarding the integrity or legitimacy of the 2020 election results” or “administrative burdens and costs” associated with the State sending unsolicited absentee ballot applications.

Further, **we object to the admissibility of this fact to the extent it is supported by inadmissible evidence** in paragraphs 25-27 of Mr. Germany’s

declaration. Paragraphs 25-27 rely on inadmissible hearsay and speculation, not Mr. Germany's personal knowledge. *See* Fed. R. Evid. 602.

It is **undisputed** that sending unsolicited absentee ballot applications to all registered voters in the State required administrative coordination and resulted in some costs to the State.

476. The General Assembly confirmed when passing SB 202, these provisions addressed “some outside groups” sending “multiple absentee ballot applications,” often “with incorrectly filled-in voter information,” leading to “significant confusion by electors.” SB 202 at 5:102–106.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

477. There was a “giant wave of complaints” from voters who received applications “for people that used to live” at their homes but no longer do, applications that had women’s “maiden name[s],” or applications “for [a] dead relative[.]” Mashburn VoteAmerica 88:16–89:15.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

478. The misimpression that each such application was sent by the State would lead “people [to] feel the need to complete and sign [the] form without really paying attention to what it is for.” Germany 10/30/23 Decl. ¶ 65.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

479. Georgia law identifies who is permitted to return another voter's ballot to minimize the risk of voter intimidation and fraud. Germany 6/29/23 Decl. ¶¶ 2, 8, 21, 26.

RESPONSE: Citations do not support the statements about the legislature's rationale for targeting who may return another voter's ballot, and instead reflects the personal views of Mr. Germany, who is not a Georgia legislator and is not qualified to offer opinion testimony on such topics. Fed. R. Evid. 602, 701.

480. SB 202 merely strengthened Georgia's existing prohibition on ballot harvesting by make a violation of that prohibition a felony rather than a misdemeanor. Germany 10/30/23 Decl. ¶ 96–98.

RESPONSE: Plaintiffs also **object** to the extent Defendants seek to use Mr. Germany's declaration—rather than the bill itself—to prove the contents of SB 202. Fed. R. Evid. 1002. Further, **disputed** because the pre-SB 202 law contained an exception that assistors who were otherwise qualified under Section 208 of the Voting Rights Act would not be subject to prosecution. *See* Ga. Code Ann. § 21-2-598; 2016 Ga. Op. Att'y Gen. 02 (2016) (interpreting the exception broadly). This exception assured disabled voters and their assistors that they were in compliance

with the law and that they had no reason to fear prosecution, even for a misdemeanor. *See* Ex. 305 Orland Decl. ¶¶ 21-25.

481. By requiring an unregistered voter to complete a new absentee ballot application after registering to vote alleviates the administrative burden on local election officials of having to match new voter registrations with pending absentee ballot applications. Eveler 171:9-18; Deposition of Nancy Gay [Doc. 701] (“Gay”) 168:8-9.

RESPONSE: Citations do not support the statement related to alleviating administrative burdens in matching new voter registration applications with pending absentee ballot applications because the cited testimony only concerns the shortened time period for voters to request an absentee ballot.

482. It also conforms to the responsibility of election officials to confirm eligibility to vote *before* issuing a ballot, which requires that the person be properly registered at the time the absentee ballot application is received. Germany 10/30/23 Decl. ¶ 70.

RESPONSE: Plaintiffs **object** to Mr. Germany offering improper opinion testimony about what this provision of SB 202 means. The law itself is the best evidence of the election officials’ obligations and responsibilities. Mr. Germany’s opinion about election officials’ responsibility is otherwise irrelevant and/or improper under the federal rules. Fed. R. Evid. 701, 1002.

483. An unregistered voter is not eligible to vote until registered. O.C.G.A. § 21-2-216 (a).

RESPONSE: Plaintiffs object to the statement as a legal conclusion and not a statement of fact. Barriers to registration have long been used to impede the votes of eligible voters.

484. Georgia chose to utilize similar voter identification requirements applicable to in-person voting and require one of the same forms of identification that Georgia voters have had to provide since 2005, while also allowing for other identification documents for people who might not have a Georgia driver's license or state identification card. O.C.G.A. § 21-2-381(a) (1)(C)(i); O.C.G.A. § 21-2-417 (c); Mashburn 3/7 60:5–21; Germany 10/30/23 Decl. ¶ 77–78; PI Hr'g Tr. 192:5 – 193:1.

RESPONSE: Disputed in part. The statement is **disputed** to the extent it suggests that since 2005, all Georgia voters have had to provide the same forms of identification in order to vote. Prior to SB 202, Georgia's voter ID requirement only applied to in-person voters. *See* § O.C.G.A. 21-2-417. Absentee voters did not have to provide documentary proof of identity. And no one had to go through an additional step of making copies of documents to vote, nor of providing identification information publicly. *See* O.C.G.A. § 21-2-381(a)(1)(C) (2020). Otherwise, **undisputed**.

485. Eliminating the signature match process was of particular benefit to voters with disabilities, whose signature may not be uniform due to their disability. ADAPT 2/20 79:20–24, 99:2–10 (Ex. CC).

RESPONSE: Movant’s fact is not material.

486. Over 97% of all registered voters had either a Georgia driver’s license or state identification number associated with their voter file. Sterling 239:8–20 (2020 98.6% have DL or state ID numbers and 99.2% who voted in 2020 had one or the other); Evans 79:6–80:4 (97 to 99 percent have DL or ID number in record) (Ex. KKK).

RESPONSE: Disputed. About 3.5% of registered voters in December 2020 had neither a driver’s license nor a state identification card number associated with their voter registration record, and these voters were disproportionately African American. Ex. 88 (Meredith ¶ 37 & Tbl. IV.B.6). About 2.2% of registered voters in November 2022 had neither a driver’s license nor a state identification card number associated with their voter registration record, and these voters were disproportionately African American. Ex. 88 (Meredith Decl. Tbl.VI.F.1). These figures do not account for the additional 71,274 registered voters with an incorrect driver’s license or state ID card number in their voter registration record. *Id.*

487. In 2020, 98.6% had either a Georgia driver's license or state identification card and 99.2% of those who actually voted in 2022 has one of these forms of identification. Sterling 239:8–20.

RESPONSE: Disputed and cited evidence does not support the statement. About 3.5% of registered voters in December 2020 had neither a driver's license nor a state identification card number associated with their voter registration record, and these voters were disproportionately African American. Ex. 88 (Meredith ¶ 37 & Tbl. IV.B.6). The cited testimony does not support the assertion that 99.2% of 2022 voters had a driver's license or state identification card in the voter registration system.

488. For those who had neither form of identification, a series of alternate forms of identification would be accepted. Sosebee 74:4–14; Germany 4/13 87:17–89:2 (Ex. GG).

RESPONSE: Undisputed that absentee voters who do not have a driver's license or State ID card may submit a copy of an alternative identity document. O.C.G.A. § 21-2-381(a)(1)(C). Only certain types of identity documents are accepted. *See* O.C.G.A. § 21-2-417(c). Movant's citation to the Sosebee deposition transcript does not support the fact.

489. SB 202 replaced the inaccurate and problematic signature match requirement with a more objective system. *See* O.C.G.A. § 21-2-381(a) (1)(C)(i); Mashburn 3/7 60:5–21; Mashburn 3/14 67:25–68:20.

RESPONSE: Disputed and the citation does not support the statement.

The cited deposition testimony does not support the statement that the pre-SB 202 signature match requirement was “inaccurate” or “problematic.” To the contrary, many county election officials informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003). County election officials told legislators they did not have “problems” with the signature match process. *See* USA-ADAMS-000027.0004-.0005.

490. It took approximately 3 to 4 minutes to process a single application when relying on a signature match. Bailey 3/21 122:14–123:4, 125:22–126:12 (Ex. GGG).

RESPONSE: Disputed to the extent that this statement implies that counties are no longer conducting signature match. Ex. 57 (Blake Evans Dep. 208:2-209:17) (Elections Director for the Secretary of State’s office testified that he understands that some counties are still using signature match, post SB 202).

491. When considered in light of the more than 1,700,000 applications received in 2020, some questioned whether counties were spending sufficient time per application to adequately conduct thorough signature matching. Germany 10/30/23 Decl. ¶¶ 18, 29, 71–76.

RESPONSE: Disputed, and the statement is not supported by admissible evidence. First, multiple county election officials informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003). Second, nothing in the cited evidence supports the claim that anybody “questioned” whether county officials conducted adequate signature matching on absentee ballot applications in 2020.

Third, cited portions of Mr. Germany’s declaration are inadmissible hearsay, speculation, and/or not based on personal knowledge. *See, e.g.*, Germany 10/30/23 Decl. ¶¶ 73, 75; *see also* F.R.C.P. 56(c)(4). For example, paragraph 73 references complaints made to counties and their response to those complaints, but Germany does not establish that he has personal knowledge of either the complaints or the counties’ responses. *See e.g., Purdee v. Pilot Travel Centers, LLC*, No. CV407-028, 2009 WL 423976, at *2 (S.D. Ga. Feb. 19, 2009) (striking a portion of an affidavit because “[w]hile it is possible that a [person in the affiant’s position]

would have” personal knowledge of the relevant issue, “it is not axiomatic that he did so, and [the affiant] never states the basis for his knowledge”). “For a matter to be considered within a witness’s personal knowledge, it must be derived from the exercise of his own senses, not from the reports of others—in other words, it must be founded on personal observation.” *S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015) (citation and internal quotation marks omitted). If Germany learned of complaints through conversations with county election officials, Germany’s statements are inadmissible hearsay as they are offered for the truth of the matter asserted and cannot be made admissible through Germany’s testimony. *See Macuba v. Deboer*, 193 F.3d 1316, 1322-24, 1325 (11th Cir. 1999).

The same objections apply to paragraph 75—Germany provides no basis for claiming personal knowledge of the pace at which county elections officials verified voters via signature match. *S. Broward Hosp. Dist.*, 2015 WL 12532580, at *3. If such knowledge is based on conversations with local election officials, the content of those conversations is inadmissible hearsay. *See Macuba*, 193 F.3d at 1322-23. Finally, the statements relating to observations by the Carter Center are pure speculation. “A party’s mere belief and/or speculation is not based on personal knowledge and is not competent summary judgment evidence.” *Riley v.*

Univ. of Alabama Health Servs. Found., P.C., 990 F. Supp. 2d 1177, 1187 (N.D. Ala. 2014) (internal quotation marks omitted).

492. When an application was rejected for a signature mismatch, it highlights the same concerns of the subjective nature of signature match and the fact that election officials are not handwriting experts highlighted a potential vulnerability of signature matching. Germany 10/30/23 Decl. ¶ 76.

RESPONSE: Disputed, and the statement is not supported by admissible evidence. First, multiple county election officials informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003). Second, the cited evidence says nothing about applications rejected because of signature mismatch, or about concerns related to the allegedly subjective nature of signature matching. Third, Mr. Germany has not established that he has personal knowledge of county election officials’ qualifications for or training related to signature matching. *Purdee v. Pilot Travel Centers, LLC*, No. CV407-028, 2009 WL 423976, at *2 (S.D. Ga. Feb. 19, 2009). In addition, the basis for his opinion that county election officials have “little expertise with which to” compare signatures is completely unidentified. The statements are therefore

improper lay witness opinion testimony. *See, e.g., Riley v. University of Alabama Health Sys. Foundation, P.C.*, 990 F. Supp. 2d 1177, 1186-8 (N.D. Ala. 2014).

493. The General Assembly chose to modify the absentee voting system, among other changes, while leaving in place its accessibility to all Georgia voters for any reason. Bailey 3/21 189:20–190:12; Germany 10/30/23 Decl. ¶ 23.

RESPONSE: Undisputed that Georgia has “no excuse” absentee voting. *See* O.C.G.A. § 21-2-380. **Disputed** that Georgia’s absentee voting system is “accessible” to all Georgians. *See, e.g.,* Ex. 64 (Lockette Depo 26:18-30:10, 49:19-50:19) (describing absentee ballot rejection); Ex. 270 (Daniel Decl. ¶¶ 8-14) (describing additional steps required to overcome ID problem in 2022 election cycle); Ex. 90 (Meredith Supp. Decl. ¶¶ 1-2) (describing ID-related inaccuracies in Mrs. Lockette’s and Mr. Daniel’s voter registration records); Ex. 88 (Meredith Tbl. VI.F.1) (identifying almost 243,000 registered voters with either no DDS ID number or an inaccurate DDS ID number in their voter registration record); *id.* ¶¶ 39-48 (describing barriers to submitting alternative identification and racial disparities in access to technology that increase these burdens for Black voters); Ex. 292 (S. Johnson Decl. ¶¶ 11-13, 19-22, 30) (describing barriers to obtaining DDS ID or copying alternative ID). **Also, the cited testimony does not support the statement.** The cited portion of Ms. Bailey’s deposition testimony is not in reference to any provision of SB 202. *See* Bailey 3/21/2023 Dep. Tr. 190:13-16.

494. The voter identification process was objective and took about one minute to verify the person's identity and eligibility to vote, a marked decrease from the time it took to conduct signature match verification. Bailey 3/21 126:6–12.

495. **RESPONSE: Cited evidence does not support the fact** that the voter identification process under SB 202 is “objective.” Ms. Bailey testified that following the voter identification process too strictly would result in erroneously excluding valid absentee voter ballots: “We often know that just from experience in looking at these documents that it’s not uncommon for voters to put the current date of birth, of particularly the year of birth, to put the current year rather than their actual year of birth. And so my suggestion there is saying that we should look at the month and day, but perhaps not the year of birth for comparative documentation on a absentee ballot application.” Ex. 49 (Bailey Dep. 187:8–188:12). Nor does it support the fact that it took “about one minute” in any county other than Richmond County, where Ms. Bailey served as an election administrator. The statement is also **disputed** because evidence shows that some counties still conduct a signature match under SB 202. *See* Ex. 57 (Blake Evans Dep. 208:2–209:17) (Elections Director for the Secretary of State’s office).

496. The voter would merely list their name, date of birth, address, and provide their driver’s license number or other acceptable identification. By signing

the oath, the voter verified that the information was true and correct and the voter was otherwise qualified to vote. *See* Germany 10/30/23 Decl. ¶ 78–80.

RESPONSE: The cited evidence does not support the statements in this paragraph. In addition, many of the statements in the cited portions of Mr. Germany’s declaration are disputed. For example, although not relevant to the statement in paragraph 495, Mr. Germany’s opinion (at paragraph 79) that “a driver’s license or state identification card number is the preferred way to verify a voter because it is a secure, objective, verifiable number” is contradicted by many county election officials, who identified various problems with using ID numbers to verify voter identity and informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003).

497. Getting an acceptable photo ID is not difficult in Georgia. Deposition of Angelique McClendon [Doc. 705] (“McClendon”) 21:7 – 22:11, 76:4-5, 80:22 – 81:24 (explaining the process for obtaining a free voter ID).

RESPONSE: Disputed. Obtaining DDS ID can be difficult, particularly for low-income voters and those with limited resources like regular internet access, transportation, and disposable income. *See* Ex. 292 (S. Johnson Decl. ¶¶ 19-21). To obtain DDS ID, an individual must visit one of 67 DDS locations in-person;

provide documentary proof of identity, citizenship, and residency; and usually pay a \$32 fee. Ex. 292 (S. Johnson Decl. ¶ 11); Ex. 28 (DDS Dep. 37:1-39:9, 57:2-17, 131:13-132:20). DDS will waive the \$32 fee for individuals who swear they are registered to vote and lack required ID for voting, but all other requirements are the same. Ex. 28 (DDS Dep. 85:18-86:7, 87:8-89:19); Ex. 250 (DDS Field Ops. Manager's Bulletin). In addition, obtaining the necessary underlying documents can be costly. Ex. 292 (S. Johnson Decl. ¶ 13). Even voters with assistance from experienced advocates sometimes give up before completing the process because of these challenges. *Id.* ¶ 22.

Moreover, obtaining DDS ID is difficult for voters with disabilities. Approximately 80,000 Georgians with disabilities do not have a driver's license or other government-issued photo ID. Ex. 111 (Schur ¶ 23). Disabled voters without a government identification must either go to a location to get a government issued identification or provide a photocopy of other forms of acceptable identification under SB 202. But these options require substantial additional effort for voters with disabilities, who are more likely to lack access to transportation or to drive a vehicle or to have access to photocopiers. *Id.* ¶¶ 57-60, 62-63, 73, 98..

498. There was also very low rejection rate for lack of proper identification. Grimmer Rep. ¶¶ 16, 158-68, 171-72.

RESPONSE: Disputed. Dr. Grimmer's analysis of 2022 rejected mail ballots dramatically undercounts the number of voters who were unable to cast an absentee ballot because of lack of proper identification. First, because of coding errors in his analysis, Dr. Grimmer undercounted the number of rejected mail ballot applications recorded in the State's data. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 9-13). Second, because of limitations in the State's data, the number of absentee *ballots* rejected for ID-related reasons says very little about the number of voters who were prevented from voting by SB 202's voter ID requirements. In most circumstances, a voter who submits an absentee ballot application that does not comply with SB 202's voter ID requirement will be issued a provisional absentee ballot, and instructions for how to cure the deficiency. O.C.G.A. § 21-2-381(b)(3); Ex. 57 (Evans Dep. 148:15-149:25); Ex. 15 (Cobb Cnty. Dep. 250:18-251:18); Ex. 237 (Absentee Ballot Application Cure Affidavit Form and notice (produced by DeKalb County Defendants), DELKALB020319-20); Ex. 63 (Kidd Dep. 99:23-100:5). State election data do not reliably identify voters who were issued a provisional absentee ballot, or those who failed to cure one. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 14-15); Ex. 57 (Evans Dep Tr. 150:1-151:19). Dr. Grimmer's analysis, thus, does not account for the unknown number of registrants who were issued provisional absentee ballots because they failed to satisfy SB 202's voter ID requirement, let alone how many of those registrants were unable to cure their ID-

related issue and therefore unable to cast an absentee ballot in the 2022 election. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 14, 19). Nor is there any way to identify voters who were deterred by the ID requirement from submitting a mail ballot application in the first place. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 8-9). Because of these limitations, the data cannot show how many voters were unable to cast a ballot in 2022 because of SB 202's voter ID requirements for mail voters. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 2(a)-(b), 8-19). The data the State cites tells us only that *at least* 2,396 voters were prevented from voting in the November 2022 general and December 2022 runoff elections because of these requirements, and Black and AAPI voters were disproportionately represented among these voters. Ex. 97 (Fraga ¶¶ 129-132).

499. Voters in Georgia have long been required to sign an oath as part of the absentee ballot application process. Germany 10/30/23 Decl. ¶ 87; Sterling 60:7–15 (the oath “still is” on the envelope).

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not signing an oath has long been required is not relevant to whether requiring a pen and ink signature results in discrimination

against voters with disabilities who cannot provide one. To the extent material, disputed. In 2020, a handwritten signature was not required on absentee ballot applications. Germany 10/30/23 Decl. ¶ 87.

500. By signing the oath, the voter verified that the information was true and correct and the voter was otherwise qualified to vote. Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not signing an oath can verify such information is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not state that a signature verifies that the information is true and correct or that the voter is qualified to vote.

501. A pen and ink signature helps to confirm that the person filling out the application is the voter themselves or an authorized applicant on behalf of a voter. Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters

with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not a pen and ink signature can be helpful is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not state that a pen and ink signature helps to confirm that the person filling out the application is the voter themselves or an authorized applicant on behalf of a voter.

502. It also helps to confirm, should any question arise (as many did following the 2020 election cycle), that the voter or authorized applicant did actually request the ballot. Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not a pen and ink signature can be helpful is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. It is unclear from this fact what “it” refers to, but Plaintiffs assume “it” is the requirement of a pen and ink signature for purpose of disputing this fact. There

is no evidence of any voter who forgot that they requested an absentee ballot and was able to confirm that they did request one using a pen and ink signature, nor does the cited declaration support this fact.

503. A pen and ink signature also helps to ensure that the applicant carefully reads the oath and recognizes the importance of confirming that the information the applicant is swearing to/affirming is correct. Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not a pen and ink signature can be helpful is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. There is no evidence that a pen and ink signature requires careful reading of the oath, or recognition of the importance of the oath. Further, the cited declaration does not support this fact. The cited declaration states only the General Assembly sought to ensure careful review of the oath. It does not state that the pen and ink signature actually helps to ensure careful review, nor does it refer to the

applicant's recognition of the importance of confirming that the information the applicant is swearing to/affirming is correct.

504. Taking the oath seriously is important because providing false information on an absentee ballot application violates Georgia law and is a crime. Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not taking the oath seriously is important is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not support this fact.

505. Requiring a voter to sign, in his/her own hand with pen and ink, ensures the voter takes the oath seriously, deters fraud, and verifies the information being provided to confirm the voter's eligibility and identity. Germany 10/30/23 Decl. ¶¶ 89, 92–93.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to

remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not a pen and ink signature can ensure taking the oath seriously, deter fraud, or verify information is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not support this fact. There is no evidence that a pen and ink signature ensures that a voter takes the oath seriously, deters fraud, or verifies any information.

506. Requiring a voter to sign, in his/her own hand with pen and ink, ensures the voter takes the oath seriously, deters fraud, and verifies the information being provided to confirm the voter's eligibility and identity. Germany 10/30/23 Decl. ¶ 89, 92–93; Eileen Chou, *Paperless and Soulless: E-signatures Diminish the Signer's Presence and Decrease Acceptance*, 6 Soc. Psych. & Personality Scis. 343 (2015); *id.* at 348 (noting the discrepancy between customary use of e-signatures and the mind's interpretation could “foster negativity and skepticism”); *see also* Eileen Chou, *What's in a name? The toll e-signatures take on individual honesty*, 61 J. Experimental Soc. Psych. 84 (2015).

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to

remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not a pen and ink signature can ensure taking the oath seriously, deter fraud, or verify information is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. There is no evidence that a pen and ink signature ensures that a voter takes the oath seriously, deters fraud, or verifies any information.

507. Use of ink can maintain legibility and avoid tampering. Mashburn 3/7 58:22–59:14; Germany 10/30/23 Decl. ¶ 89.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not use of ink maintains legibility or avoids tampering is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. **To the extent material, disputed.** There is no evidence regarding the relative legibility of ink, or of tampering.

508. Once a voter's qualifications are verified based on information submitted on the absentee ballot application, a ballot is mailed to the voter.

Germany 10/30/23 Decl. ¶ 84–85.

RESPONSE: Disputed. “Voter’s qualification” is vague. Movant’s fact incorrectly states or implies that an absentee ballot will be necessarily mailed to voters once their qualifications are verified. In addition to verifying a voter’s identify or qualifications, SB202 requires the voter’s wet signature on the absentee ballot application. SB 202 § 25.

509. Once the absentee ballot was mailed, county officials no longer have control over the ballot that was issued to a specific voter. Germany 10/30/23 Decl. ¶ 84.

RESPONSE: Undisputed.

510. When that ballot is returned, whether in the mail or in a dropbox, the voter is not present for local election officials to verify the person’s identity.

Germany 10/30/23 Decl. ¶ 84.

RESPONSE: Undisputed.

511. When returning the completed ballot, for those 2-3% who may not have a driver’s license or state identification number, virtually all have the last four digits of their social security number on file (approximately 99.9% of all voters).

Sterling 239:8–20 (99.9% have ID or SSN); PI Hr’g Tr. 193:2–20.

RESPONSE: Undisputed.

512. For the very few who did not, they could still use the same alternate identification used to request their ballot. Sosebee 74:4–14; Germany 4/13 87:17–89:2; Germany 10/30/23 Decl. ¶¶ 82, 84 n.1.

RESPONSE: Disputed to the extent that voters with disabilities are disproportionately less likely to have an acceptable form of alternate identification compared to those voters without disabilities. Schur ¶ 98. Further, voters with disabilities are less likely to have access to transportation or technology to provide the alternate form of identification. *Id.* ¶¶ 56-62, 98.

513. The voter’s identification number or, if applicable, last four of the voter’s social security number, along with the voter’s name and date of birth, verified their identity to process their ballot, very similar to the process for in-person voting. Germany 10/30/23 Decl. ¶ 81, 84–85.

RESPONSE: Disputed. Defendants’ statement on how “very similar” the identification-verification process for absentee voting and in-person voting is vague and an opinion, and not a factual statement. Movant’s citation also does not support the movant’s fact. Mr. Germany does not describe the processes as similar, and to the contrary, the cited evidence expressly describes ways in which absentee ballot submissions are “[u]nlike in person voting” Declaration of Ryan Germany dated Oct. 30, 2023 (“Germany Decl.”) [ECF 755-3] (Germany Decl.

¶ 84). The absentee voting process requires voter identification both during the application process and ballot-return process, which is very different from voting in-person..

514. Virtually all registered voters (99 to 99.9%) have the last four digits of their social security number associated with their voter file. Sterling 239:8-20.

RESPONSE: Undisputed.

515. Verifying voter identification on the absentee ballot return envelope protects against fraud, promote the actual and perceived integrity of the election process, and create a uniform and objective means of verifying a voter's identity. Germany 10/30/23 Decl. ¶ 81, 84–86; Sterling 102:11-18, 104:17-105:2, 194:17-105:2; Bailey 10/6/22 91:21-92:5; Bailey 3/21 111:1-15.

RESPONSE: Disputed and not supported by admissible evidence. Mr. Germany and Mr. Sterling's speculation and opinion about whether verifying voter identification on the absentee ballot return envelope promotes the actual and perceived integrity of the election process is not based on firsthand knowledge, or supported by evidence (e.g., no survey data, no peer-reviewed literature). Ms. Bailey's testimony does not support the movant's statement. Conversely, Ms. Bailey testified that she was aware of security concerns over the very requirement to verify voter identification by way of having personal information on absentee ballot return envelopes. Ex. 49 (Bailey Dep. (10/6/22) 88: 19-25—90:1-7). In fact,

Ms. Bailey herself had security concerns about this requirement in SB202. *Id.* at 90:8-17. Many county election officials raised security concerns about using ID numbers to verify voter identity and informed legislators that the signature match regime was “the most secure way,” the “more trustworthy” way, or the “best option” to verify absentee voters’ identity. Ex. 216 (USA-ADAMS-000027.0004-.0006); *see also, e.g.*, Ex. 224 (USA-ADAMS-000043.0001-.0003).

516. Only a tiny number of absentee ballots were rejected due to identification issues associated with the absentee ballot return envelope. Grimmer Rep. ¶ 171–72.

RESPONSE: Disputed and not material. Movant’s statement is vague, as no time period is specified, and the term “tiny number” is ambiguous and unverifiable. The overall number of absentee ballots rejected due to identification issues is not material without additional information on whether and how rejection rates differ among racial groups.

Dr. Grimmer’s analysis of rejected mail ballots dramatically undercounts the number of voters who were unable to cast an absentee ballot because of lack of proper identification. First, because of coding errors in his analysis, Dr. Grimmer undercounted the number of rejected mail ballot applications recorded in the State’s data. Ex. 89 (Meredith Sur-Rebuttal ¶¶ 9-13). Second, because of limitations in the State’s data, the number of absentee *ballots* rejected for ID-

related reasons says very little about the number of voters who were prevented from voting by SB 202's voter ID requirements. In most circumstances, a voter who submits an absentee ballot application that does not comply with SB 202's voter ID requirement will be issued a provisional absentee ballot, and instructions for how to cure the deficiency. O.C.G.A. § 21-2-381(b)(3); Ex. 57 (Evans Dep. 148:15-149:25); Ex. 15 (Cobb Cnty. Dep. 250:18-251:18); Ex. 237 (Absentee Ballot Application Cure Affidavit Form and notice (produced by DeKalb County Defendants), DELKALB020319-20); Ex. 63 (Kidd Dep. Tr. 99:23-100:5). State election data do not reliably identify voters who were issued a provisional absentee ballot, or those who failed to cure one. Ex. 88 (Meredith Sur-Rebuttal ¶¶ 14-15); Ex. 57 (Evans Dep Tr. 150:1-151:19). Dr. Grimmer's analysis, thus, does not account for the unknown number of registrants who were issued provisional absentee ballots because they failed to satisfy SB 202's voter ID requirement, let alone how many of those registrants were unable to cure their ID-related issue and therefore unable to cast an absentee ballot in the 2022 election. Ex. 88 (Meredith Sur-Rebuttal ¶¶ 14, 19). Nor is there any way to identify voters who were deterred by the ID requirement from submitting a mail ballot application in the first place. Ex. 88 (Meredith Sur-Rebuttal ¶¶ 8-9). Because of these limitations, the data cannot show how many voters were unable to cast a ballot in 2022 because of SB 202's voter ID requirements for mail voters. Ex. 88 (Meredith Sur-Rebuttal ¶¶

2(a)-(b), 8-19)). The data the State cites tells us only that *at least* 2,396 voters were prevented from voting in the November 2022 general and December 2022 runoff elections because of these requirements, and Black and AAPI voters were disproportionately represented among these voters. Ex. 96 (Fraga ¶¶ 129-132).

517. It is the absentee ballot application (which includes the individual's date of birth) that is used to determine a voter's qualifications, not the absentee ballot *return* envelope. Germany 10/30/23 Decl. ¶ 77, 82–84.

RESPONSE: Undisputed that the application is used to determine qualification to vote absentee, but **disputed** as to implication that an individual's date of birth is necessary to determine such qualifications, as the ID required itself includes the date of birth.

518. The date of birth on the absentee ballot return envelope is used to determine the voter's identity when returning a completed absentee ballot and is part of every voter's voter file. Germany 10/30/23 Decl. ¶ 83.

RESPONSE: Disputed because Statement No. 517 implies that SB 202's date of birth requirement is necessary for determining a voter's identity, and also because Statement No. 517 primarily relies upon improper opinion characterizations from an attorney representing the Office of the Georgia Secretary of State.

519. Date of birth also distinguishes between people of the same name living in the same house, such as a father and son. Bailey 3/21 178:15-25.

RESPONSE: Disputed because Statement 518 implies that SB 202's date of birth requirement is necessary for this distinction, as the return envelope already requires IDs or SSN4s that distinguish between persons with the same name.

520. County poll workers routinely use a voter's date of birth as part of the verification process. Bailey 10/6 197:6-15 (DOB one of things to consider when verify identity); Williams 48:6-9; Manifold 112:22-113:2, 116:24-117:1; Wurtz 48:5-8.

RESPONSE: Disputed because Statement No. 519 implies that SB 202's date of birth requirement is necessary for determining a voter's identity, and also because the cited testimony does not support the assertions in Statement No. 519 as regards return envelopes. Ex. 49 (Bailey Dep. 197:6-15 (addressing applications, not return envelopes)); Ex. 36 (Gwinnett Cnty Williams Dep. 48:6-9 (merely describing requirements of SB202, not what poll workers use or need)); Ex. 35 (Gwinnett Cnty Manifold Dep. 112:22-113:2 (describing absentee applications, not return envelopes), 116:24-117:1); Deposition of Hall County (Lori Wurtz) taken Mar. 9, 2023 ("Hall Cnty Dep.") Ex. 37 (Hall Cnty Dep. 48:5-8) (merely identifying who determines whether to accept absentee ballots).

521. Georgia voters have long been required to sign an oath when returning their ballot. Germany 10/30/23 Decl. ¶ 90.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not signing an oath has long been required is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not state how long signing an oath has been required when returning absentee ballots.

522. The voter would then sign the oath that the ballot was completed consistent with the State's secret ballot provisions. Germany 10/30/23 Decl. ¶ 91–93.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, whether or not signing an oath has long been required is not relevant to whether requiring a pen and ink signature results in discrimination

against voters with disabilities who cannot provide one. To the extent material, disputed. The cited declaration does not state how long signing an oath has been required when returning absentee ballots.

523. Very few ballots were rejected for signature issues. Grimmer Rep. ¶¶ 16, 165, 171.

RESPONSE: Not Material and disputed. To the extent this fact relates to claims that the requirement of a pen and ink signature discriminates against voters with disabilities, AME Plaintiffs have moved for leave to amend their complaint to remove their challenge to this provision, and no other plaintiffs raised such a challenge. Further, the number of ballots rejected for signature issues is not relevant to whether requiring a pen and ink signature results in discrimination against voters with disabilities who cannot provide one. To the extent material, disputed. The fact does not specify a time range. The cited report states that in the 2022 general election, 1,145 mail-in absentee ballots were rejected because of insufficient or incorrect identification, and in the 2022 general runoff, 1,570 voters had their ballots rejected because of identification issues. Ex. 113 (Grimmer Rep. ¶ 165). The cited report also states that in the 2022 general election, 195 votes were rejected for oath or signature-related issues, and in the 2022 runoff election, 201 votes were rejected for oath or signature-related issues. Ex. 113 (Grimmer Rep. 171).

524. When enacting SB 202, the General Assembly decided there were sufficient concerns, even absent direct evidence of widespread fraud, to justify taking action to secure the integrity of the election process. Germany 10/30/23 Decl. ¶ 21–23.

RESPONSE: Object to the admissibility of the statement. Lack of personal knowledge, speculation. Mr. Germany, who is not a legislator, is attempting to testify regarding the intent of the legislature in passing SB 202. Paragraphs 21-23 of Mr. Germany’s 10/30/23 declaration offers an opinion on what the General Assembly as a whole “decided” without any foundation as to how Mr. Germany could offer that opinion. Mr. Germany’s speculation as to the legislature’s intent cannot form the basis of a lay opinion. *See Riley v. Univ. of Alabama Health Servs. Found., P.C.*, 990 F. Supp. 2d 1177, 1187 (N.D. Ala. 2014).

525. Georgia addressed the concerns expressed after the 2020 election with a comprehensive review of its absentee voting process, electing to keep no-excuse absentee voting, replacing subjective signature matching with an objective photo ID based verification method, and putting in place other reforms to improve and streamline the absentee voting process. Germany 10/30/23 Decl. ¶ 23.

RESPONSE: Disputed that the State conducted a comprehensive review of the absentee voting process following the 2020 election cycle. Local election

officials and state legislators often characterized the legislative process behind the election bills introduced in 2021, many of which contained provisions restricting absentee voting, as rushed and nontransparent. Ex. 49 (Bailey 10/6/22 Dep. 62:11-63:2); Ex. 201 COBB023362 (Rick Barron, former Fulton County Elections Director, asks, “[W]ill any legislator listen to us?”); Ex. 212 COBB032406 (Lynn Ledford, former Gwinnett County Elections Director, notes “[i]t’s all knee jerk with no thought whatsoever to administration, including budgets”)); Ex. 4 (Burnough Decl. ¶¶ 29-30); Ex. 8 (Jones Decl. ¶¶ 18-19).

Movant’s citation does not support the facts. The cited paragraph of Mr. Germany’s declaration does not describe a comprehensive review of the absentee voting process or discuss how other reforms improved and streamlined the absentee voting process. The cited paragraph mostly summarizes the Plaintiffs’ challenged provisions.

It is **undisputed** that Georgia still permits no-excuse absentee voting and now requires voters to provide a driver’s license number, state ID number, or alternative form of identification to cast an absentee ballot application. *See* O.C.G.A. §§ 21-2-380(b), 21-2-381(a) (l)(C)(i), 21-2-417(c).

526. SB 202 addressed the large amount of duplicate absentee ballot applications from the same voter by prohibiting third-party organizations from sending applications to those who had already requested an absentee ballot (lists of

who had requested such a ballot is updated daily), by prohibiting the pre-filling of the application (to avoid the numerous errors being reported and resulting confusion and claims of potential fraud), and by requiring a disclaimer that clearly told the voter who was sending the application and that it was not a ballot.

Germany 10/30/23 Decl. ¶¶ 53, 62, 68.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

527. The General Assembly reinforced its anti-ballot harvesting rules by establishing that, although improperly handling a completed absentee ballot *application* was a misdemeanor, improper handling of a completed *ballot* would now be a felony, when previously it was only a misdemeanor. Germany 10/30/23 Decl. ¶ 96–98.

RESPONSE: Plaintiffs also object to the extent Defendants seek to use Mr. Germany's declaration—rather than the bill itself—to prove the contents of SB 202 and the state's existing laws. Fed. R. Evid. 1002. Further, **disputed** because the pre-SB 202 law contained an exception that assistants who were otherwise qualified under Section 208 of the Voting Rights Act would not be subject to prosecution. *See* Ga. Code Ann. § 21-2-598; 2016 Ga. Op. Att'y Gen. 02 (2016) (interpreting the exception broadly). This exception assured disabled voters and their assistants that they were in compliance with the law and that they had no reason to fear

prosecution, even for a misdemeanor. *See* Ex. 305 (Orland Decl. ¶¶ 21-25).

Undisputed that improper handling of a completed ballot is now a felony as a result of SB 202.

528. Following SB 202, there was a significant drop in the percentage of duplicate absentee ballot applications. Grimmer Rep. ¶¶ 179–180.

RESPONSE: Undisputed that there was a drop in the percentage of absentee ballot applications rejected as duplicates in 2022 versus 2020. The **cited evidence does not support the statement** that the drop was “significant.”

529. The State did not receive the same complaints after the 2022 elections that it received after the 2018 and 2020 elections. Eveler 197:7–14 (complaints re: duplicate applications stopped in 2022); Germany 10/30/23 Decl. ¶ 99.

RESPONSE: Not material. Movant’s citation to Ms. Eveler’s deposition testimony does not support the movant’s statement, as Ms. Eveler’s testimony, which she provided as 30(b)(6) representative for the Cobb County Board of Elections and Registration and in her personal capacity as Cobb County Elections Director, was about complaints received by Cobb County and not the State. *See* Ex. 15 (Cobb Dep. 17:10-17). **Object to admissibility of Germany’s testimony**, which is vague and lacks foundation as it does not indicate the basis for his personal knowledge of the assertion. Moreover, Germany’s testimony fails to

indicate whether the State received a larger or smaller number of complaints, only saying that the State did not receive the same number of complaints.

530. To ensure uniformity across counties (which is important for perceptions of a fair election process) and address voter confusion from the receipt of an unsolicited absentee ballot application, the General Assembly decided to prohibit election officials from sending unsolicited absentee ballot applications. Germany 10/30/23 Decl. ¶¶ 26–28, 31.

RESPONSE: Undisputed that “the General Assembly decided to prohibit election officials from sending unsolicited absentee ballots.” **Disputed** that the legislature’s goal was to address voter confusion from the receipt of an unsolicited absentee ballot application. *See* Ex. 180 (USA-04145 at 19:55-21:44) (Rep. David Ralston Interview). **Objection to the admissibility of the movant’s fact on the ground of lack of personal knowledge and speculation (Fed. R. Evid. 602).** Mr. Germany is not a legislator and has no personal knowledge about the motivations of the Georgia General Assembly as a whole or any individual legislator in passing any provision of SB 202. *See S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015).

531. SB 202 prohibits distributing duplicate applications once a voter has requested an absentee ballot but does *not* prohibit organizations like Plaintiffs from sending multiple applications *before* a voter requests a ballot nor does it limit

Plaintiffs’ ability to communicate any message they want—just not an actual application to those who have already submitted one. Germany 10/30/23 Decl. ¶ 62.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

532. To reduce errors, any unsolicited absentee ballot application sent by third parties must not be pre-filled. *See* Germany 5/20/22 VoteAmerica Decl. ¶ 22; 3/18/21 Tr. at 22:10–23:12, *Hearings & Meetings of H. Special Comm. on Election Integrity*, 2021 Leg., Reg. Sess. (Ga. 2021); VoteAmerica Hr’g Tr. 22:4–14; Mashburn VoteAmerica 83:20–84:19.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

533. When it comes to voters, the third-party solicitation provisions actually *decreases* the burden on voters who will no longer receive an unsolicited absentee ballot application after having already submitted such an application to local election officials and on local election officials who do not have to process duplicate absentee ballot applications, informs voters who is sending them the applications, ensuring the voter knows the form is not a ballot, and alleviates errors in pre-filled information. Germany 5/20/22 VoteAmerica Decl. ¶ 48; Germany 10/30/23 Decl. ¶¶ 52–53, 62, 67–68.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

534. Any errors in the pre-filling either makes the application worthless to the voter or results in the application's being rejected if submitted, benefiting no one. Germany 10/30/23 Decl. ¶ 50.

RESPONSE: Not material. Relates to a provision no longer challenged by any plaintiff.

535. The State has a compelling interest in regulating who may handle a completed absentee ballot application to protect a voter's private information and prevent fraud and criminalizing violations of this prohibition. *See* Germany 10/30/23 Decl. ¶ 96–98.

RESPONSE: Object that these purported facts state a legal conclusion about whether the state has a compelling interest to regulate who handles absentee ballot applications. Furthermore, the statement is not supported by admissible evidence because Mr. Germany is not qualified to offer opinion testimony on such matters. Fed. R. Evid. 701.

536. Local election officials did not receive complaints about the third party ballot return provisions following the 2022 elections. Watson 179:10–14, 183:3–5 (no issues with ballot return provisions after SB 202).

RESPONSE: Citation does not support the statement that local officials did not receive complaints about third party ballot return provisions in the 2022 elections. Ms. Watson testified that, without looking at any materials, she could not recall any specific cases related to absentee ballot restrictions on voter assistance, and again could not recall if she herself (who is a state and not local election official) received complaints about caregivers assisting individuals with absentee ballots. This is not the equivalent of local officials not having received any complaints. Plaintiffs also object that the statement in Paragraph 535 is immaterial because whether local election officials received complaints about third party ballot returns or the third party ballot return provision in the 2022 election does not have any bearing on any claims or defenses in this case.

537. While a voter's eligibility is determined when the voter submits an absentee ballot application, the State also has a compelling interest in verifying the identity of the person returning that ballot. *See* Germany 10/30/23 Decl. ¶ 84–86.

RESPONSE: Object that these purported facts state a legal conclusion about whether the state has a compelling interest to regulate who handles absentee ballot applications. Furthermore, the statement is not supported by admissible evidence because Mr. Germany is not qualified to offer opinion testimony on such matters. Fed. R. Evid. 701.

538. The oath on the ballot return envelope protects the integrity of the ballot and reduces the risk of fraud, undue influence or pressure on the voter, and vote buying. *See* Germany 10/30/23 Decl. ¶ 91–93.

RESPONSE: Citations do not support the statements about the purpose or rationale for enacting laws requiring oaths on ballot return envelopes, and instead reflects the personal views of Mr. Germany, who is not a Georgia legislator, and is not qualified to offer opinion testimony on such matters. Fed. R. Evid. 701.

539. Each of the challenged provision of SB 202 furthers important—even compelling—governmental interests and works as part of the entirety of Georgia’s voting system to ensure a process that is accessible, has necessary checks and balances, and leads to results that all Georgians can have confidence in. Germany 10/30/23 Decl. ¶ 23.

RESPONSE: Objection to the admissibility of the movant’s fact; movant’s citation does not support movant’s fact. The citation refers to an opinion expressed by the former General Counsel of the Office of Secretary of State and the citation itself does not provide support for the stated opinion.

Disputed. Many witnesses testified during the course of the 2021 Legislative session that SB 202 limits access for voters of color, *see* Ex. 129

(AME_000332:19-333:2) (Woodall), lack protections for voters, *see* Ex. 128

(AME_000204:20-205:19) (Richmond County Elections Supervisor Lynn Bailey);

and diminishes confidence in Georgia's elections for voters of color, *see* Ex. 129 AME_000338:9-11 (Woodall).

540. Through SB 202, the State sought to increase electoral efficiency, while also promoting voter access, preventing fraud or the appearance of fraud, protecting the integrity of the voting process and its results, reducing the risks of voter confusion, promoting the efficient administration of elections in a fair and uniform manner for all eligible voters, and enhance the confidence voters can have in Georgia elections. Germany 10/30/23 Decl. ¶ 22.

RESPONSE: Disputed. There is no evidence of meaningful fraud in the 2020 elections in Georgia, including in Fulton County and with respect to absentee ballots. Ex. 83 (Grimmer Dep. 37:9-23, 43:21-44:3). Fraud committed by voters in either registering to vote or voting is exceedingly rare, both nationally and in Georgia. Ex. 105 (Minnite Rep. 1). The recent record of voter fraud in Georgia is consistent with the recent record of voter fraud elsewhere in the U.S., which is to say there is very little evidence of voters intentionally corrupting the electoral process in Georgia. Ex. 105 (Minnite Rep. 21). There has not been a single criminal conviction for voter impersonation at the polls in Georgia in the last decade. Ex. 105 (Minnite Rep. 21). The changes to absentee voting, advance voting, banning line relief activities, limiting provisional voting, and restricting the use of drop boxes and mobile voting units do not enhance the security of Georgia

elections. Ex. 98 (Kennedy Rep. 42). The confidence of Georgia voters has been affected by experiences from voting in person, shared party affiliation with electoral winners, and messages from elites. Ex. 99 (King Rep. 3). Voter confidence in Georgia voters is stable over time, consistent with national trends. Ex. 80 (King Dep. 116:15-117:12); Ex. 99 (King Rep. 16, 18, 44). While uniformity is one of the stated goals of SB 202, election administrators in Georgia's 159 counties need to be able to tailor advance voting opportunities to the diverse needs of their voters. The needs and ability of rural, suburban, and urban voters to vote in advance of Election Day differ widely. Ex. 98 (Kennedy Rep. 29).

541. Georgia voters tend to return their ballots to a few drop boxes within each county, while many other drop boxes receive a smaller share of ballots. Grimmer Rep. ¶ 14; PI Hr'g Tr. 274:23–276:12.

RESPONSE: Disputed. Dr. Grimmer's own analysis shows that voters in the four metro-Atlanta counties returned their ballots to a wide variety of drop boxes. In Fulton County in 2020, a majority (52%) of mail-in voters who returned their ballot to a drop box returned their ballot to a drop box other than one of the seven most used drop boxes in the county. Ex. 113 (Grimmer Rep. ¶ 134-35, Tbl. 21). In fact, "Fulton County's drop box use was the least concentrated among all counties." Ex. 113 (Grimmer Rep. ¶ 135, Tbl. 21). Dr. Grimmer also acknowledged that Fulton County represented the plurality of voters who voted by

drop box in Georgia—14.2% of drop box voters in the state voted in Fulton County. Ex. 83 (Grimmer Dep. 172:9-19). In DeKalb, Gwinnett, and Cobb Counties, mail-in voters who returned their ballot to a drop box returned their ballot to a drop box other than one of the 6 most used drop boxes at a rate of 19%, 39%, and 26% respectively. Ex. 113 (Grimmer Rep. ¶ 135, Tbl. 21).

542. Many voters who used drop boxes did not return their ballots to the drop box nearest their home. Grimmer Rep. 122 tbl. 22; Deposition of Bernard Fraga [Doc. 745] (“Fraga”) 151:8–152:20 (Ex. MMM); Report of Allan Lichtman, attached as Ex. GGGG (“Lichtman Rep.”) 21.

RESPONSE: Disputed. Extant evidence indicates that most voters use the drop box closest to their home address and proximity to the nearest drop box is the standard measure of drop box accessibility in peer reviewed scientific research. Ex. 97 (Fraga Sur-Rebuttal ¶¶ 49-54). Dr. Grimmer testified that he is not aware of any peer-reviewed literature that does not use distance from residential address as the standard measure of exposure to treatment related to drop box access. Ex. 83 (Grimmer Dep. 129:21-122:16). Dr. Fraga’s evaluation of the survey data relied on by Defendants’ expert Dr. Grimmer shows that the percent of Georgia drop box users using proximity to residential address as a key consideration when choosing between drop boxes in 2020 is 68.8% or likely higher. Ex. 97 (Fraga Sur-Rebuttal ¶ 61 and Tbl. 3.) *See* response to Fact 542. Dr. Grimmer’s analysis of how many

voters used the “top” drop boxes demonstrates that the county with the largest Black population in the state suffered the largest reduction in drop box access subsequent to SB 202. Ex. 97 (Fraga Sur-Rebuttal ¶ 73).

543. Only 62% of voters used a drop box “near work, school, home, or the location of an errand.” Lichtman Rep. 21.

RESPONSE: Undisputed that the statement was made by Dr.

Lichtman. Otherwise disputed. Dr. Lichtman relies on the SPAE survey for the statement that the survey shows 62% of 2020 general election drop box absentee voters in Georgia voted at drop boxes because they were “near work, school, home, or the location of an errand.” Dr. Lichtman’s report provided the statistic but did not differentiate among the choices. Dr. Fraga showed that the SPAE survey data actually showed that 68.8% or more of respondents selected a drop box location because it was close to their home. Ex. 97 (Fraga Sur-Rebuttal ¶¶ 54-63.)

544. 45% of drop box voters simply used the county elections office. Grimmer Updated Rep. 6 (Ex. EEEE).

RESPONSE: Disputed. Dr. Grimmer’s report based on his analysis of the SPAE survey is contradicted by Dr. Fraga on this point. Dr. Fraga showed that the SPAE survey data actually showed that 68.8% or more of respondents selected a drop box location because it was close to their home. Ex. 97 (Fraga Sur-Rebuttal ¶¶ 54-63.).

545. The average voter lived more than three miles from the nearest drop box in 2020. Report of Bernard Fraga, attached as Ex. BBBB (“Fraga Rep.”) 68.

RESPONSE: Not material. The distance that the “average” voter lived from the nearest drop box is not material.

546. By requiring drop boxes to be placed indoors in the election office or advance voting locations, which were staffed with county officials or election workers, SB 202 ensured that no additional personnel were needed to monitor drop boxes or to collect ballots. Germany 7/27/23 Decl. ¶ 72 (Ex. C).

RESPONSE: Disputed and not supported by evidence. No foundation as to the number of election workers needed to collect ballots after SB202 was adopted. SB202 requires that “the drop box location...be under constant surveillance by an election official or his or her designee, law enforcement official, or licensed security guard (21-2-382)(C)(1).” The responsibility of collecting the ballots from drop boxes daily continues under SB202. In Cobb County, for example, teams open and close the drop boxes each day, retrieve the ballots nightly, fill out the chain of custody form, the poll manager releases custody to the team taking the ballots from the box and the team delivers the ballots to the main election office. Ex. 15 (Cobb Dep. 43:5-20).

547. When officials receive complaints about election security, they must devote time and resources to addressing those concerns. Germany 4/13 283:10–284:11.

RESPONSE: Movant’s citation does not support movant’s fact; disputed as incomplete. The citation does not support the fact that, generally, when officials receive complaints about election security, they have to devote time and resources to addressing those concerns. The citation discusses only drop box video surveillance and expresses a generalization, without specific support, that when someone would request video surveillance footage of a drop box, the county then “spent a lot of time having to respond to” that request. Germany/SOS 30b6 Dep. 283:14-23. **Objection to the admissibility of the movant’s fact** to the extent the citation calls for speculation that counties would see more open records requests if video surveillance provisions for drop boxes were restored and is not based on Mr. Germany’s personal knowledge. *See* Fed. R. Evid. 602.

548. Every form of voting creates burdens on voters with disabilities. Report of Lisa Schur, attached as Ex. JJJJ (“Schur Rep.”) ¶¶ 72, 75, 83 [Doc. 546-3].

RESPONSE: Disputed. People with different types of disabilities face different barriers in accessing the ballot and voting in person may pose barriers to people with mobility impairments, transportation problems, or other issues that

make it hard to leave one's home. Ex. 111 (Schur Rep. ¶ 72). Dr. Schur also identifies "potential" barriers "people with disabilities can face" with in-person voting or voting by mail. *Id.* ¶¶ 75, 83.

549. Indoor and outdoor drop boxes "are not different at all." Eveler 266:12–17.

RESPONSE: Disputed. Defendants' citation does not support this proposition: the rest of Eveler's testimony describes that indoor drop boxes are in an "indoor location" and one "would have to walk to it or use a wheelchair...to get inside the polling location to drop [a ballot] off." Ex. 15 (Cobb. Cnty. Dep. 266:12–17). Unrebutted testimony from Plaintiffs' expert Dr. Lisa Schur concludes the drop box restrictions make it harder for many people with disabilities to vote, due to mobility challenges in getting to and going inside an election office to deliver a ballot. Ex. 111 (Schur Rep. ¶ 19 [Doc. 546-3]).

550. There was no requirement that drop boxes be accessible to voters without leaving their car. K. Williams 3/1/23 65:19–25.

RESPONSE: Plaintiffs object to this fact as not material. The appropriate comparison in an ADA Title II claim is access granted to disabled as compared to nondisabled voters - not accessibility before and after SB 202. The regulations implementing the ADA make clear that persons with disabilities must have the "opportunity to participate in or benefit from the aid, benefit, or service" in a way

that is “equal to that afforded others.” 28 C.F.R. § 35.130(b)(1)(ii) (emphasis added). Regardless, Plaintiffs dispute this fact because Defendants’ citation does not support the proposition they offered it for. Williams’ testimony was that “it was not a requirement that we were looking for” in Gwinnett County specifically; Defendants have offered no evidence as to Georgia-wide or ADA requirements applicable to pre-SB 202 drop boxes. Ex. 36 (Gwinnett Cnty. Williams Dep. 3/1/23 65:19-25).

551. Georgia faced an onslaught of litigation leading up to the 2020 general election about how that election would be conducted. Germany 7/27/23 Decl. ¶ 17.

RESPONSE: Undisputed that litigation was filed, but **disputed** as to the fact that these cases were specifically about 2020 election procedures. For example, paragraph 17 of Mr. Germany’s July 27, 2023 declaration cites *Curling v. Raffensperger*, which was originally filed in 2017, and *Democratic Party of Georgia, Inc. v. Raffensperger*, which addresses longstanding issues with absentee ballot rejections that the plaintiffs argued were not solved by HB 316.

552. SB 202 requires dropboxes to be placed indoors at certain election-administration locations during business hours because those locations are already staffed with election workers, and thus no additional personnel would be needed. Germany 7/27/23 Decl. ¶ 72.

RESPONSE: Undisputed that SB 202 requires drop boxes to be placed indoors at certain election administration locations during business hours.

Objection to the admissibility of the movant's fact on the ground of lack of personal knowledge and speculation (Fed. R. Evid. 602). Mr. Germany is not a legislator and has no personal knowledge about the motivations of the Georgia General Assembly as a whole or any individual legislator in passing any provision of SB 202. *See S. Broward Hosp. Dist. v. Coventry Health & Life Ins. Co.*, 2015 WL 12532580, at *3 (S.D. Fla. June 10, 2015).

553. Processing absentee-ballot applications is time consuming, and it places a heavy burden on election officials. Germany 7/27/23 Decl. ¶ 95.

RESPONSE: Cited evidence does not support the statement. Mr. Germany's statement mentions nothing about it being a "heavy burden" to process absentee ballot applications and Defendants offer no testimony from a county election official who has experience processing absentee ballot applications.

554. Following the 2020 elections, just as it had done after the 2018 elections, the General Assembly used the next legislative session to consider how to respond to the various concerns. Germany 3/7 125:12–126:4; Sterling 123:3–125:17.

RESPONSE: Disputed. HB 316, passed in 2019 was not a response to the 2018 elections, but rather to the longstanding need for new voting machines in

Georgia, which legislators spent years considering. The General Assembly convened hearings on the topic in September and November 2017, and during the 2018 legislative session, it considered but did not enact legislation that would have updated Georgia's voting equipment. *See, e.g.*, Ex. 157 (SAFE Commission Final Report 3); SB 403 (2018) (developing procedures for updating the state's voting systems)). Soon thereafter, and still six months before the November 2018 election, the Governor established the SAFE Commission, a committee designated to study alternatives to the old voting system. *See* SAFE Commission Final Report. Ultimately, in HB 316, the Legislature adopted the SAFE Commission's recommendation for a new voting system. *See, e.g.*, Ex. 167 (House Governmental Affairs Hearing on HB 316, February 19, 2019) (Fleming describing the purpose of HB 316 as making the necessary legislative changes to adopt a new voting system).

555. County officials were spending significant time trying to monitor what was happening in the voting line. Eveler 143:17–25; Sosebee 148:15–25.

RESPONSE: Disputed and cited evidence does not support the statement. Neither Ms. Sosebee nor Ms. Eveler testified about the amount of time (significant or not) that their counties were spending monitoring what was happening in the voting line. And both witnesses testified that they continue to

monitor lines after SB 202. *See, e.g.*, Ex. 15 (Cobb Cnty. Dep. at 143:17-19) (“We monitor lines in the same way.”); Ex. 13 (Athens Dep. 149:5-150:10).

Respectfully submitted this 19th day of January, 2024.

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(D)

Pursuant to Local Rule 7.1(D), I certify that the foregoing document was prepared in Times New Roman 14-point font in compliance with N.D. Ga. Local Rule 5.1(C).

/s/ Maura Eileen O'Connor

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2024, I electronically filed the foregoing with the clerk of the court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Maura Eileen O'Connor

Maura Eileen O'Connor

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Civil Rights Division

U.S. Department of Justice

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