IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

DEMOCRATIC PARTY OF GEORGIA, INC., DSCC, and WARNOCK FOR GEORGIA,	)	
Plaintiffs-Appellees,	)	**CASE NO.: _____**
v.	)	**CIVIL ACTION NO.: 2022-CV-372734**
THE STATE OF GEORGIA,	)	
Defendant-Appellant.	)	

MOTION FOR EMERGENCY STAY

Intervenors Georgia Republican Party, Inc., National Republican Senatorial Committee ("NRSC"), and Republican National Committee ("RNC") (collectively, "Intervenors") ask that the superior court's order be stayed pending appeal and this Court enter a temporary stay while it considers this motion. *See* Ga. Ct. App. R. 40(b).

Introduction

On the eve of counties noticing advance voting dates for the Georgia U.S. Senate runoff election, a Fulton County superior court judge overruled the State of Georgia's non-partisan reading of O.C.G.A. § 21-2-385(d)(1) and accompanying guidance in its November 12, 2022 Official Election Bulletin (the "Bulletin"). The courts contorted textual interpretation permits advance voting on Saturday,

November 26. The order dissolves uniformity among Georgia's 159 counties, with only a few (*i.e.*, Fulton, DeKalb, Cobb, Chatham, and Muscogee) noticing their intent on Saturday, November 19, to hold advance voting on November 26. The injunction *permitting* rather than *mandating* counties to open advance voting locations on November 26 cannot be reconciled with the text of O.C.G.A. § 21-2-385(d)(1), which specifies weekend dates that "shall" have advance voting. Intervenors request this Court issue a stay on the superior court's erroneous interpretation before partisanship and chaos overtake the runoff election.

Factual and Procedural Background

Georgia's December 6, 2022, runoff election is a "continuation" of the November 8th general election. O.C.G.A. § 21-2-501(a)(5). The runoff is overseen and administered by the Secretary of State ("Secretary"), Ga. Const. art. V, § III, ¶ I; O.C.G.A. § 21-2-50, and the State Election Board ("SEB"), O.C.G.A., § 21-2-31.

The General Assembly enacted a detailed framework that *mandates* advance voting on some days, *permits* it on other days, and *forbids* it on a few days. Advance voting "shall" begin "no later than the second Monday immediately prior to such

runoff." O.C.G.A. § 21-2-385(d)(1)(B).[1] For this runoff, mandatory advance voting begins on Monday, November 28, and concludes Friday, December 2. *See id.*[2]

At issue here is the *prohibitory* language in § 21-2-385(d)(1). Advance voting "shall not be held" on the second Saturday before the election "if such second Saturday follows a public and legal holiday occurring on the Thursday or Friday immediately preceding such second Saturday." *Id.* This year's second Saturday qualifies, as both Thanksgiving Day and a state holiday on Friday, November 25 "immediately preced[e]" the second Saturday.

In advance of those holidays, county officials and the Secretary are scrambling to complete multiple statutory requirements before conducting advance voting, including voting machine testing, O.C.G.A. §§ 21-2-374(b), 379.6(c), precertification tabulation audits, *id.* § 21-2-498, and certification of the general election, *id.* § 21-2-499. Those requirements are in process. *See, e.g.*, **Ex. B**, Compl., Ex. 1 Bulletin; *see* **Ex. C**, Intervenors' Opp. TRO at Exs. A-C (Dover Affidavit ¶ 7; *id.*, Natt Affidavit ¶ 7; *id.*, O'Lenick Affidavit ¶¶ 7, 11).

Notably, the law requires counties to provide "reasonable notice" to voters "no later than seven days" before advance voting begins regarding "times, dates, and

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[1] For the Court's convenience, O.C.G.A § 21-2-385(d)(1) is attached as **Exhibit A**.

[2] The statute allows counties to begin advance voting "[a]s soon as possible prior to a runoff …." O.C.G.A. § 21-2-385(d)(1)(B).

locations." *See* § 21-2-385(d)(2)-(3). To help counties comply with the requirements, the Secretary circulated the Bulletin to county election officials on November 12, 2022. **Ex. B,** Compl. at Ex. 1. The Bulletin notified election officials that advance voting *must* be held November 28 through December 2 and that advance voting *may* begin before November 28, but "cannot occur" on public holidays or on Saturday, November 26 because "OCGA 21-2-385(d)(1) … states that if the second Saturday before the runoff follows a Thursday or Friday that is a state holiday, voting on that Saturday is not allowed." *Id.*

Relying on the Secretary's direction, 159 counties prepared and staffed advance voting in the runoff. Despite unanimity among counties that advance voting *would not* occur on November 26, Plaintiffs asked the superior court to permit advance voting on that Saturday.[3] The court granted Plaintiffs' request the afternoon before the counties' statutory deadline to notice advance voting under O.C.G.A. § 21-2-385(d)(3). **Ex. E**, Order, dated November 18, 2022. Intervenors seek to uphold the law and stop an uneven impact on Georgia's voters by this erroneous ruling. An emergency stay is necessary while this Court considers this time-sensitive appeal.

Legal Standard

[3] In advance of the TRO hearing, Plaintiffs informed the court that at least four Democratic-leaning counties were willing to hold advance voting on that Saturday (*i.e.*, Fulton, DeKalb, Cobb, and Muscogee). *See e.g.*, **Ex. D**, Sparks Aff. ¶¶ 4-7.

This Court has "inherent power" to "issue such orders … as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot." Ga. Ct. App. R. 40(b). A Rule 40(b) motion must "[c]ontain an explanation why" a stay "is necessary and why the action required is time-sensitive." *Id.* When considering a stay pending appeal, this Court considers: (1) whether "the appellant will [likely] prevail on the merits of his appeal," (2) irreparable harm absent a stay, (3) harm to other interested parties, and (4) the public interest. *Green Bull Ga. Partners, LLC v. Register*, 301 Ga. 472, 473 (2017). "[T]he applicant need not always show that he more likely than not will prevail on appeal. If the other equities weigh strongly in favor of a stay or injunction pending appeal, that the appellant presents a substantial case on the merits [of his appeal] may be enough." *Id.*

Argument

The superior court's contorted interpretation of O.C.G.A. § 21-2-385(d)(1) abruptly overturned settled expectations of county election officials, political parties, and voting public. An emergency stay of the injunction is necessary to protect Georgia's interest in enforcing its laws as written and to protect the majority of Georgia's citizens whose counties will not have voting access on November 26, given the short notice from the court's order. The Secretary's interpretation of O.C.G.A. § 21-2-385(d)(1) is correct on the merits, and the balance of harms and public interest strongly favor preserving Georgia election law.

Because the interests of the Intervenors, the State, and the public "weigh strongly in favor of a stay … pending appeal," *Green Bull*, 301 Ga. at 473, Intervenors need show only a "substantial case on the merits," not a likelihood of prevailing. *Id.* Time is of the essence; an emergency stay should be granted before some (but not most) counties commence impermissible advance voting on November 26.

1. The State and Intervenors have a substantial case on the merits.

The order misinterprets O.C.G.A. § 21-2-385(d)(1). The court reasoned that (1) "primary or election" does not include the term runoff, (2) runoffs are not continuations of an election (contrary to Georgia law), and (3) the shortened time period prior to a runoff requires Saturday voting to allow counties to start advance voting "[a]s soon as possible." The key differences between its interpretation and the statutory text concern: (1) whether "primary or election" includes runoff elections; (2) the appropriate time period for advance voting; and (3) whether advance voting can be permissive, especially on Saturdays, when not expressly provided in the statute.

The superior court gave no deference to the Secretary, despite acknowledging an "absence of settled law on this specific issue." *Id.* at 4. This runs afoul of the principle "that courts should presume public officials … acted in accordance with their statutory duties and read the statute in a manner that renders their conduct

proper." *See Gundy v. Balli*, 362 Ga. App. 304, 311 (2022); *see also Selph v. Williams*, 284 Ga. 349, 352 (2008) ("[A] presumption of regularity … requires the courts to presume that public officers have properly discharged their official duties"); *see also* O.C.G.A. § 21-2-50(b) (Secretary is "state's chief election official").

a. *The Secretary's interpretation of the statute is correct.*

The Secretary's reading of Section 21-2-385(d)(1) accords with principles of statutory construction: advance voting on Saturday, November 26, isn't allowed because it follows Thanksgiving and another state holiday.

The relevant statutory definitions provide that "'[e]lection' ordinarily means any general or special election and shall not include a primary or special primary unless the context in which the term is used clearly requires that a primary or special primary is included." O.C.G.A. § 21-2-2(5). The definition's drafters expressly excluded primaries *but not runoffs*, which are a natural "continuation of the … election." *See* O.C.G.A. § 21-2-501(a)(5). The Georgia election code frequently uses "primary or election" to encompass runoff. *See, e.g.*, O.C.G.A. §§ 21-2-216 (voters must be registered to vote in "any primary or election"); -493 (superintendent shall commence canvassing "after the close of the polls on the day of a primary or election"); -403 (polls shall be open from 7:00 A.M. to 7:00 P.M. "at all primaries and elections[.]"); -300(a) (requiring that electronic voting equipment be used in

"general primaries and general elections"); -385(a) (setting forth procedures for absentee ballots in a "primary or election"); -522 (allowing the "result of a primary or election" to be contested in court). The term "primary or election" plainly applies to rules and regulations for subsequent runoffs unless expressly delineated otherwise.[4]

Caselaw supports the Secretary's conclusion that "election" includes a runoff election. Numerous Georgia Supreme Court decisions use the terms "election," "run-off election," and "runoff" interchangeably when discussing a single election. *See, e.g.*, *Fuller v. Thomas*, 284 Ga. 397 (2008) (referring to contested run-off election as "election," "runoff," and "runoff election"); *Spalding Cnty. Bd. of Elections v. McCord*, 287 Ga. 835 (2010) (same); *Meade v. Williamson*, 293 Ga. 142 (2013) (same). That usage informs the statutory meaning. *See Hasty v. Castleberry*, 293 Ga. 727, 731 (2013) (statutes are "construed in connection and in harmony with the existing law, and as a part of a general and uniform system of jurisprudence," "with reference to other statutes and the decisions of the courts").

The Secretary reads O.C.G.A. § 21-2-385(d)(1) "as a whole, considering specific words and phrases not in isolation, but in relation to each other," *Gary v. State*, 338 Ga. App. 403, 405 (2016), and gives effect to each statutory provision:

[4] For instance, OCGA § 21-2-385(d)(1)(B) expressly delineates the advance voting dates for the runoff because the "primary or election" advance voting dates do not work for the shorter four-week turnaround between the general election and the runoff.

(a) defining an advance voting period; (b) defining times for weekday voting; (c) defining mandatory Saturday voting, including the holiday exception; (d) defining permissive Sunday voting; and (e) only allowing advance voting on certain express statutory dates. The superior court's adoption of Plaintiffs' interpretation does not do the same.

b. *Plaintiffs' interpretation, adopted in the Order, is incorrect.*

The Plaintiffs' interpretation turns the statute on its head. It (1) ignores that runoffs are defined as a continuation of the "primary or election"; (2) prevents most provisions in the statute from applying to runoffs; and (3) makes most advance voting dates for runoffs *permissive*, nullifying provisions that *mandate* or *prohibit* advance voting dates.

First, as discussed in Section 1.a., the superior court failed to see that "primary or election" encompasses a runoff election because it is a "continuation" of the "primary or election," unless otherwise expressly stated.

Second, by construing "primary or election" to exclude runoffs, the superior court's interpretation renders all provisions in the second sentence of the statute inapplicable to runoffs. The term "primary or election" is used twice within the statute, but the order only considers the phrase within the context of the holiday exclusion provision. This court cannot cherry-pick to reach Plaintiffs' requested relief. *Zaldivar v. Prickett*, 297 Ga. 589, 592 (2015) ("identical words used in

different parts of the same act are intended to have the same meaning" (quoting *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433 (1932)). Consistently applying the term, "primary or election", to exclude "runoff" throughout the statute would eradicate most of O.C.G.A. § 21-2-385(d)(1)'s rules, including voting hours, mandatory Saturdays, permissible Sundays, *and the holiday exception provision* at issue here (*i.e.*, the statute's entire second sentence), for runoffs. Courts have a "duty to reject a construction of a statute" that "result[s] in unreasonable consequences or absurd results not contemplated by the legislature." *Haugen v. Henry Cnty.*, 277 Ga. 743, 746 (2004). The superior court defied that duty by ignoring Plaintiffs' interpretation's logical consequences.

Notably, the order does not address the far-reaching consequences Plaintiff's interpretation immediately causes for the runoff. For instance, counties could open advance voting for only half-an-hour on Monday, November 28, and half-an-hour on Friday, December 2. Or they could remain open 24-hours a day, including weekends and holidays, through Friday, December 2. The order also strikes the counties' seven-day notice provision for advance voting, *see* O.C.G.A. § 21-2-385(d)(3), which could result in counties not providing proper advance notice of when polling places are to be open. More broadly, the interpretation could affect counties' interpretations of the election code as a whole, which uses "primary or election" to encompass runoff elections throughout.

Third, the superior court's interpretation negates specific mandates and prohibitions by transforming all advance voting days but Monday, November 28, and Friday, December 2, as *permissive*. The order advances November 26 as a permissive advance voting date because counties can start voting as "early as possible." However, Section 21-2-385(d)(1) has mandatory, not permissive, language for Saturday advance voting: it "***shall*** be conducted on the second and third Saturdays during the hours of 9:00 A.M. through 5:00 P.M." (emphasis added). Likewise, the next sentence (*i.e.*, the third sentence) specifies "that voting shall occur only on the days specified in this paragraph and counties and municipalities shall not be authorized to conduct advance voting on any other days." O.C.G.A. § 21-2-385(d)(1). The adopted interpretation cannot be rectified with these mandates and prohibitions.

The superior court's historical analysis of O.C.G.A. § 21-2-385(d)(1) is flawed. It ignores the Secretary's Office's previous (and consistent) guidance for a July 13, 2021 five county state runoff, the only post-statutory-revision runoff election that included a Saturday following a state holiday. *See* **Ex. F**, State's Opp. TRO, Ex. 1. It ignores that the legislature added the third sentence in 2021 requiring that advance voting can only occur where the legislature has *specified each early voting date*. O.C.G.A. § 21-2-385. And it ignores the legislature removed "runoff" in 2017 as part of an attempt to uniformly apply "primary or election" across the

election code. *See* **Ex. C**, Pl's Affidavit, Ex. 7. Otherwise, many key election statutes (such as OCGA § 21-2-216, 300(a), 403, etc.) that do not expressly say *runoff* would not apply.

Even if "primary or election", as used in Section 21-2-385(d)(1), were not to include runoff elections, the court's interpretation fails because "primary or election" only modifies a small part of the statute. The holiday prohibition states, "if such second Saturday follows a public and legal holiday occurring on the Thursday or Friday immediately preceding such second Saturday, ... such advance voting shall not be held on such second Saturday but shall be held on the third Saturday prior to such primary or election ...." O.C.G.A. § 21-2-385(d)(1). Plaintiffs argued that this portion of the sentence means (1) if the conditional clause is satisfied (the second Saturday follows a Thursday or Friday legal holiday), then (2) advance voting is prohibited on the second Saturday *before primaries and general elections but not runoffs*.

The better reading is that (1) if the second Saturday follows a Thursday or Friday legal holiday, then (2) advance voting is prohibited on that Saturday *for all elections*, primaries, general elections, and runoffs, (3) but advance voting instead "shall be held on the third Saturday prior to such primary or election" (which excludes runoffs). This interpretation follows from the way "but," separates the two clauses. "Primary or election" at the end of the second clause shouldn't be read to

modify the first clause, *i.e.*, all words before "but." *See Thomas v. MacNeill*, 200 Ga. 418, 423-24 (1946) (*but*-clause separated by comma modifies previous clause). The second-Saturday holiday prohibition applies to *all* elections, including runoffs, and only the third-Saturday guarantee of advance voting is restricted to primaries and general elections.

This interpretation makes practical sense. The legislature did not want to open voting, burdening county election workers, on the second Saturday if it fell immediately after a holiday. For primaries or elections, the third Saturday must be open for advance voting. Because the compressed runoff schedule may render advance voting on third Saturdays impossible before runoffs, the Assembly limited that third-Saturday guarantee to only "primary or [general] election[s]," not runoffs. Otherwise, this provision would *mandate* third-Saturday voting in runoffs—a logistical nightmare or practical impossibility.

2. The appellants' interests favor a stay.

The superior court's order undermines Georgia and the Intervenors' interests in an efficient, fair, and free election as well as Georgia's interest in applying its election laws. Instead, it elevates Plaintiff's interests in obtaining potential electoral advantage over Intervenors' interest in electoral fairness. *See Green Bull*, 301 Ga. at 473. The superior court's order upsets "[t]he purpose for granting [an] interlocutory injunction"—*preserving*, not altering the status quo. *See Benton v. Patel*, 257 Ga.

669, 672 (Ga. 1987). The status quo was no advance voting on November 26. The legislature, not the superior court, is charged with striking the balance of fairness in Georgia elections.

The State of Georgia, through the Secretary, *see*, *e.g.*, Ga. Const. art. V, § III, ¶ I; O.C.G.A. § 21-2-50, and the SEB, *see* O.C.G.A., § 21-2-31, "indisputably has a compelling interest in preserving the integrity of its election process." *Eu v. San Francisco Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989). Georgia's interests in "conducting an efficient election, maintaining order, quickly certifying election results, and preventing voter fraud" are "strong" and "important." *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020). States must "substantial[ly] regulat[e] … elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown*, 415 U.S. 724, 730 (1974). The Supreme Court has repeatedly emphasized that courts "should ordinarily not alter the election rules on the eve of an election." *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S.Ct. 1205, 1207 (2020) (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006)); *see also New Ga. Project*, 976 F.3d at 1283.

The Bulletin provided uniform guidance to counties across the state in advance of the runoff. County election officials have been relying on that guidance as they plan for the runoff election. *See* **Ex. C**, Intervenors' Opp. TRO, Exs. A-C (Dover Affidavit ¶ 8; Natt Affidavit ¶ 8; O'Lenick Affidavit ¶ 8). Officials have

recruited poll workers and planned dates for logic and accuracy testing of voting machines, delivery of machines, and other preparations under the assumption that the polling locations would not be open on November 26. *Id.* (Dover Affidavit ¶¶ 7-8, 11-13; Natt Affidavit ¶¶ 7-8, 11-13; O'Lenick Affidavit ¶¶ 7-8, 10-13).

The superior court's order creates chaos in the runoff election. Only five counties currently plan to conduct advance voting on November 26, eviscerating the statutorily-required uniformity among Georgia's counties on that day. It renders meaningless most advance voting rules for this runoff election and the election code generally. Counties are free to operate in a state of near-anarchy; the Secretary and SEB lack clear rules to oversee and administer the runoff election. Democracy suffers when election rules are unclear.

Georgia has an interest in its election laws being applied as written. A judicially mandated, last-minute change to the election laws passed by elected representatives and signed by an elected Governor undermines credibility and faith in the democratic process. In *New Georgia Project*, the Eleventh Circuit held Georgia would suffer irreparable harm if a court barred "the State from conducting ... elections pursuant to a statute enacted by the Legislature unless the statute is unconstitutional." 976 F.3d at 1283 (internal quotation omitted). Likewise, the judicial tinkering with election laws here is not constitutionally required and constitutes irreparable harm.

The superior court's injunction undermines the political parties' legitimate interests: ensuring that Senatorial candidates enjoy a fair election according to state election laws and the United States Constitution. *See, e.g., N.C. State Conf. of NAACP v. McCrory*, 997 F.Supp.2d 322, 342 (M.D.N.C. 2014) (parties have "direct, particularized interest in the outcome of an election"), *aff'd in part sub nom. League of Women Voters of N.C. v. N.C.*, 769 F.3d 224 (4th Cir. 2014); *New Ga. Project v. Raffensperger*, 1:21-CV-01229-JPB, 2021 WL 2450647, at *2 (N.D. Ga. June 4, 2021). The superior court's order subverts that fair electoral environment for *all* Georgians.

3. A stay will not cause Plaintiffs any irreparable harm.

Plaintiffs cannot point to any harm that they will suffer from the superior court's order being stayed pending review of this appeal. That is the only harm relevant for this motion. Even on the merits, it is unclear what, if any, harm Plaintiffs may suffer without advance voting in select partisan counties on November 26. *See Green Bull*, 301 Ga. at 473. By their admission, Plaintiffs are "dedicated to electing candidates of the Democratic Party to public office[.]". **Ex. B**, Compl., ¶¶ 8-10. Yet Plaintiffs have baselessly grounded their arguments about irreparable harm in the fundamental right to vote, an interest that belongs to *voters*. *See, e.g., Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012). Any harm caused by the Secretary's guidance would be to some hypothetical voter who could *only* vote in

the runoff election in-person on November 26, not by absentee ballot,[5] in-person on another advance voting day, or in-person on the day of the runoff. Plaintiffs are not the appropriate party to claim such harm.

Plaintiffs assert that losing one day of advance voting impedes their efforts to increase turnout. As support, they cite *Georgia Coalition for the People's Agenda v. Kemp*, 347 F.Supp.3d 1251, 1268 (N.D. Ga. 2018). But that case concerned a specific class of voters—individuals flagged by Georgia as ineligible to vote because of voter-registration errors. *Id.* at 1255. The Secretary's guidance doesn't affect a specific class of voters.[6] It affects all voters equally and is not a legally recognized harm. *See Gwinnett Cnty. NAACP v. Gwinnett Cnty. Bd. of Registration & Elections*, 446 F.Supp.3d 1111, 1126 (N.D. Ga. 2020) (no irreparable harm when voting regulation "applies equally to all ... voters" without "indication that th[e] decision was used as a proxy for voter suppression or targeted a protected class"). Nor do Plaintiffs allege that any voters will be "entirely unable to vote" if a single day—November 26—remains unavailable for advance voting. *See id.*

Intervenors can only presume that Plaintiffs sought relief because they believe it will benefit Senator Warnock's reelection campaign. Of course, Plaintiffs offer no

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[5] Georgia law allows any registered voter to request an absentee ballot and vote by mail. O.C.G.A. § 21-2-385(a).

[6] If *voters able to vote only via advance voting on November 26* were a legally protected class, a class could be created for every day of the calendar year, with no limit.

evidence to support any such political benefit. The order here enables a political ruse: Plaintiffs knew (and represented) that Fulton, DeKalb, Cobb, and Muscogee were willing to open on November 26 if the requested relief was granted. *See* **Ex. D**, Pl.'s Affidavit at ¶ ¶ 4-7. A stay would not cause Plaintiffs any form of irreparable harm.

4. Staying the superior court's order serves the public interest.

The superior court's order "disserve[s] the public interest" and "should not [have been] granted." *Green Bull*, 301 Ga. at 473. The public shares the State's interest in fair, orderly, and predictable elections. Of Georgia's 159 counties, only Fulton, DeKalb, Cobb, Chatham and Muscogee are prepared to open polls on November 26. Consistent with evidence the Intervenors put before the court, the other 154 counties apparently could not reverse course from the Secretary's guidance on such short notice.

For example, Cherokee, Gwinnett, and Forsyth counties' voting locations cannot be adequately staffed on November 26. *See* **Ex. C** at Exs. A-C (Dover Affidavit ¶¶ 10-11, 14; Natt Affidavit ¶¶ 10-11, 13; O'Lenick Affidavit ¶¶ 10, 13). Poll workers are in short supply, and election boards are occupied with the statewide audit, absentee ballot and mail-by-vote requests, logic and accuracy testing for voting machines, and delivering and setting up those machines. *Id.* (Dover Affidavit ¶¶ 5-7, 11-13; Natt Affidavit ¶¶ 5-7, 11-12; O'Lenick Affidavit ¶¶ 5-7, 10-12). The

court entered its order only eight days before November 26, two of which are legal holidays, leaving little time to prepare for advance voting.

Essentially, the superior court has awarded five counties an extra day of voting that most other Georgians will lack. That harm (and the uneven impact on voters) far outweighs potential harm to Plaintiffs. *Cf. Gwinnett Cnty. NAACP*, 446 F.Supp.3d at 1126. The injunction sows confusion and inequity into the voting process, preventing the clarity and uniformity that Georgia's citizens deserve.

Conclusion

The Court should grant Intervenors' motion for emergency stay. The trial court's interpretation of Section 21-2-385(d)(1) guts the statute, could sow utter chaos, and undeniably will unevenly impact Georgia voters' access to advance voting. The superior court's order is wrong on the merits and should be stayed pending resolution of the appeal. In compliance with Ga. Ct. App. 40, a copy of the State's Notice of Appeal and Notice to Opposing Counsel are attached as **Exhibits G** and **H** respectively.

DATED: November 21, 2022

Respectfully submitted,

/s/ Mark D. Johnson
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CERTIFICATE OF SERVICE

I, Mark D. Johnson, do hereby certify that on the 21st day of November, 2022, a true and correct copy of the foregoing **Georgia Republican Party, Inc., National Republican Senatorial Committee and Republican National Committee's Motion for Emergency Stay** was served via electronic mail addressed to:

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I certify that there is a prior agreement with Plaintiffs and the State to allow documents in a PDF format sent via email to suffice for service.

This 21st day of November, 2022.

/s/ Mark D. Johnson
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