

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

COAKLEY PENDERGRASS et al.,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION FILE
NO. 1:21-CV-5339-SCJ

ANNIE LOIS GRANT et al.,

Plaintiffs,

v.

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

Defendants.

CIVIL ACTION FILE
NO. 1:22-CV-122-SCJ

**CONSENT MOTION TO ADD JUDGE WILLIAM S. DUFFEY, JR. AS A
DEFENDANT IN HIS OFFICIAL CAPACITY**

Plaintiffs in the above-captioned actions hereby move the Court to amend their Complaints to add Judge William S. Duffey, Jr. as a Defendant in their respective cases, in his official capacity as Chair of the Georgia State Election Board,

pursuant to Federal Rules of Civil Procedure 15(a) and 21. In support of their request, Plaintiffs show the Court as follows:

1. Plaintiffs initiated their respective actions by filing their Complaints in this Court on December 30, 2021, and January 11, 2022, respectively.

2. In both actions, Plaintiffs named as Defendants Georgia Secretary of State Brad Raffensperger and four members of the Georgia State Election Board: Rebecca N. Sullivan, Sara Tindall Ghazal, Matthew Mashburn, and Anh Le.

3. In January 2022, Dr. Janice Johnston and former Georgia State Representative Edward Lindsey, Jr. replaced Anh Le and Rebecca N. Sullivan, respectively, as members of the State Election Board. Mr. Lindsey and Dr. Johnston were automatically substituted as Defendants pursuant to Federal Rule of Civil Procedure 25(d).

4. On June 3, 2022, Georgia Governor Brian Kemp appointed Judge William S. Duffey, Jr. as the new Chair of the State Election Board. Judge Duffey did not replace any of the members of the State Election Board that Plaintiffs had named as Defendants. Rather, Judge Duffey filled a vacancy on the Board that was created when Georgia Senate Bill 202 removed Secretary Raffensperger from his position as Chair of the State Election Board. *See* SB 202, § 5, 156th Gen. Assemb., Reg. Sess. (Ga. 2021 Act 9) (“SB 202”) (amending O.C.G.A. § 21-2-30(a)).

5. Federal Rule of Civil Procedure 15(a)(2) allows “a party [to] amend its pleading . . . with the opposing party’s written consent.” Fed. R. Civ. P. 15(a)(2).

6. Without conceding that Judge Duffey is a necessary party, Defendants consent to the relief requested by Plaintiffs to ensure that all members of the State Election Board are treated the same.

7. Federal Rule of Civil Procedure 21 provides that “[o]n motion or on its own, the court may at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21. “[T]he standard for deciding [a party’s] motion for leave to file an amended complaint [i]s the same under either rule 15(a) or 21.” *Loggerhead Turtle v. Cnty. Council of Volusia Cnty., Fla.*, 148 F.3d 1231, 1255 (11th Cir. 1998).

8. Further, “[w]hen a party moves to amend their complaint after the deadline for doing so set by the district court in its scheduling order, a litigant must also show good cause why leave to amend the complaint should be granted.” *MidAmerica C2L Inc. v. Siemens Energy Inc.*, 25 F.4th 1312, 1335 (11th Cir. 2022) (quotations omitted). This standard requires “a litigant [to] show that it could not meet the scheduling order despite the diligence of the litigant.” *Id.* at 1336 (quotations omitted).

9. Plaintiffs have good cause to amend their Complaints to add Judge Duffey as a Defendant because he was appointed to the State Election Board after the deadline to amend pleadings set forth in the scheduling order.

10. Plaintiffs therefore respectfully request that the Court add Judge William S. Duffey, Jr. as a Defendant in their respective actions, in his official capacity as Chair of the Georgia State Election Board.

Respectfully submitted this 17th day of October, 2022.

Dated: October 17, 2022

By: /s/Adam M. Sparks

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing **CONSENT MOTION TO ADD JUDGE WILLIAM S. DUFFEY, JR. AS A DEFENDANT IN HIS OFFICIAL CAPACITY** has been prepared in accordance with the font type and margin requirements of LR 5.1, NDGa, using font type of Times New Roman and a point size of 14.

Dated: October 17, 2022

/s/ Adam M. Sparks
Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing **CONSENT MOTION TO ADD JUDGE WILLIAM S. DUFFEY, JR. AS A DEFENDANT IN HIS OFFICIAL CAPACITY** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: October 17, 2022

/s/ Adam M. Sparks
Counsel for Plaintiffs

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