

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

SIXTH DISTRICT OF THE AFRICAN  
METHODIST EPISCOPAL CHURCH,  
*et al.*,

Civil Action No.:  
1:21-CV-01284-JPB

*Plaintiffs,*

v.

BRIAN KEMP, Governor of the State  
of Georgia, *et al.*,

*Defendants,*

REPUBLICAN NATIONAL  
COMMITTEE, *et al.*,

*Intervenor-Defendants.*

UNITED STATES OF AMERICA,

*Plaintiff-Intervenor,*

v.

THE STATE OF GEORGIA, *et al.*,

*Defendants.*

DEFENDANTS' ANSWER TO PLAINTIFF-INTERVENOR'S  
COMPLAINT IN INTERVENTION

## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

Plaintiff's claims are barred by what the U.S. Supreme Court has called the "equal sovereignty doctrine," which rests upon Article IV of the federal Constitution, because Plaintiff has singled out and targeted the State of Georgia for taking the same actions that many other States have taken, yet which Plaintiff has not targeted through civil prosecution.

### **Second Affirmative Defense**

Plaintiff's selective civil prosecution against Defendants but not against other States with similar or more restrictive election laws violates the Equal Protection and First Amendment rights of Georgia's citizens. It does so by forcing them, based on their presumed political viewpoints, to assume a risk that their elections will be less secure and subject to greater risk of misconduct, because of the Plaintiff's efforts to thwart Georgia citizens' ability to adopt and enforce laws that are common in other States.

### **Third Affirmative Defense**

Plaintiff has unclean hands, misusing selective civil prosecution against a State for the apparent purpose of gaining a political advantage for candidates aligned with the political party of the incumbent federal Administration, while ignoring identical or even more restrictive election laws enacted in States dominated by the political party of that Administration.

#### **Fourth Affirmative Defense**

Plaintiff fails to state a claim upon which relief may be granted because, among other things, SB 202 does not have a discriminatory purpose or intent.

#### **Fifth Affirmative Defense**

Contrary to Plaintiff's assertions and assumptions, Section 2 of the Voting Rights Act does not provide for an intent-only claim.

#### **Sixth Affirmative Defense**

If Section 2 of the Voting Rights Act allows for an intent-only claim, it is unconstitutional. The Eleventh Circuit recognizes “two prongs to an equal protection analysis under the Fourteenth Amendment and a denial or abridgment analysis under the Fifteenth Amendment” namely, discriminatory “intent *and* effect.” *Greater Birmingham Ministries v. Sec’y of State for State of Alabama*, 992 F.3d 1299, 1321 (11th Cir. 2021) (emphasis in original). Any interpretation of Section 2 that imposes liability on Defendants without one of those two necessary prongs would accordingly exceed Congress’s enforcement power under those two amendments.

#### **Seventh Affirmative Defense**

Plaintiff failed to join necessary and indispensable parties.

#### **Eighth Affirmative Defense**

Plaintiff's claims are precluded by the equitable doctrine of laches.

### **Ninth Affirmative Defense**

Plaintiff's requested relief is barred by the *Purcell* Principle.

### **Tenth Affirmative Defense**

Defendants reserve the right to amend their defenses and to add additional ones, including lack of subject matter jurisdiction based on the mootness or ripeness doctrines, as further information becomes available in discovery.

## **RESPONSES**

Defendants respond below to the separately numbered paragraphs and prayer for relief contained in the Complaint. To the extent that any allegation is not admitted herein, it is denied. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendants may refer to such materials for their accurate and complete contents; however, Defendants' references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiff; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

Defendants answer as follows:

1. Defendants admit that the State of Georgia enacted The Election Integrity Act of 2021 (SB 202) in March 2021. The remainder of Paragraph 1 contains Plaintiff's characterization of SB 202, not allegations of fact, to which

no response is required. To the extent a response is required, Defendants deny Plaintiff's characterization and respectfully refer the Court to SB 202 for the most accurate statement of its purpose.

2. The bullet points in Paragraph 2 contain Plaintiff's characterization of SB 202, rather than allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants deny Plaintiff's characterization. By way of further response, Defendants respectfully refer the Court to the text of SB 202 for a full and accurate statement of its contents and its provisions. Defendants deny the final sentence of Paragraph 2.

3. Paragraph 3 contains Plaintiff's conclusions of law and characterization of this action, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants admit that the Attorney General filed this complaint but deny that SB 202 violates the Constitution.

4. Defendants admit that SB 202 was signed into law on March 25, 2021, and that SB 202 enacted several measures to ensure the integrity of Georgia's electoral system. The remainder of Paragraph 4 contains Plaintiff's conclusions of law and characterization of this action, not allegations of fact, to which no response is required. By way of further response, Defendants

respectfully refer the Court to the text of SB 202 for a full and accurate statement of its contents and its provisions.

5. Defendants deny the allegations in Paragraph 5.

### **JURISDICTION AND VENUE<sup>1</sup>**

6. Defendants admit the allegations in Paragraph 6.
7. Defendants admit the allegations in Paragraph 7.
8. Defendants admit the allegations in Paragraph 8.

### **PARTIES**

9. Defendants admit the allegations in Paragraph 9.
10. Defendants admit the allegations in Paragraph 10.
11. Defendants admit the allegations in Paragraph 11.
12. Defendants admit that Defendant Brad Raffensperger is the Georgia Secretary of State and that he is sued in his official capacity. Defendants deny the remaining allegations in Paragraph 11.

### **ALLEGATIONS**

#### **Population and Voter Participation Data**

13. Defendants admit that the allegations contained in Paragraph 13 accurately reflect the 2020 Census population counts.

---

<sup>1</sup> For ease of reference, Defendants refer to Plaintiff's headings and titles, but to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

14. Defendants admit that the allegations contained in Paragraph 14 accurately reflect the 2020 Census population counts.

15. Paragraph 15 contains Plaintiff's characterization of Census estimates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited Census estimates and deny any allegation inconsistent therewith.

16. Paragraph 16 contains Plaintiff's characterization of Census estimates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited Census estimates and deny any allegation inconsistent therewith.

17. Paragraph 17 contains Plaintiff's characterization of Census estimates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited Census estimates and deny any allegation inconsistent therewith.

18. Defendants admit the allegations contained in Paragraph 18.

19. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 19. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

20. Paragraph 20 contains Plaintiff's characterization of Census estimates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited Census estimates and deny any allegation inconsistent therewith.

21. Paragraph 21 contains Plaintiff's characterization of Census estimates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited Census estimates and deny any allegation inconsistent therewith.

22. Defendants deny the allegations contained in Paragraph 22.

23. Defendants admit that in 2018, approximately 6.89 percent of Black voters and approximately 4.24 percent of white voters cast an absentee-by-mail ballot. The remainder of Paragraph 23 contains Plaintiff's characterization of voter data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited data for a full and accurate statement of their contents and deny any allegation inconsistent therewith.

24. Defendants admit that more voters voted by absentee ballot in the 2020 elections. For the remainder of Paragraph 24, Defendants respectfully refer the Court to the underlying voter data for a full and accurate statement of their contents and deny any allegation inconsistent therewith.



25. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 25. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

### **Socio-Economic Data**

26. Paragraph 26 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

27. Paragraph 27 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

28. Paragraph 28 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

29. Paragraph 29 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

30. Paragraph 30 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

31. Paragraph 31 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

32. Paragraph 32 contains Plaintiff's characterization of survey data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited survey for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

### **The State of Georgia's History of Discrimination**

33. Paragraph 33 contains Plaintiff's characterization of the cited cases, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to those cases for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

34. Defendants admit that the State of Georgia was previously subject to the preclearance requirement of Section 5 of the Voting Rights Act. The remainder of Paragraph 34 contains Plaintiff's characterization of authority and legal conclusions, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

35. Paragraph 35 contains a legal conclusion, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

36. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained Paragraph 36.

37. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 37.

## **Provisions of SB 202**

38. Defendants admit that SB 202 makes several changes to Georgia's election laws. Defendants deny Plaintiff's characterizations of SB 202 in this paragraph and respectfully refer the Court to the text of SB 202 for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

### **A. Government-Mailed Absentee Ballot Applications**

39. Defendants admit the allegations contained in Paragraph 39, but note that this was done in an emergency situation associated with the COVID-19 pandemic.

40. Defendants admit that more voters voted by absentee ballots in the June 2020 primary than in previous elections.

41. Defendants admit that the Secretary of State did not mail unsolicited absentee ballot applications for the November 2020 or January 2021 elections. Defendants further admit that, pursuant to an emergency rule promulgated by the State Election Board, the Secretary of State created an online absentee ballot request system. Defendants deny the remaining allegations of Paragraph 41.

42. Defendants admit that the State did not distribute unsolicited absentee ballot applications for the November 2020 or January 2021 elections. Defendants deny Plaintiff's allegations of the reason for that decision. The

remainder of Paragraph 42 contains Plaintiffs' characterization of an interview, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the interview for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

43. Defendants admit the allegations contained in Paragraph 43.

44. Defendants admit the allegations contained in Paragraph 44.

45. Defendants admit the allegations contained in Paragraph 45.

**B. Identification Requirement for Requesting an Absentee Ballot**

46. Defendants admit that photo identification has been required to vote in-person in Georgia since 2006 and that, prior to SB 202, the identity of voters voting by absentee ballot was verified by other means.

47. Defendants admit the allegations contained in Paragraph 47.

48. Defendants admit the allegations contained in Paragraph 48.

49. Defendants admit the allegations contained in Paragraph 49.

50. Defendants admit the allegations contained in Paragraph 50.

51. Defendants admit the allegations contained in Paragraph 51.

52. Defendants lack sufficient knowledge or information with which to form a belief as to the accuracy of the allegations contained in Paragraph 52.

53. Paragraph 53 contains Plaintiff's characterization of legislative debates, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the record of such debates for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

54. Defendants admit that, during the 2021 legislative session, the Secretary of State's office analyzed records to determine the number of voter registration records with driver's license and Social Security numbers associated with their voter record. The remaining allegations of Paragraph 54 contains Plaintiff's characterization of publicly available statements made on Twitter, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited statements for a full and accurate statement of their contents and deny any allegations inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 54.

55. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 55. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

56. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 56. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

57. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 57.

58. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 58. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

59. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 59. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.

**C. Window to Request Absentee Ballots**

60. Paragraph 60 contains Plaintiff's legal conclusions, not allegations of fact, to which no response is required.

61. Paragraph 61 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

62. Paragraph 62 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

63. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 63.

64. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 64.

65. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 65. By way of further response, Defendants respectfully refer the Court to the Secretary of State's current data and deny any allegation inconsistent therewith.



**D. Drop Boxes**

66. Defendants admit the allegations contained in Paragraph 66.

67. Defendants admit the allegations contained in Paragraph 67.

68. Paragraph 68 contains Plaintiff's characterization of authority and legal conclusions, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the relevant authority for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

69. Defendants admit that voters used drop boxes to return ballots in the November 2020 and January 2021 elections. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the remaining allegations contained in Paragraph 69.

70. Defendants admit that many voters used drop boxes to return ballots in the November 2020 and January 2021 elections. By way of further response, Defendants respectfully refer the Court to the cited article that Plaintiff characterizes in Paragraph 70 for a full and accurate statement of its content and deny any allegations inconsistent therewith.

71. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 71. By way of further response, Defendants respectfully refer the Court to the

Secretary of State's current data and deny any allegation inconsistent therewith.

72. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 72.

73. Paragraph 73 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

74. Paragraph 74 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

75. Paragraph 75 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

76. Paragraph 76 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is

required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

77. Paragraph 77 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

78. Paragraph 78 contains Plaintiff's characterization of SB 202, not allegations of fact, to which no response is required. To the extent a response is required, Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 78 and Defendants specifically deny that SB 202 "resulted in a dramatic cut in the number of drop boxes available in counties."

**E. Food and Drink Distribution**

79. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 79.

80. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 80.

81. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 81.

82. Paragraph 82 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

83. Paragraph 83 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

**F. Out-of-Precinct Provisional Ballots**

84. Paragraph 84 contains Plaintiff's legal conclusions and characterization of SB 202 and Georgia law, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

85. Paragraph 85 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

86. Paragraph 86 contains Plaintiff's legal conclusions and characterization of SB 202, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited authority for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

87. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 87.

88. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 88.

### **SB 202's Historical Background**

89. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 89.

90. Paragraph 90 contains Plaintiff's characterization of population data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to relevant population data for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

91. Defendants admit the allegations contained in the first sentence of Paragraph 91. Defendants further admit the allegations contained in the first half of the second sentence, but lack sufficient knowledge or information with

which to form a belief as to the truth of the remaining allegations contained in Paragraph 91.

92. Defendants admit that Stacey Abrams ran for Governor in 2018. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the remaining allegations contained in Paragraph 92.

93. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 93.

94. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 94.

95. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 95.

96. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 96.

97. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 97.

98. Paragraph 98 contains Plaintiff's characterization of voting data. Defendants respectfully refer the Court to the referenced voting data for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

99. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in the first sentence of

Paragraph 99. Defendants admit the allegations contained in the second sentence.

100. Defendants admit the allegations contained in Paragraph 100.

101. Defendants admit that “many voters cast absentee ballots.” Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in the remaining portions of Paragraph 101.

102. Defendants admit the allegations contained in Paragraph 102.

103. Defendants admit that many precincts saw an increase in voter turnout, but lack sufficient knowledge or information with which to form a belief as to the truth of the remaining allegations in Paragraph 103.

104. Defendants admit that Georgia voters elected Senators Warnock and Ossoff.

105. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 105.

106. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 106.

107. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 107.

108. Defendants admit the elections in 2020 and 2021 in Georgia garnered significant media attention for many reasons.

109. Defendants admit that Georgia law allowed voters there days after the election to cure their rejected ballots for the November 2020 general election. Defendants deny the remaining allegations contained in Paragraph 109.

110. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 110.

111. Defendants admit that there were legal challenges brought relating to the election results in Georgia and that those challenges were covered in the national news. Defendants deny that efforts to overturn the result of an election in Georgia were “unprecedented.”

112. Defendants admit that there were legal challenges brought relating to the election results in Georgia, but lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 112.

113. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 113.

114. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 114.

115. Defendants admit that both a hand-count audit and a recount were conducted and that neither the audit nor the recount altered the outcome of the presidential race. The remaining portions of Paragraph 115 contain



Plaintiff's characterization of those recounts, not allegations of fact, to which no response is required.

116. Defendants admit that both a hand-count audit and a recount were conducted and that neither the audit nor the recount altered the outcome of the presidential race. The remaining portions of Paragraph 116 contain Plaintiff's characterization of those recounts, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited statement for a full and accurate statement of its contents and deny any allegation inconsistent therewith.

117. Defendants admit that there were several civil actions filed challenging the 2020 election results. The remaining portions of Paragraph 117 contain Plaintiff's characterization of those lawsuits, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced lawsuits for a full and accurate depiction of their allegations and resolution, and deny any allegation inconsistent therewith. Defendants deny the remaining allegations contained in Paragraph 117.

118. Defendants admit that there were several civil actions filed challenging the 2020 election results, and that some of the lawyers who filed those lawsuits testified at state legislative committee hearings. The remaining portions of Paragraph 118 contain Plaintiff's characterization of those lawsuits

and legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants further respectfully refer the Court to the referenced legislative proceedings for a full and accurate statement of their contents and deny any allegation inconsistent therewith.

119. Paragraph 119 contains Plaintiff's characterization of an interview, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited interview for a full and accurate statement of their contents and deny any allegations inconsistent therewith.

#### **Legislative History and Enactment of SB 202**

120. Defendants admit the allegations contained in Paragraph 120.

121. Defendants admit the allegations contained in Paragraph 121.

122. Paragraph 122 contains Plaintiff's characterization of the cited article, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the cited article for a full and accurate statement of its contents and deny any allegations inconsistent therewith.

123. Defendants admit the allegations contained in Paragraph 123, but deny that they have any bearing on the claims included in this action.

124. Defendants admit that the Senate Ethics Committee held a hearing SB 202 on March 3, 2021. The remaining portions of Paragraph 124

contain Plaintiff's characterization of that hearing, not allegations of fact, to which no response is required. By of further response, Defendants respectfully refer the Court to the cited hearing for a full and accurate statement of the statements made and deny any allegations inconsistent therewith.

125. Defendants admit the allegations contained in the first two sentences of Paragraph 125. Defendants further admit the allegations contained in the third sentence of Paragraph 125, but deny that they have any bearing on this action.

126. Defendants admit the allegations contained in Paragraph 126.

127. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 127.

128. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 128.

129. Defendants admit that the Special Committee on Election Integrity met on March 18. The remaining portion of Paragraph 129 contains Plaintiff's characterization of a statement allegedly made by Representative Burnough, not allegations of fact, to which no response is required. By way of further answer, Defendants respectfully refer the Court to the referenced statement for a full and accurate statement of its contents and deny any allegation inconsistent therewith.

130. Paragraph 130 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith.

131. Paragraph 131 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith.

132. Paragraph 132 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith.

133. Defendants admit that the House Special Committee met on March 22 and voted favorably on the 90-page substitute bill. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegation that a vote was held "within an hour."

134. Paragraph 134 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way

of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith.

135. Paragraph 135 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith. Moreover, Defendants deny the implication that it is uncommon for legislators to voice or raise objections about legislation during the legislative process.

136. Defendants admit that the House debated SB 202 on March 25. The remaining portions of Paragraph 136 contain Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith. Moreover, Defendants deny the implication that it is uncommon for legislators to voice or raise objections about legislation during the legislative process.

137. Paragraph 137 contains Plaintiff's characterization of legislative proceedings and multiple levels of hearsay, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer

the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith. Moreover, Defendants deny the implication that it is uncommon for legislators to voice or raise objections about legislation during the legislative process.

138. Defendants admit the allegations contained in Paragraph 138, but deny that they have any bearing on the claims included in this action.

139. Paragraph 139 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation in consistent therewith.

140. Defendants admit the allegations contained in Paragraph 140, but deny that they have any bearing on the claims included in this action.

141. Defendants admit that Governor Kemp signed SB 202 in a room with other individuals. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the remaining allegations contained in Paragraph 141.

**Passage of SB 202 was Motivated by Discriminatory Purpose**

142. Defendants deny the allegations contained in Paragraph 142.

143. Defendants deny the allegations contained in Paragraph 143.

144. Defendants deny each of the allegations stated or implied in Paragraph 144.

145. Defendants deny the allegations contained in Paragraph 145.

146. Paragraph 146 contains legal conclusions, not allegations of fact, to which no response is required. To the extent that this paragraph contains factual allegations to which a response is deemed necessary, Defendants deny those factual allegations.

147. Defendants deny the allegations stated or implied in Paragraph 147.

148. Defendants deny the allegations stated or implied in Paragraph 148.

149. Defendants deny the allegations stated or implied in Paragraph 149.

150. Defendants deny the allegations stated or implied in Paragraph 150.

151. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in paragraph 151.

152. Defendants deny the allegations stated or implied in Paragraph 152.

153. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 153.

154. Defendants deny the allegations stated or implied in Paragraph 154.

155. Defendants deny the allegations stated or implied in Paragraph 155.

156. Defendants deny the allegations stated or implied in Paragraph 156.

157. Defendants deny the allegations stated or implied in Paragraph 157.

158. Defendants deny the allegations stated or implied in Paragraph 158.

159. Defendants deny the allegations stated or implied in Paragraph 159.

160. Defendants deny the allegations stated or implied in Paragraph 160.

161. The first sentence of Paragraph 161 contains Plaintiffs' characterization of population data, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced population data for a full and accurate statement of their contents and deny any allegations inconsistent therewith. Defendants admit that a majority of voters in Georgia voted for the country's first Black Vice President and Georgia's first Black U.S. Senator. Defendants lack



sufficient knowledge or information with which to form a belief as to the truth of the remaining allegations contained in Paragraph 161.

162. Defendants lack sufficient knowledge or information with which to form a belief as to the truth of the allegations contained in Paragraph 162.

163. Defendants admit that both a hand-count audit and a recounts were conducted and that neither the audit nor the recount altered the outcome of the presidential race. The remaining portions of Paragraph 163 contain Plaintiff's characterization of those recounts and associated statements, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced statements for a full and accurate statement of their contents and deny any allegations inconsistent therewith. To the extent that this paragraph contains factual allegations to which a response is deemed necessary, Defendants deny those factual allegations.

164. Paragraph 164 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation inconsistent therewith. To the extent this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

165. Defendants deny the factual allegations stated or implied in Paragraph 165.

166. Paragraph 166 contains Plaintiff's characterization of legislative proceedings, not allegations of fact, to which no response is required. By way of further response, Defendants respectfully refer the Court to the referenced proceedings for a full and accurate statement of their contents and deny any allegation inconsistent therewith. To the extent this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

167. Paragraph 167 contains Plaintiff's legal conclusions to which no response is required. To the extent that this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

## **CAUSE OF ACTION**

### **Violation of Equal Protection**

#### **U.S. Constitution, Amendment XIV (Intentional Race Discrimination)**

168. Defendants incorporate by reference and reallege their responses to the foregoing allegations as if fully restated herein.

169. Paragraph 169 contains Plaintiff's legal conclusions, not allegations of fact, to which no response is required. To the extent that this

paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

170. Paragraph 170 contains Plaintiff's legal conclusions, not allegations of fact, to which no response is required. To the extent that this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

171. Paragraph 171 contains Plaintiff's legal conclusions, not allegations of fact, to which no response is required. To the extent that this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

172. Paragraph 172 contains Plaintiff's legal conclusions, not allegations of fact, to which no response is required. To the extent that this paragraph contains factual allegations to which a response is necessary, Defendants deny those factual allegations.

173. Defendants deny the allegations contained in Paragraph 173.

174. Defendants deny the allegations contained in Paragraph 174.

### **PRAYER FOR RELIEF**

The remaining portions of Plaintiff's Compliant contain its request for relief, to which no response is required. To the extent a response is deemed necessary, Defendants deny that Plaintiff is entitled to any relief whatsoever.

Respectfully submitted this 1<sup>st</sup> day of August, 2024.

Christopher M. Carr  
Attorney General  
Georgia Bar No. 112505  
Bryan K. Webb  
Deputy Attorney General  
Georgia Bar No. 743580  
Elizabeth T. Young  
Senior Assistant Attorney General  
Georgia Bar No. 707725  
**State Law Department**  
40 Capitol Square, S.W.  
Atlanta, Georgia 30334

Gene C. Schaerr\*  
Special Assistant Attorney General  
Erik Jaffe\*  
H. Christopher Bartolomucci\*  
Brian J. Field\*  
**SCHAERR | JAFFE LLP**  
1717 K Street NW, Suite 900  
Washington, DC 20006  
(202) 787-1060  
gschaerr@schaerr-jaffe.com  
*\*Admitted pro hac vice*

/s/ Bryan P. Tyson  
Bryan P. Tyson  
Special Assistant Attorney General  
Georgia Bar No. 515411  
btyson@taylorenghish.com  
Bryan F. Jacoutot  
Georgia Bar No. 668272  
bjacoutot@taylorenghish.com  
Diane F. LaRoss  
Georgia Bar No. 430830  
dlaross@taylorenghish.com  
**Taylor English Duma LLP**  
1600 Parkwood Circle  
Suite 200

Atlanta, Georgia 30339  
(678) 336-7249

*Counsel for Defendants*

RETRIEVED FROM DEMOCRACYDOCKET.COM

## CERTIFICATE OF COMPLIANCE

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

/s/ Bryan P. Tyson  
Bryan P. Tyson

RETRIEVED FROM DEMOCRACYDOCKET.COM