

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

LUCILLE ANDERSON, SARA ALAMI,
GIANELLA CONTRERAS CHAVEZ,
DSCC, and DEMOCRATIC PARTY OF
GEORGIA, INC.,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Election Board; REBECCA N. SULLIVAN, DAVID J. WORLEY, MATTHEW MASHBURN, and ANH LE, in their official capacities as Members of the Georgia State Election Board; MARY CAROLE COONEY, MARK WINGATE, VERNETTA NURIDDIN, and KATHLEEN RUTH, AARON JOHNSON, in their official capacities as Members of the FULTON County Board of Registration and Elections; SAMUEL E. TILLMAN, ANTHONY LEWIS, SUSAN MOTTER, DELE LOWMAN SMITH, and BAO KY N. VU, in their official capacities as Members of the DEKALB County Board of Registration and Elections; PHIL DANIELL, FRED AIKEN, JESSICA M. BROOKS, NEERA BAHL, and DARRYL O. WILSON, JR., in their official capacities as Members of the COBB County Board of Elections and Registration; JOHN MANGANO, BEN SATTERFIELD, WANDY TAYLOR, STEPHEN DAY, and

Civil Action File No. _____

ALICE O'LENICK, in their official capacities as Members of the GWINNETT County Board of Registrations and Elections; THOMAS MAHONEY III, MARIANNE HEIMES, MALINDA HODGE, ANTWAN LANG, and DEBBIE RAUERS, in their official capacities as Members of the CHATHAM County Board of Elections; CAROL WESLEY, DOROTHY FOSTER HALL, PATRICIA PULLAR, DARLENE JOHNSON, and DIANE GIVENS, in their official capacities as Members of the CLAYTON County Board of Elections and Registrations; DAN RICHARDSON, DONNA MORRIS-MCBRIDE, ANDY CALLAWAY, ARCH BROWN, and MILDRED SCHMELZ, in their official capacities as Members of the HENRY County Board of Elections and Registration; MYESHA GOOD, DAVID C. FEDACK, ROBERT PROCTOR, DANIEL ZIMMERMANN, and MAURICE HURRY, in their official capacities as Members of the DOUGLAS County Board of Elections and Registration; and RINDA WILSON, HENRY FICKLIN, HERBERT SPANGLER, CASSANDRA POWELL, and MIKE KAPLAN, in their official capacities as members of the MACON-BIBB County Board of Elections,

Defendants.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs LUCILLE ANDERSON, SARA ALAMI, GIANELLA CONTRERAS CHAVEZ, DSCC, and DEMOCRATIC PARTY OF GEORGIA, INC., by and through their undersigned counsel, file this Complaint for Declaratory and Injunctive Relief against Defendants BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Election Board; REBECCA N. SULLIVAN, DAVID J. WORLEY, MATTHEW MASHBURN, and ANH LE, in their official capacities as Members of the Georgia State Election Board (the “Board Defendants”); MARY CAROLE COONEY, MARK WINGATE, VERNETTA NURIDDIN, KATHLEEN RUTH, and AARON JOHNSON, in their official capacities as Members of the FULTON County Board of Registration and Elections (the “Fulton County Defendants”); SAMUEL E. TILLMAN, ANTHONY LEWIS, SUSAN MOTTER, DELE LOWMAN SMITH, and BAO KY N. VU, in their official capacities as Members of the DEKALB County Board of Registration and Elections (the “DeKalb County Defendants”); PHIL DANIELL, FRED AIKEN, JESSICA M. BROOKS, NEERA BAHL, and DARRYL O. WILSON, JR., in their official capacities as Members of the COBB County Board of Elections and Registration (the “Cobb County Defendants”); JOHN MANGANO, BEN SATTERFIELD, WANDY TAYLOR, STEPHEN DAY, and ALICE

O'LENICK, in their official capacities as Members of the GWINNETT County Board of Registrations and Elections (the "Gwinnett County Defendants"); THOMAS MAHONEY III, MARIANNE HEIMES, MALINDA HODGE, ANTWAN LANG, and DEBBIE RAUERS, in their official capacities as Members of the CHATHAM County Board of Elections; CAROL WESLEY, DOROTHY FOSTER HALL, PATRICIA PULLAR, DARLENE JOHNSON, and DIANE GIVENS, in their official capacities as Members of the CLAYTON County Board of Elections and Registrations (the "Clayton County Defendants"); DAN RICHARDSON, DONNA MORRIS-MCBRIDE, ANDY CALLAWAY, ARCH BROWN, and MILDRED SCHMELZ, in their official capacities as Members of the HENRY County Board of Elections and Registration (the "Henry County Defendants"); MYESHA GOOD, DAVID C. FEDACK, ROBERT PROCTOR, DANIEL ZIMMERMANN, and MAURICE HURRY, in their official capacities as Members of the DOUGLAS County Board of Elections and Registration (the "Douglas County Defendants"); and RINDA WILSON, HENRY FICKLIN, HERBERT SPANGLER, CASSANDRA POWELL, and MIKE KAPLAN, in their official capacities as members of the MACON-BIBB County Board of Elections (the

“Macon-Bibb County Defendants”).¹ Plaintiffs allege as follows:

NATURE OF THE ACTION

1. On June 9, 2020 (the “June Primary”), the entire nation watched as Georgians clad in masks waited in lines in the blistering heat—some for up to eight hours—to cast their ballots.



¹ Together, all of the counties are referred to as the “Georgia Counties,” the county defendants are referred to as the “County Defendants,” and the Secretary and Board Defendants are referred to as the “State Defendants.” “Defendants” means the County and State Defendants.

2. While the media dubbed the June Primary “a giant warning siren” for the coming November general election, it was not the first time that Georgia voters have been unduly burdened and, in many cases, denied their right to vote as a result of unreasonably long lines.

3. Since at least 2008, Georgia voters have faced some of the longest average wait times to vote in the entire country, often waiting hours to vote, with many deterred from voting and disenfranchised.

4. The causes of these lines are directly traceable to Defendants, who have the power to remedy them. Election after election, Defendants’ persistent closure and consolidation of polling locations and failure to provide adequate election equipment, elections officials and volunteers with sufficient training, available technicians to address technical problems that arise, sufficient time to set up polling locations, and emergency paper ballots for backup when equipment breaks down or malfunctions, have repeatedly resulted in voters (and particularly minority voters) waiting in unconscionably long lines to exercise their right to vote.

5. Unfortunately, even today, Georgia’s chief elections official, Defendant Georgia Secretary of State BRAD RAFFENSPERGER (the “Secretary”) refuses to accept responsibility for these failures, while the County Defendants point their finger at the Secretary. It has become undeniably clear that the Secretary has

abdicated his duties, and his intransigence makes it virtually impossible for counties to act unilaterally to fully address the problem. And as bad as the situation would be in normal circumstances, the burden is made far worse by the global pandemic. Absent judicial intervention, Georgia is set for more of the same (and likely far worse than it has ever seen) in November.

6. Georgia voters cannot wait any longer. Plaintiffs bring this case to remedy the fundamentally unreasonable conditions that have led, repeatedly, to unconstitutional burdens on countless Georgia voters as they attempt to exercise their First and Fourteenth Amendment rights. Plaintiffs seek concrete declaratory and injunctive relief to help protect themselves as Georgia voters, and, for the institutional plaintiffs DSCC and Democratic Party of Georgia, Inc., their members and affiliates, against history repeating itself yet again in November.

JURISDICTION AND VENUE

7. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation, under color of state law, of rights secured by the United States Constitution.

8. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343, because the matters in controversy arise under the Constitution and involve the assertion of a deprivation, under color of state

law, of a right under the Constitution of the United States providing for equal rights of citizens or of all persons within the United States.

9. This Court has personal jurisdiction over the Defendants, who are sued in their official capacities only.

10. Under 28 U.S.C. § 1391(b)(2), venue is proper in the Atlanta Division of the U.S. District Court for the Northern District of Georgia because a substantial part of the events that give rise to Plaintiffs' claims occurred here. Additionally, under 28 U.S.C. § 1391(b)(1), venue is proper in the Atlanta Division of the U.S. District Court for the Northern District of Georgia because several Defendants reside in Fulton County, DeKalb County, Cobb County, Gwinnett County, Clayton County, Henry County, and Douglas County, and all Defendants reside in the State of Georgia.

11. This Court has authority to enter a declaratory judgment in this action under 28 U.S.C. §§ 2201 and 2202.

PARTIES

12. Plaintiff Lucille Anderson is a 71-year-old Black resident of and registered voter in Fulton County, Georgia, where she has been registered since 2006. An enthusiastic voter, Anderson has rarely missed an election and was eager to vote in the June Primary. Normally Anderson has experienced wait times of 30

minutes or less, albeit she waited approximately one hour to cast her vote during the last gubernatorial election in 2018. On June 9, 2020, Anderson arrived at her regular polling place in Union City at 9:00 a.m., ready to cast her ballot. Even at that early hour, though, the line was already too long. Unable to wait because she needed to go to work, she left, intending to return later when the line might be shorter. Anderson returned to the polls around 4:00 p.m., only to see that the line to vote now stretched out the door, around the building, down the street, and up the next street. After waiting in line an hour, she had not even moved a foot. There was little shade to protect her from the hot, humid day, and Anderson struggled to stay in line. Fearing she might pass out, she was forced to leave, intending again to return later in the evening to attempt to vote for a third time. Around 6:30 p.m., she returned, but to no avail: the line was even longer than before. Understanding that her polling place hours were extended to 9:00 p.m., she returned home, hoping the line would be shorter later that night. Unfortunately, exhausted from a full day of working and waiting to vote in the Georgia heat, Anderson was unable to return and was disenfranchised by the long lines. Anderson plans to vote in the November election and is concerned she will have to wait in a long line again to vote, especially in the midst of the current global health crisis.

13. Plaintiff Sara Alami is Hispanic/Latina and resides in Fulton County,

Georgia, where she has been registered to vote since approximately 2007 and has voted in nearly every election since then. Concerned about contracting COVID-19, Alami applied for an absentee ballot in the June Primary. Her ballot never arrived, so on June 9, she had no choice but to attempt to vote in-person. Alami arrived at her polling place at 6:30 a.m., 30 minutes before it was scheduled to open. When she arrived, a long line had already formed. There were only two voting machines; at times, only one machine worked, and at other times, neither worked. Determined to vote, she waited in line for the next *six hours* in the scorching heat, ultimately casting her ballot at 12:30 p.m. Alami's job duties require her to use video conferencing, and she unexpectedly had to cancel an entire day of work to stand in line, which resulted in a significant loss of productivity for her and the employees she manages. Alami hopes to vote absentee in the November election. Given her prior experience of not receiving her absentee ballot on time, though, she is concerned that she will have to vote in-person and wait in a long line again to vote in November.

14. Plaintiff Gianella Contreras Chavez, a registered voter in Cobb County who is Hispanic/Latina, also experienced long lines in the June Primary. On June 5, the last day of early voting, Contreras Chavez left work an hour early at 4:00 p.m. and headed straight to her polling location. When she arrived around 4:30 p.m., the parking lot was so full that she had to park at a nearby restaurant. Contreras Chavez

waited in line, in the heat, for over an hour just to check in. When she finally reached the front of the line, she was given a letter on a piece of paper and told to come back when she received a call from the poll workers. Fortunately, a friend of hers lived nearby, so Contreras Chavez waited there for four hours before she heard from the poll workers. Contreras Chavez drove *back* to the polling place and got back in line again around 10:00 p.m. She had to stand in line for another three hours before she finally cast her vote around 1:00 a.m. the next morning. In total, Contreras Chavez waited for over 8 hours to cast her vote. Contreras Chavez plans to vote in the November election and is concerned that she will have to wait in a long line again to vote, which is of particular concern to her because of COVID-19.

15. Plaintiff DSCC is the national senatorial committee of the Democratic Party as defined by 52 U.S.C. § 30101(14). Its mission is to elect candidates of the Democratic Party to the U.S. Senate, including in Georgia. DSCC works to accomplish its mission by, among other things, making expenditures for and contributions to Democratic candidates for U.S. Senate and assisting state parties throughout the country, including in Georgia. In the past, DSCC has made contributions and expenditures in the tens of millions of dollars to persuade and mobilize voters to support Democratic Senate candidates. In 2020, Georgia voters will be electing two U.S. Senators, and DSCC will work to support the Democratic

candidates in those races. As a result, DSCC intends to make substantial contributions and expenditures to support the Democratic candidates for U.S. Senate in Georgia in 2020. To elect the Democratic candidates to the U.S. Senate from Georgia, DSCC will need to turn out its core constituencies and supporters to vote, including Georgia's Black voters, Hispanic and Latinx, and young voters. But DSCC is aware that many voters in Georgia, including particularly voters from these constituencies, frequently encounter long lines at the polls. DSCC is also aware that long lines at the polls discourage voters from voting, impose severe burdens on the right to vote, and lead to disenfranchisement for voters who are not able to stand in a long line to exercise their fundamental right to vote. These long lines at the polls thus directly harm DSCC and its candidate members, like the Democratic Senate candidates on the November 2020 ballot, by decreasing their electoral prospects. Moreover, because long lines at the polls frustrate DSCC's mission of electing the Democratic candidates for U.S. Senate from Georgia, DSCC will have to divert funds and resources for voter turnout efforts in Georgia at the expense of its other activities, like polling, in the State and in other states holding elections for the U.S. Senate to combat the effects of long lines at the polls in Georgia.

16. Plaintiff DEMOCRATIC PARTY OF GEORGIA, INC. ("DPG") is a state committee, as defined by 52 U.S.C. § 30101(15), and the official Democratic

Party in the State of Georgia. The DPG represents a diverse group of stakeholders, including elected officials, candidates for elected office, state committee members, advisory caucuses, affiliate groups, grassroots activities, and active voters. Its mission is to elect Democratic candidates across Georgia. The DPG works to accomplish its mission by, among other things, making expenditures and working to increase turnout to elect Democratic candidates at both the State and federal level, including through Get Out the Vote (“GOTV”) and voter persuasion efforts. It also works to accomplish its mission by assisting Georgians to ensure that all eligible voters have access to the franchise. The DPG has previously engaged in, and plans to continue to engage in, expenditures on behalf of Democratic Party candidates and GOTV assistance. To elect the Democratic candidates in Georgia, DPG will need to turn out its core constituencies and supporters to vote, including Georgia’s Black voters, Latinx voters, and young voters. But DPG is aware that many voters in Georgia, including in particular voters from these constituencies, frequently encounter long lines at the polls. DPG is also aware that long lines at the polls discourage voters from voting, impose severe burdens on the right to vote, and lead to disenfranchisement for voters who are not able to stand in a long line to exercise their fundamental right to vote. These long lines at the polls thus directly harm DPG by decreasing the electoral prospects of its candidate-members that DPG supports

and represents. Moreover, because long lines at the polls frustrate DPG's mission of electing Democratic candidates to office in Georgia, DPG will have to divert resources to provide support for voters to help them avoid disenfranchisement and overcome the burdens they face as a result of these lines—resources it otherwise would use for other purposes, like educating voters about issues and individual candidates through communications. Finally, DPG also brings this claim on behalf of its voter members who face undue burdens on the right to vote as a result of the Defendants' failure to provide both an equitable distribution and adequate number of voting locations and election resources, leading to long lines at the polls, including its many members in the Georgia Counties.

17. Defendant BRAD RAFFENSPERGER is sued for declaratory and injunctive relief in his official capacity as the Georgia Secretary of State and the Chair of the Georgia State Board of Elections (the "Board"). The Secretary is a state official subject to suit in his official capacity because his office "imbues him with the responsibility to enforce the [election laws]." *Grizzle v. Kemp*, 634 F.3d 1314, 1319 (11th Cir. 2011). Specifically, the Secretary is the chief elections officer of the State and responsible for the administration of the state laws affecting voting.² *See*

² *See also* Georgia Sec'y of State Brad Raffensperger, *Elections*, <https://sos.ga.gov/index.php/elections> (last visited Aug. 5, 2020).

O.C.G.A. § 21-2-50(b). The Secretary also chairs the Board, which is responsible for ensuring uniform election processes across the state. O.C.G.A. § 21-2-31. The Secretary is tasked with preparing ballots, election forms, and other materials to distribute across the state. O.C.G.A. § 21-2-50(a)(1). He is also responsible for training county elections officials, O.C.G.A. § 21-2-50(a)(5), (11), and examining and approving voting machines, O.C.G.A. § 21-2-324. The equipment used for casting and counting votes must be uniform throughout and provided to each County by the State, as determined by the Secretary. O.C.G.A. § 21-2-300(a). The Secretary is also responsible for furnishing the county election superintendent with all blank forms, and such other supplies that are necessary for use in elections and primaries. O.C.G.A. § 21-2-50(a)(5). While the Secretary has repeatedly stated that he does not accept any responsibility for the hours-long lines to vote or the problems that created those long lines, the powers afforded to him by Georgia law demonstrate that he has the ability to remedy such lines.

18. Defendants REBECCA N. SULLIVAN, DAVID J. WORLEY, MATTHEW MASHBURN, and ANH LE are members of the Board, and in that capacity are responsible for “promulgat[ing] rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all

primaries and elections.” O.C.G.A. § 21-2-31(1). The Board is responsible for “formulat[ing], adopt[ing], and promulgat[ing] such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections; and, upon the adoption of each rule and regulation, the board shall promptly file certified copies thereof with the Secretary of State and each superintendent.” *Id.* at § 21-2-31(2). It is also responsible for formulating and conducting a voter education program concerning voting procedures. *Id.* at § 21-2-31(9). The Board is responsible for taking any other actions conducive to the fair, legal, and orderly conduct of elections. *Id.* at § 21-2-31(10). Through their uniformity powers, the Secretary and the Board have the authority to direct the officials in each county who administer elections on the local level to ensure that they are uniformly following state standards and law. *See id.* § 21-2-31.

19. Defendants MARY CAROLE COONEY, MARK WINGATE, VERNETTA NURIDDIN, KATHLEEN RUTH, AARON JOHNSON, SAMUEL E. TILLMAN, ANTHONY LEWIS, SUSAN MOTTER, DELE LOWMAN SMITH, BAOKY N. VU, PHIL DANIELL, FRED AIKEN, JESSICA M. BROOKS, NEERA BAHL, DARRYL O. WILSON, JR., JOHN MANGANO, BEN SATTERFIELD, WANDY TAYLOR, STEPHEN DAY, ALICE O’LENICK, THOMAS MAHONEY III, MARIANNE HEIMES, MALINDA HODGE,

ANTWAN LANG, an DEBBIE RAUERS, CAROL WESLEY, DOROTHY FOSTER HALL, PATRICIA PULLAR, DARLENE JOHNSON, DIANE GIVENS, DAN RICHARDSON, DONNA MORRIS-MCBRIDE, ANDY CALLAWAY, ARCH BROWN, AND MILDRED SCHMELZ, MYESHA GOOD, DAVID C. FEDACK, ROBERT PROCTOR, DANIEL ZIMMERMANN, MAURICE HURRY, JIM BUCKNER, KEITH EDWARDS, EDDIE UPSHAW, SUSAN DARLING, BRIAN JOYCE, RINDA WILSON, HENRY FICKLIN, HERBERT SPANGLER, CASSANDRA POWELL, and MIKE KAPLAN are sued in their official capacities only and are members of county boards of elections in Georgia counties, which makes them responsible for administering elections in their respective counties. They are generally appointed by the county governing authority, county executive committee, members of the General Assembly representing all or part of the county, or a combination thereof. *See, e.g.*, H.B. 656, Ga. L. 2019 § 2 (describing process for appointing members of the Fulton County Board of Registration and Elections); Code of Dekalb County, Ga. App. B 171 (describing process for Dekalb County); H.B. 623, Ga. L. 1985 § 2(b) (describing process for Cobb County). The county boards of elections have the powers and duties of the election superintendent relating to the conduct of primaries and general elections and also have the powers and duties of the board of registrars relating to the registration

of voters and absentee-balloting procedures. O.C.G.A. § 21-2-40. Georgia law delegates significant responsibilities to election superintendents, including: (1) to select and equip polling places for use in primary and general elections; (2) to purchase, preserve, store, and maintain all election equipment (except voting machines); (3) to appoint poll officers and other officers to serve in primary and general elections; (4) to make and issue rules, regulations, and instructions for poll officers, custodians, and electors; (5) to instruct poll officers and others in their duties, including calling meetings when advisable; and (6) to systematically and thoroughly inspecting the conduct of elections in the county's precincts to ensure that elections may be honestly, efficiently, and uniformly conducted. O.C.G.A. § 21-2-70.

FACTUAL ALLEGATIONS

I. Georgia voters have historically experienced long lines at the polls due to Defendants' systemically poor administration of elections.

20. Defendants have consistently failed to appropriately administer Georgia elections from year to year, by consolidating polling locations and failing to ensure that voters, and particularly minority voters, have adequate and functioning elections equipment, adequate poll workers with sufficient training on that election equipment, sufficient technical help to repair malfunctioning equipment, and sufficient alternatives, such as emergency paper ballots, when voting equipment

malfunctions.

21. According to the 2016 Survey of the Performance of American Elections, in the 2016 General Election, approximately 74 percent of American voters waited 10 minutes or less to vote, with a significant proportion of those voters not waiting in any line at all. *See* Charles Stewart III, 2016 Survey of the Performance of American Elections (2016). Another 18 percent of voters nationwide waited for less than 30 minutes to vote. *Id.* The remaining eight percent of voters nationwide waited 30 minutes or more to vote, with less than two percent of voters nationwide waiting more than an hour to vote. *Id.*

22. Compared to this national average, voters in Georgia have been waiting in excessively long lines for years. Indeed, Georgia's long lines are increasing in length with every election. Yet, Defendants are either incapable or unwilling to do anything about it.

23. As an initial matter, Georgia has drastically reduced its polling locations in recent years. Due to its lengthy history of discrimination against racial minorities, Georgia became a "covered jurisdiction" under Section 5 of the Voting Rights Act upon its enactment in 1965, meaning any changes to Georgia's election practices or procedures were prohibited unless "precleared" in advance. 52 U.S.C. § 10304(a).

24. After the United States Supreme Court's decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), Georgia began systematically closing and moving polling locations, increasing lines at polling places. In the seven years since *Shelby County*, Georgia has added around two million new voters to the voting rolls. Half of those new voters live in the ten counties around Atlanta. Six of those ten counties around Atlanta have since eliminated approximately ten percent of their polling precincts.

25. But this precinct consolidation is happening throughout Georgia. Between 2012 and 2018, county election officials shuttered eight percent of Georgia's precincts, about 214 in total. Around a third of Georgia's 159 counties have fewer precincts today than they did in 2012. Most of those counties with fewer precincts have significant populations of Black voters. And, since 2018, Georgia has added 700,000 registered voters to the rolls. But Defendants have failed to add corresponding polling locations, resulting in an increased number of voters at polling locations and lengthened wait times.

26. In 2012, many Georgia voters waited between an hour and two hours to vote in the general election—already much longer than the 30-minute average wait time recommended by the Presidential Commission on Election Administration. *The American Voter Experience: Report and Recommendations of*

the Presidential Commission on Election Administration, THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION 14 (Jan. 2014).³

27. In 2014, Georgia had the one of the longest average wait times to vote of any state, with many voters standing in line for hours to cast their ballots in the general election.

28. In 2014, the long lines that Georgia voters encountered were the result of reduced polling places, voting equipment that malfunctioned, and understaffed polling places, as well as confusion over paper ballots and difficulty accessing voter information.

29. The problem continued in the 2016 general election. In that presidential year election, Georgia voters waited up to three hours to cast their ballot as a result of the reduced polling places, voting equipment malfunctions, and delayed openings of polling places.

30. In 2018, the average wait time for Georgia voters had quadrupled as compared to 2014, with the State boasting the longest average wait time for voters

³ Robert F. Bauer, et al., *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration*, The Presidential Commission on Election Administration (Jan. 2014), <http://web.mit.edu/supportthevoter/www/files/2014/01/Amer-Voting-Exper-final-draft-01-09-14-508.pdf>.

of any state.

31. Thus, rather than solve the problem, Georgia's elections officials let it just get worse: by 2018, Georgia voters were waiting a full 2.5 times longer than the national average.

32. For some voters, this meant that they waited four hours to cast their ballots in 2018, not actually voting until after 10:00 p.m., long after the official close of polls. Lines stretched the lengths of entire school polling places.

33. The lines in 2018 were attributable to the same, now familiar issues: fewer polling places, the delayed opening of polling places, not enough voting machines, malfunctioning voting equipment, poor training, insufficient technicians, and not enough backup paper ballots. Even when there were enough paper ballot backups, many counties did not use them.

34. Meanwhile, even then-Secretary of State Brian Kemp had technical issues when he went to vote. When Kemp tried to vote, his voter card said "invalid" and he had to get another card before he could vote. But Secretary Kemp buried his head in the sand, telling reporters that "[i]t's been very smooth all day long ...

[n]othing unusual at all.”⁴

35. Public opinion, voters, and civil rights organizations all disagreed. Georgia’s long lines and election problems were the subject of national news and multiple lawsuits. Early last year, four Georgia residents and a civic organization sued several of the counties named here (Gwinnett, Fulton, DeKalb, and Cobb), seeking an injunction requiring the counties to protect Georgians’ fundamental right to vote, which had been unconstitutionally burdened by the counties’ underfunding of elections and failure to determine, request, vet, and provide sufficient facilities and voting equipment. These failures caused many Georgia voters to wait up to four hours or more to vote. In response, the counties argued that the harms were based on a “speculative” and “unfounded” prediction that the 2020 election would be mismanaged. The claims were dismissed for lack of standing. Showing that such concerns had not been speculative, as predicted, Georgia voters once again waited for hours to cast their vote in the June Primary based on the same logistical issues identified in the complaint.

36. Failure to remedy glaring election problems by Secretary

⁴ Danny Hakim, et al., *Voting Problems Surface as Americans Go to the Polls* (Nov. 6, 2018), <https://www.nytimes.com/2018/11/06/us/politics/voting-issues-election-day-georgia.html>.

Raffensperger's predecessor, now-Governor Brian Kemp, forced this Court in *Curling v. Raffensperger*, 397 F. Supp. 3d 1334 (N.D. Ga. 2019), to rule that Georgia's voting machines were insecure and unreliable and to order Georgia to prohibit their continued use. In August 2019, Georgia issued a final award of its contract to purchase 30,000 new voting machines and associated hardware and software, which the Court described as "the mammoth undertaking." *Id.* at 1409. The Court expressed concern that Georgia would not be able to implement the new system in time for the June Primary. The State proceeded anyway.

37. The new voting system is a complicated mix of electronic machines with multiple steps that some experts have described as "dizzying" in its complexity. In the new voting system, voters check in with a poll worker who operates an electronic poll book on a digital tablet. After confirming the voter's identity, the poll book programs a microchipped card with the voter's information. The voter then takes the card to a touch screen tablet and inserts the card into a reader to display the voter's ballot. Voters then use the touch screen to cast their votes. After making their selections, voters print the ballot from a printer next to the tablet. The voter then takes the printed ballot over to a digital scanner where the voter drops off the ballot to be counted. This process, referred to herein as the "Voting System," not only adds time to the voting process even when done correctly, but creates multiple

opportunities for error or malfunction, any one of which can bring the entire system to a halt. In other words, every step of this complicated Voting System must work perfectly or risk a significant slowdown in voting—or even stop voting altogether. In January 2020, county election officials warned the Secretary that they would not have time to adequately train poll workers on the new Voting System.

38. Despite these warnings, the Secretary moved forward with the new machines. In doing so, he failed to ensure Georgia county officials had the adequate equipment, training, and support that they needed to carry out the June Primary with these new machines.

39. The failure by the Defendants to adequately train poll workers on these new machines meant that poll workers were unprepared to operate them for the June Primary. Their confusion, mistakes, and total inability to operate the machines contributed to the long lines across the Georgia Counties. One precinct manager from DeKalb County said he received only a rudimentary tutorial on the machines in February and an online refresher course closer to the election, which only covered the basics, such as how to turn the machines on and off, not how to address technical problems.

40. The result was a cascade of problems. Electronic poll books were in short supply and frequently did not work. Without paper pollbook backups, poll

workers could not call up voters' registration information, and therefore could not create microchipped cards for voters. Touchscreens displaying ballots faded to black or unreadable screens, and they crashed repeatedly, requiring constant rebooting. Printers jammed; the new machines required too much power in some polling locations causing outages; and most polling locations only had a single ballot scanner (the feature necessary to record an individual's vote), despite having multiple voting machines, creating a bottleneck that slowed down voting. When problems with the pollbooks or voting machines arose, poll workers were often left to try to figure the issues out on their own, as the State Defendants only allocated about one technician per county to resolve these issues.

41. These problems were exacerbated by a general shortage of poll workers, especially ones that received adequate training.

42. Moreover, Defendants failed to ensure every polling location had sufficient time to set up the new Voting System. Some voting equipment did not arrive at polling locations until the morning of the election.

43. Defendants also failed to supply sufficient alternatives, such as emergency paper ballots, for locations where machines malfunctioned and lines were long.

44. Moreover, thousands of absentee ballots did not make it to voters in

time, contributing to a last-minute surge of in-person voting on Election Day and increased confusion, as untrained poll workers attempted to process the unanticipated rush of would-be absentee voters for which they were woefully unprepared. The result: three, four, five, and up to eight-hour lines, with lines stretching out like the one in Park Tavern in Atlanta pictured above in paragraph one.

45. No doubt, the pandemic exacerbated some of these problems. But what was remarkable was how the same issues that had caused long lines in the past were continuing to wreak the same havoc, having never been remedied in response to past problems in elections held long before the current health crisis.

46. Ultimately, on the day of the Primary, ten percent of Georgia polling locations saw the last person cast a ballot one hour after the scheduled poll closing time.

47. Voters encountered long lines regardless of the time of day they arrived to vote. Plaintiff Alami arrived at her polling location at 6:30 a.m., 30 minutes before it opened, yet she still waited for six hours to vote. Other voters, such as Plaintiff Contreras Chavez, attempted to vote after work and waited in line for over eight hours, not casting her ballot until around 1:00 a.m. And too many voters, such as Plaintiff Anderson, were completely disenfranchised because they could not wait in

the long lines at their polling place.

48. Absent relief, the lines will be even worse this November, a general election in a presidential year in which Georgia has two U.S. Senate seats on the ballot. Turnout is anticipated to be extraordinarily high, with some election officials anticipating that five million of Georgia's 7.3 million voters will vote in the November general election, a turnout rate three times higher than the June Primary.

49. At the same time, the ongoing pandemic will put significant additional pressures on the Voting System, exacerbating many of the issues that all Defendants have left unaddressed for too many elections cycles and that have led systemically and repeatedly to unreasonably long lines for Georgia's voters.

50. And because of the pandemic, fewer voters will be able to risk standing in line for hours on end, in close proximity to many other voters, to cast their ballot. Thus, there is a far greater risk of widespread disenfranchisement in November as a result of Defendants' actions than ever before.

II. Long lines impose severe burdens on Georgia voters, including disenfranchisement.

51. Even before Georgia had to grapple with the pandemic, long lines imposed severe and concrete costs on voters who wished to exercise their fundamental right to vote. Voters have a finite amount of time to vote—typically due to work, school, or family obligations—and if the wait time exceeds the amount

of time that voters can commit to standing in line, they will be disenfranchised.

52. Most voters simply cannot afford to wait hours to vote. Thus, “there can come a point when the burden of standing in a queue ceases to be an inconvenience or annoyance and becomes a constitutional violation because it, in effect, denies a person the right to exercise his or her franchise.” *NAACP State Conference of Pa. v. Cortés*, 591 F. Supp. 2d 757, 764 (E.D. Pa. 2008). Georgia has well-exceeded that point for many elections now.

53. Study after study shows that long lines result in disenfranchisement. In the 2008 general election, for example, a nationwide study estimated that approximately 11 percent of otherwise eligible voters were not able to cast a ballot because of long lines at the polls. *See* R. Michael Alvarez et al., *2008 Survey of the Performance of American Elections Final Report*, CALTECH/MIT (Mar. 25, 2009).⁵

54. In the same nationwide study following the 2016 election, researchers found that over 20 percent of registered voters who did not vote in that election cited long lines at the polls as a factor for not voting. *See* Charles Stewart III, *2016 Survey of the Performance of American Elections Final Report*, CALTECH/MIT (June 16,

⁵ https://elections.delaware.gov/pdfs/SPAE_2008.pdf.

2017).⁶ And, in that same election, a full 30 percent of young registered voters of color cited long lines as a reason they did not vote. *See* Center for Information & Research on Civic Learning & Engagement (CIRCLE), *Why Youth Don't Vote – Differences by Race and Education* (Aug. 21, 2018).

55. Even when voters are not disenfranchised, long lines impose severe burdens. Voters still must choose between voting and work, school, or other commitments. Sick or disabled voters may have to choose between their health and voting, a choice that is even more acute during the pandemic as many more voters are unable to wait to vote due to potential exposure to COVID-19. These choices are unacceptable.

56. Long lines also undermine voter confidence in the electoral process. Experts have found that long lines cause the electorate as a whole—not only those who personally wait in a long line—to lose confidence in an election's accuracy. *See* Charles Stewart III & Stephen Ansolabehere, *Waiting in Line to Vote*, CalTech/MIT Voting Tech (July 2013).

57. The burdens imposed by long lines do not fall on all voters equally. While voters in the Georgia Counties often experience long lines, voters in many

⁶<http://www.legendvote.org/wp-content/uploads/MIT-Charles-Stewart-Voter-Turnout-Study-2016.pdf>.

other Georgia counties do not. The State Defendants, who are responsible for overseeing statewide elections and ensuring uniform processes throughout the State, have entirely failed to reduce and ultimately eliminate the wide gap in voting times across Georgia. As a result, the time it takes to vote in Georgia varies wildly based on the county in which the voter lives.

58. Studies have also shown that long lines disproportionately burden Black, Latinx, and young voters. Georgia is no exception: of the 243 polling locations that had to stay open past 8:00 p.m. in the June Primary due to the long lines, two thirds were in minority-majority communities, meaning not only that Georgia's voters of color are disproportionately likely to have to wait to vote, but also that they are far more likely to be disenfranchised.

59. Moreover, given the long and pervasive history of discrimination against Black and Latinx communities in Georgia, they are more likely to, among other things, (1) live in poverty, (2) have less flexible job schedules, (3) lack access to transportation, and (4) lack access to childcare assistance.

60. Young voters are also less likely than their older, more established counterparts to have flexible schedules and more likely to lack access to reliable or personal transportation.

61. Immunocompromised and elderly voters are less able to stand in line for hours, this year also risking exposure to COVID-19.

62. Thus, these voters are more vulnerable to the burdens imposed by long lines and, as a result, far more likely to be entirely disenfranchised when they encounter them. Plaintiffs' experiences, described above, demonstrate this.

III. The burdens imposed by Georgia's long lines are especially acute in certain counties.

A. Fulton County

63. Fulton County, Georgia's most populous county, is home to Atlanta, over one million people, and ten percent of the State's population.

64. It has over 770,000 active, registered voters and is also one of Georgia's most diverse counties: nearly 42 percent of all registered voters are Black and around three percent are Latinx.

65. Fulton County voters have stood in long lines to vote for years, even as far back as 2008, due to the same persistent election administration problems described above, including: inequitable distribution of voting equipment, malfunctioning voting equipment, and poor election planning. These issues are directly traceable to the actions of and decisions made by the Fulton County Defendants and the State Defendants.

66. For example, in the 2014 general election, voting equipment

malfunctions led to extended delays for voters in the Buckhead area, and lines of 300-plus people were reported at least two different polling locations in the College Park area.

67. Countless other voters stood in long lines across the County, even in a location where there were reportedly 25 almost entirely unused polling machines.

68. Indeed, a full hour after polls closed in the 2014 general election, voters reported that there were still lines at the Fulton County polls.

69. During the 2016 general election, Fulton County voters again experienced long lines, with many waiting in line for at least two hours during early voting.

70. Issues with voting equipment were again a repeated cause of the lines, with equipment malfunctions at places such as Therrell High School in Atlanta, where only half of the voting machines were operational, delaying voting and causing long lines. Many voters standing in line were reported to have given up and left without voting.

71. In 2017, Fulton County's long lines were issues in both run-off and special elections, despite that these types of elections generally draw fewer voters than a general election. There, Fulton County voters waited in line for three hours to cast their ballots on the last day of early voting.

72. The lines in the 2017 run-off and special elections occurred again due to the same technical problems and poor election administration and planning that had arisen repeatedly in the elections before, as bottlenecks arose because voters had to be checked in twice at the same polling place, once for the runoff and once for the special election. The internet went out at two polling places, making it impossible for poll workers to electronically verify voters as they were checked into vote. There was no technical support present.

73. Fulton County still had not remedied these issues by the 2018 general election, when many waited for over four hours in the rain to cast their ballots, and a county judge was forced to order at least three polling places to remain open for at least two to three hours to alleviate the technical issues. The causes of these long lines were not only predictable, but they were all too familiar at this point: not enough voting equipment, technical problems with that voting equipment, insufficient emergency paper ballots, and other election administration issues.

74. In the heart of Atlanta's oldest Black community, Pittman Park Recreation Center opened with only three voting machines total assigned to the polling location. Fulton County later sent in *five* more machines to ease the burdensome long lines. Because of this, some voters waited four hours to cast a ballot. Voters reported that the line was so long that people could not see the end.

The last vote was cast at Pittman Park in the 2018 general election around 1:00 a.m.

75. Another polling location in that election had four voting machines go down due to problems with the voting machine's power cords, creating hours-long wait times for voters.

76. Yet another Fulton County polling location experienced ballot shortages, leading to long lines, when it ran out of emergency paper ballots and sent voters to a different polling place to cast their vote.

77. By the time the June Primary arrived, despite that Fulton County as well as the State Defendants should have been ready to combat long lines, Fulton County voters experienced some of the longest lines in recent history for elections in Georgia—most of them concentrated in Atlanta.



Voters stand in line in Union City, Georgia, 30 minutes after the polls were supposed to close. Photo Credit: Emma H. Hurt, @Emma_Hurt, Twitter (Jun. 9, 2020), https://twitter.com/Emma_Hurt/status/1270500551487295488.

78. Voters waited for as long as eight hours to cast a ballot. Many voted after midnight, with the last Fulton County voter casting their ballot around 1:00 a.m. in the June Primary.

79. Others, like Plaintiff Anderson, were disenfranchised, as they were unable to wait hours on end to cast their ballot in the extreme heat, all while potentially exposing themselves to a potentially deadly virus.

80. At the Lang Carson Community Center polling location in Atlanta's Reynoldstown neighborhood, the line to vote zigzagged through neighborhood streets for more than a quarter mile, with some voters being forced to wait over 4.5 hours to cast their ballot.

81. At Central Park Recreation Center, a polling location in Atlanta, voters reported 4.5 hour wait times to vote because the voting machines were not working. Poll workers had been calling for help for hours without success.

82. At Parkside Elementary School, a polling location in Atlanta, voters reported just under 4-hour wait times on Election Day, and in Union City, one polling location still had over 100 people in line 30 minutes after the polls were supposed to close.

83. Fulton County Commissioner Liz Hausmann told reporters that she had never seen lines like this, even for a presidential election. Robb Pitts, chairman of the Fulton County Board of Commissioners said of the June Primary that "everything that could happen or go wrong has gone wrong so far."

84. While these long lines persisted throughout Fulton County, they were predominantly in areas with many Black voters. One voter arrived at her polling location in Atlanta's Old Fourth Ward a few minutes before the polls opened on Election Day. Three hours later, she had moved only 60 feet in line, with the line

itself extending hundreds of voters long, and stretching three long city blocks, at a time when temperatures reached 90 degrees. Another voter in the same line reported that she had bronchitis and asthma and had barely left the house since the pandemic began. In her third hour waiting to vote, she told the New York Times “I refuse not to be heard and so I am standing in line.”

85. The lines were so long in the June Primary that a Fulton County judge ordered that *every polling location in the County* remain open until 9:00 p.m., a full two hours after the polls were scheduled to close at 7:00 p.m. The last ballots were reportedly cast around midnight.

86. While the pandemic certainly exacerbated the long lines Fulton County witnessed in the June Primary, in the end, they resulted yet again from the same systemically poor election administration that Fulton County had witnessed since at least 2008: years of irresponsible polling place consolidation, chronic understaffing of polling locations, inadequate poll worker training, voting equipment failures, lack of technical support, and insufficient back-up supplies such as emergency paper ballots when machines malfunction.

87. Indeed, Fulton County had dramatically reduced the number of polling locations for the June Primary, operating only 164 polling locations instead of the planned 198, 16 fewer as compared to 2018. Five of these consolidated precincts

ended up having the highest number of voters per polling location in the entire State.

88. Park Tavern, a restaurant in midtown Atlanta, was the sole polling location for nearly 16,000 active, registered voters in Fulton County, the most voters per precinct in Georgia for the June Primary. Throughout Election Day, over 350 people stood in line to vote at Park Tavern and at least 300 voters were in line before the precinct even opened. *See* picture on page 5.

89. Fulton County polling places also suffered from understaffing, which contributed to the long lines. Richard Barron, Fulton County's Director of Registration and Elections, announced that around 300 poll workers canceled on the County for Election Day, likely due to pandemic concerns. And, in the weekend before Election Day, Fulton County officials rushed to hire an additional 250 poll workers in light of staffing shortages. Indeed, some poll workers were hired *the day before the election*.

90. Unsurprisingly, a lack of effective, knowledgeable, and well-trained election official staff on Election Day exacerbated the long lines. Many Fulton County poll workers did not receive sufficient training on Georgia's new Voting System. In fact, many had never even touched the equipment involved in the Voting System before arriving at their assigned polling location. In-person training ended in March as COVID-19 spread, and the virtual refresher courses closer to Election

Day were ineffective. Some poll workers took a crash course video training the weekend before Election Day, and some did not receive their official assignments until late Monday night, hours before the polls opened on Tuesday morning.

91. On top of the insufficient staffing and training, poll workers in Fulton County faced technical problems with the new Voting System. Some poll workers had incorrect access codes to activate machines, others failed to charge the voting equipment before the polls opened, and others had problems putting the voting cards in properly.

92. But when questions or technical problems arose, poll workers had difficulty getting technical help to solve them, and there were not enough technicians available in each polling location to help troubleshoot the problems. At the Lindsay Street Baptist Church polling location in Atlanta, Election Day reports indicated the precinct only had *one working machine*. Park Tavern, the polling location set up for 16,000 active, registered voters, had over a dozen voting machines, but only *one* scanner to record each vote.

93. At Sandtown Park Recreation Center in South Fulton County, all the voting machines were down on the morning of the June Primary and voting grounded to a halt. One voter arrived 15 minutes before the polling location opened, but, because of the Voting System malfunctions, she did not cast her vote until four

hours later. When she finally voted around 10:45 a.m., there were around 150 voters waiting to vote. Overall, voters waited four hours to cast their votes, with the last voters voting after 10:30 p.m.

94. To make matters worse, Fulton County's voting lines were filled with voters who had requested absentee ballots but never received them from election officials. Specifically, Fulton County received a surge of absentee ballot requests ahead of the June Primary due to the pandemic, but hundreds, if not thousands, of requests went unprocessed. Thus, there was a last-minute influx of some voters, like Plaintiff Alami, who unexpectedly had to vote in person after hoping to vote absentee, placing more pressure on lines due both to the volume of voters, as well as the untrained poll workers who were unaware of how to process these voters.

95. The June Primary lines were not limited to Election Day. Hundreds of thousands of voters throughout Fulton County also waited in long lines throughout the early voting period.

96. Normally, Fulton County has 20 early voting locations, but for the June Primary, it only had eight. As a result, on the first day of early voting, voters waited in line for up to two hours to vote. By the last day of early voting, the lines had gotten even longer—with some voters waiting up to six hours.

97. Jon Ossoff, Fulton County voter and candidate for the U.S. Senate, spent four hours in line to vote on the last day of early voting. And, State Senator Nikema Williams, a candidate for the seat held by the late Representative John Lewis, waited in line for over five hours to cast her vote that same day. And they were not alone, as many others waited outside in a thunderstorm, soaked, waiting to vote.

98. The State Defendants (as well as the Fulton County Defendants) could easily remedy the chronically long lines that Fulton County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed, as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Fulton County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Fulton County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable absent Court intervention.

99. If the State Defendants and Fulton County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

B. DeKalb County

100. DeKalb County, the fourth largest county in the State, is one of the most diverse counties in Georgia, with around 530,000 registered voters, about 52 percent of which are Black and 2.6 percent of which are Latinx.

101. Voters in DeKalb County have consistently experienced long lines at the polls, due again to the same now familiar causes that have been witnessed in the rest of the State: years of polling place consolidation, chronic polling place understaffing, inadequate poll worker training, equipment failures and a related lack of technical support, as well as failure to provide adequate emergency paper ballots as a back-up voting method. These issues are traceable to DeKalb County Defendants and the State Defendants.

102. As far back as 2008, voters in DeKalb County experienced long lines, with many waiting an average of three hours and lines at polling stations “wrap[ping] around buildings and down city blocks” to vote in the general election.

103. More recently, voters in DeKalb County encountered long lines in the

2016 general election, and again in the 2018 general election.

104. For example, in 2018, one polling location in DeKalb County had wait times of over two hours because of technical issues, such as malfunctioning surge protectors and defunct voting machines and identification scanners.



Voting lines in DeKalb County, 2018. Photo Credit: Liz Throop, @populational, Twitter (Jan. 8, 2020), <https://twitter.com/populational/status/1214892125625683974>.

105. The lines that DeKalb County voters encountered in the June Primary were no different. The County combined 12 precincts into five for the June Primary. One of those consisted of three precincts combined into a single polling location northeast of Atlanta in Doraville, with over 9,000 active registered voters assigned to it. Similarly, voters were packed into two other precincts, these for over 7,000 active, registered voters each in Dunwoody and Decatur.

106. Twenty-seven polling locations had been moved to new sites, causing confusion among new and longtime voters alike. Chronic understaffing was also a

problem leading to long lines. At one DeKalb polling location, three quarters of the poll workers never showed up. And, only two of the four workers who did show up had been trained. These polling location and staffing issues will likely reoccur during the November election.

107. Insufficient training of poll workers also contributed to long lines. A precinct captain at one polling location said he only received “an introductory course” and added “[w]e didn’t go into troubleshoot scenarios or how to deal with technical issues like this or have scenarios where voters cast ballots.”

108. DeKalb County also had widespread issues with Georgia’s new Voting System that delayed polling location openings for up to three hours, including glitchy tablets on which poll workers signed in voters. DeKalb County CEO, Michael Thurmond, called the situation a “statewide meltdown.” He added that DeKalb County officials had already received hundreds of calls by 9:00 a.m., two hours after the polls opened.

109. At Cross Keys precinct, for example, voting completely shut down for several hours after equipment malfunctioned. Worse, the polling place ran out of emergency paper ballots after just 20 voters. As a result, at least 100 voters stood in line for four hours, as the line snaked around the building, with some voters leaving the line as the day wore on.

110. At Coan Park Recreation Center in Atlanta, Georgia State Representative Bee Nguyen tweeted that “[a]ll machines [were] down.” As a result, the line wrapped around the park. It took more than two hours to fix the problem and the line persisted.

111. Similarly, voters in the morning at Peachcrest Elementary School waited for two and a half hours after machines stopped working. Another voter reported that all eight voting machines at Stephenson High School in Stone Mountain were down around 8:00 a.m.

112. Because of these problems, a DeKalb County Superior Court Judge ordered that seven DeKalb County voting locations extend their hours. Six of those locations were later ordered to stay open until 9:30 p.m., an extra two and a half hours, because of various problems. But one polling location, Ray of Hope Christian Church, stayed open until after 10:00 p.m.



Photo Credit: Andy Pierrotti, @AndyPierrotti, Twitter (Jun. 9, 2020), <https://twitter.com/AndyPierrotti/status/1270530602958274560>.

113. These consolidations of voting locations, chronic under staffing, insufficient training, voting equipment malfunctions and lack of technical support, as well as the failure to provide sufficient emergency paper ballots in the event of malfunctions in the County, have created insurmountable burdens on voters.

114. The State Defendants (as well as the DeKalb County Defendants) could easily remedy the chronically long lines that DeKalb County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and

staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate training and technical support, and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as DeKalb County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the DeKalb County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

115. If the State Defendants and DeKalb County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

C. Cobb County

116. Cobb County is Georgia's third-largest county. It has approximately 520,000 active, registered voters, over 26 percent of whom are Black and 5.5 percent are Latinx.

117. Like its sister counties, Cobb County has also forced its voters to wait in excessively long lines to exercise their fundamental right to vote since at least 2016.

118. In the 2016 general election, Cobb County voters waited, at times, between two and three hours to cast their ballots, with some not voting until after 10:00 p.m. In most cases, these long lines were caused by a shortage of voting machines, which increased wait times. Cobb County voters endured long lines in 2018 too.

119. During the June Primary, voters waited in long lines due to polling place consolidation, understaffing, inadequate poll worker training, Voting System failures, lack of technical assistance, failure to provide sufficient emergency paper ballots, and other persistent elections administration issues traceable to the Cobb County Defendants and State Defendants. Despite the fact that Cobb County officials predicted that voters should “prepare for a long wait” to vote, they failed to take action to prevent such lines.

120. At Collar Community Center, for example, voters stretched three quarters of the way around the building, some waiting to vote in the hot sun for over five hours. At the Lions Club Community Center, voters snaked around the parking lot, waiting hours to vote. One voter arrived at 7:30 a.m. but did not vote until after noon.



Voters wait in line to cast their ballot in Mableton, Georgia, on Election Day in June 2020. Photo Credit: Jade Merritt, <https://www.11alive.com/gallery/news/politics/long-lines-voting-issues-georgia-primary-election-day/85-272e5a5c-96d7-499d-b967-dc9150ce87a6>.

121. Cobb County's voter rolls have grown by over 100,000 voters since 2012, but county officials have not yet created more polling locations. To the contrary, Cobb County has done just the opposite. Between 2012 and 2018, Cobb County cut a dozen voting precincts, combining them with other precincts. Ahead of the June 2020 Primary, Cobb County eliminated another six polling locations, which lead to at least five polling locations with over 6,000 active, registered voters assigned to each location.

122. As with its sister counties, Cobb County had widespread issues with the

new Voting System in the June Primary, which also contributed to long lines. At First Baptist Church in Powder Springs, for example, around ten machines were down when the polls opened, which led to two-hour wait times to vote.

123. At South Cobb Community Center in Mableton, reports indicated that only six of the 20 machines allocated there were in use. Poll workers at Sope Creek Elementary did not finish setting up the new Voting System until after 7:00 a.m., when the polls were supposed to open, though some of the equipment remained down. When Dave Wehr and his wife arrived at Sope Creek Elementary at 6:30 a.m., they were seventh and eighth in line, but because of the delays in setting up the equipment, it took them nearly two hours to vote. At Oakdale Precinct 1, voters were told that the equipment had not arrived until that morning and there would be a delay in setting it up. The Austell precinct did not open until 8:00 a.m., an hour late.

124. Due to “significant voting machine complications,” 19 voting locations in Cobb County were ordered to stay open an extra hour. The “technical issues ... resulted in a late start to primary voting.”⁷

125. And, the long lines were not limited to Election Day. Plaintiff Contreras Chavez waited for over eight hours to vote on the last day of Early Voting ahead of

⁷ Wendy Parker, *Cobb precincts staying open late* (June 9, 2020 5:18 PM), <http://eastcobbnews.com/tag/cobb-precincts-staying-open-late/>.

the 2020 Primary. She did not cast her ballot until around 1:00 a.m. the next morning.

126. Indeed, in the face of consistent long lines at the polls, Cobb County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting machines to polling staff, are located where voters (and particularly minority voters) can access them.

127. The State Defendants (as well as the Cobb County Defendants) could easily remedy the chronically long lines that Cobb County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of backup emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Cobb County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Cobb County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

128. If the State Defendants and Cobb County Defendants are not required

to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

D. Gwinnett County

129. Gwinnett County is Georgia's second largest County, with 570,000 active, registered voters, around 28 percent of whom are Black and just over 9 percent of which are Latinx.

130. Like the other Georgia Counties, Gwinnett County has forced its voters to wait in excessively long lines to exercise their fundamental right to vote due to polling place consolidation, understaffing, inadequate training, voting equipment failures, and other persistent elections administration issues traceable to Gwinnett County Defendants and the State Defendants.

131. At least as far back as 2016, long lines have been an issue in Gwinnett County. In the 2016 general election, voters stood in line for upwards of three hours during the early voting period, with as many as 400 people standing in line at a given time.

132. Long lines persisted in the 2018 General Election. For example, at least four Gwinnett County polling locations were ordered to stay open beyond the original closing time—one for at least two additional hours—because of technical

issues. Voters at those locations waited in line for over four hours to vote. At a fifth location, which also witnessed long lines, the machines went down because they were never connected to power cords and ran out of battery.

133. These lines were not limited to Election Day, as early voting also saw lines going out the door of early voting centers and stretching down the street.

134. Thus, by the time that the June Primary occurred, that long lines would form in Gwinnett County should have been no surprise.

135. During the June Primary, Gwinnett County had at least five polling locations with over 6,000 active, registered voters assigned to each location on Election Day.

136. As many as 28 of Gwinnett County's polling locations, about 18 percent, had issues with the Voting System on Election Day, which contributed to the long lines. The morning of Election Day, Gwinnett County officials were still making last-minute deliveries of voting equipment to 26 of the County's polling precincts. These last-minute deliveries caused many of the precincts to open late. Indeed, when the polls were supposed to open, several polling locations did not have their equipment yet or did not have everything set up yet. Calvary Baptist Church and Gwinnett School of Math, Science and Technology, for example, had no paper for the printers to print the voted ballots when they were supposed to open, and all

of the outstanding equipment was delivered over two hours later.

137. Moreover, all but one of the machines at Collins Hill Library were reported to be down. And at Gwinnett Community Church, there were at least three machines in the building late Tuesday morning, but none were in use. Numerous polling locations did not open on time because of issues with voting equipment, not having scanners, not having printers or emergency paper ballots, or because they had no equipment at all. Georgia State Representative Jasmine Clark said voters were waiting to vote at Gwinnett County precincts with no end in sight and that “voters [were] livid or leaving.”

138. In the end, a Gwinnett County Judge ordered fifteen Gwinnett County precincts to remain open after 7:00 p.m. because numerous polling locations opened without all the polling equipment.

139. But keeping precincts open later did nothing for those who were disenfranchised by the long waits. One voter was in line to vote at her Gwinnett County polling location before it opened at 7:00 a.m., but the precinct had no working machines and she could not stay in line for hours because she was scheduled for surgery later that morning.

140. Indeed, Gwinnett County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable

voting machines to polling staff, are located where voters (and particularly minority voters) can access them.

141. The State Defendants (as well as the Gwinnett County Defendants) could easily remedy the chronically long lines that Gwinnett County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate training and technical support, and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Gwinnett County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Gwinnett County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

142. If the State Defendants and Gwinnett County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

E. Chatham County

143. Chatham County, the sixth largest county in the state, is home to nearly 290,000 Georgians and over 190,000 registered voters, 36 percent of whom are Black and nearly four percent of which are Latinx.

144. Like its sister counties, Chatham County also forced its voters to wait in excessively long lines to exercise their fundamental right to vote.

145. As far back as the 2016 general election, Chatham County voters have experienced long lines at multiple polling locations across the County, with reports, for example, of lines that “weaved out of the Voter Registration Office.” In response, Chatham County Board of Registrars Chair Colin McRae made light of the long lines, suggesting voters should “shop around” for another voting location.

146. Chatham County failed to address these issues by the 2018 general election and voters were again forced to stand in long lines to cast their ballots. Lines “wrapped around buildings” due, in part, to a lack of operational machines. In the city of Pooler, for example, where voters had to wait three hours to vote, voters brought chairs and water to pass the time in the outdoor heat.

147. Yet, even after years of long lines and machine shortages, Chatham County Board of Elections Chairman Tom Mahoney said that he was “not convinced yet” that this level of voter turnout was the new norm. Thus, predictably, the long

lines continued in the June Primary, exacerbated by COVID-19 and caused by polling place consolidation, understaffing, inadequate training, Voting System failures, and other persistent elections administration issues traceable to Chatham County Defendants and State Defendants.

148. In the June Primary, Chatham County voters waited in lines as long as two hours to vote. At the Wilmington Presbyterian Church polling place, poll workers could not get any of the six voting machines to turn on before the polls opened at 7:00 a.m. Two and a half hours later, five of the six were working and many voters left.

149. Inadequate training was an obvious contributor to the lines as well. Indeed, the poll manager for the Salvation Army admitted “[w]ith these new machines it’s very difficult and nobody really knew what they were doing. It was a bunch of complications. But we’ve gotten it slowly moving. But learning these machines is the biggest part as far as set up.”

150. Poor planning also contributed to long lines. The Salvation Army in Savannah, Georgia has long been a Chatham County polling location, but because of social distancing, election officials moved voting to the gym instead of the traditional assembly hall. Nevertheless, the gym did not have enough working electrical outlets, and a technician assigned to help did not have enough extension

cords to plug all the voting machines in. Only two or three of the 14 machines assigned to that polling location were operating when the polls opened 40 minutes later than scheduled. As a result, not a single voter cast a ballot in the first 30 minutes that the polling place was open. Two hours after the polling place was supposed to open, only a handful of people had voted. Two and a half hours after the polling place was supposed to open, only six of the machines were operating. By then, the wait to vote was two hours and the line snaked outside and toward the back corner of the gymnasium. Around 12:30 p.m., when the polling place manager tried to check how many people had voted by that point, her computer froze.

151. At another polling location, Progressive Recreation Center, the precinct manager expected eight voting machines, but only four arrived. At one point on Election Day, dead power packs disabled two of the four machines at the polling place, leaving voters with only two live machines to vote from.

152. The result was that many voters left the lines. A voter at the Coastal Botanical Gardens polling location reported that she waited over 90 minutes to vote, machines were down, there were not enough technicians to get them back up and running, and “[s]o many people left the line because they couldn’t wait all day.” Another voter at the Holy Lutheran Church polling location showed up shortly after the polls opened but waited in line for an hour and fifteen minutes. When she arrived

to vote, she learned that she was only the seventh person to have cast a ballot and that many others had left without voting.

153. Chatham County Superior Court Judge James F. Bass Jr. ordered 37 Chatham County precincts to remain open for two hours beyond the normal closing time to account for technical and human errors. He extended voting hours because of “the delays in opening some precincts were caused by problems with the new voting equipment, set-up and implementation of the new Voting System.”

154. Indeed, Chatham County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting equipment to polling staff, are located where voters (particularly minority voters) can access them.

155. The State Defendants (as well as the Chatham County Defendants) could easily remedy the chronically long lines that Chatham County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those

ballots, and ensuring adequate poll worker training and technical support. But as Chatham County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Chatham County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

156. If the State Defendants and Chatham County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

F. Clayton County

157. Clayton County has over 185,000 active, registered voters, over 70 percent of whom are Black and just over four percent are Latinx.

158. Clayton County voters have stood in long lines to vote for over a decade.

159. In the 2008 general election, for example, voters stood in line for six hours on Election Day. One voter arrived at the Frank Bailey Senior Center polling location 9:00 a.m. on Election Day but did not reach the front of the line until 2:00 p.m.—the line itself snaked around the senior center into the back-parking lot. The

Secretary's office blamed the problems on the number of voters, slow computers, and a host of logistical and staffing issues.

160. Long lines also persisted in the 2018 general election. A polling location at Kemp Elementary School had only two poll workers and another polling location at Harper School opened 40 minutes late.

161. Voters in Clayton County also experienced long lines in the June Primary, with voters reporting wait times of over five hours on the last day of early voting, as well as long wait times on Election Day.

162. Voters in Clayton County faced excessively long lines to exercise their fundamental right to vote due to polling place consolidation, understaffing, inadequate training, Voting System failures, and other persistent elections administration issues traceable to the Clayton County Defendants and the State Defendants.

163. During the June Primary, there were too many registered voters assigned to a single polling location, which contributed to long lines. For example, almost 7,500 active, registered voters in Lovejoy, Georgia, were assigned to a single polling location, and over 5,900 active and registered voters in Ellenwood, Georgia were assigned to a single polling location.

164. Issues with the new Voting System also led to long lines. At Christian

Baptist Fellowship Church, a polling location for a predominantly Black precinct, voting machines were not working and poll workers there ran out of emergency paper ballots by 7:30 a.m. on Election Day. Other issues with the voting machines were also reported, many of which were inoperable.

165. Indeed, Clayton County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting machines to polling staff, are located where voters (and particularly minority voters) can access them.

166. The State Defendants (as well as the Clayton County Defendants) could easily remedy the chronically long lines that Clayton County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of backup emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Clayton County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Clayton County Defendants will do

so as both continue to lay the blame at the other's feet. The result for November is inevitable.

167. If the State Defendants and Clayton County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

G. Henry County

168. Henry County is home to about 164,000 active, registered voters, of whom about 44 percent are Black and just over three percent are Latinx. Voters in Henry County have faced excessively long lines to exercise their fundamental right to vote due to polling place consolidation, understaffing, inadequate training, Voting System failures, and other persistent elections administration issues traceable to the Henry County Defendants, the Secretary, and the Board Defendants.

169. During the June Primary, voters in Henry County experienced hours-long delays while attempting to vote. For many voters in Henry County, wait times for the June Primary were over an hour. Some voters waited up to up to three hours.

170. One contributing factor to the long lines was that Henry County dramatically reduced the number of polling locations for the June Primary. One precinct covering Locust Grove, Georgia had nearly 9,500 active, registered voters

assigned to a single polling place.

171. Technical issues also caused long lines. For example, the Lake Haven Precinct, located at Henry Baptist Church and the Hickory Flat Precinct at Tabernacle of Praise Church International, both experienced technical issues that slowed down the lines. The delays were so severe that officials extended the closing times for both precincts.

172. Henry County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting machines to polling staff, are located where voters (and particularly minority voters) can access them.

173. The State Defendants (as well as the Henry County Defendants) could easily remedy the chronically long lines that Henry County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Henry County's

history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Henry County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

174. If the State Defendants and Henry County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

H. Douglas County

175. Douglas County has 97,000 active, registered voters. Around 45 percent of those voters are Black and just under four percent are Latinx.

176. Voters in Douglas County faced excessively long lines during the June Primary due to Voting System failures, and other persistent elections administration issues traceable to the Douglas County Defendants and the State Defendants. Voters in Douglas County waited upwards of two and-a-half hours to vote.

177. Three polling locations in Douglas County were not able to open on time due to "software errors." At one polling location, Lithia Springs High School, none of the machines were working when the polls were supposed to open. Around 90 minutes after the polling location was supposed to open, only half of the location's ten machines were working. Voters who arrived soon after that polling

location opened waited over two hours to vote because of these technical issues.

178. A Douglas County Superior Court Judge extended voting hours at the three Douglas County voting locations that opened late due to the malfunctioning voting equipment, including Lithia Springs High School, which remained open for an extra hour and 45 minutes.

179. Indeed, Douglas County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting machines to polling staff, are located where voters (and particularly minority voters) can access them.

180. The State Defendants (as well as the Douglas County Defendants) could easily remedy the chronically long lines that Douglas County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical support. But as Douglas County's history clearly shows, and the reactions to the June Primary have

laid bare, neither the State Defendants nor the Douglas County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

181. If the State Defendants and Douglas County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

I. Macon-Bibb County

182. Macon-Bibb County has over 103,000 active, registered voters, over 51 percent of whom are Black and just over one percent are Latinx.

183. During the 2012 elections, Macon-Bibb County voters waited over an hour to vote. But the problems were not fixed, and long lines continued during the 2016 and 2018 elections.

184. Then, again, voters in Macon-Bibb County faced excessively long lines to exercise their fundamental right to vote in the June Primary due to Macon-Bibb elections officials and the Secretary of State not addressing at the least chronic understaffing, inadequate training, and Voting System failures.

185. On Election Day for the June Primary, poll workers were still setting up machines when the polls opened at 7:00 a.m. At one precinct, voters who arrived

before the polls opened waited for at least an hour before a single vote was cast. Ballots got stuck in the scanner, which caused delays while poll workers waited for technical support.

186. Some poll workers struggled with operating the new machines, both because they were less experienced and received only remote training on how to operate the new machines.

187. Indeed, as evidenced by long lines dating back to 2012, Macon-Bibb County has not taken sufficient measures to ensure that enough polling locations and other crucial election resources, from operable voting machines to polling staff, are located where minority voters can access them.

188. The State Defendants (as well as the Macon-Bibb County Defendants) could easily remedy the chronically long lines that Macon-Bibb County has witnessed in election after election, including by providing clear guidance on the number of polling locations needed as well as the number of voters who should be allocated to each location to minimize congestion and lines, assisting in the recruiting and staffing of poll workers, providing sufficient voting equipment, requiring backup paper pollbooks and adequate numbers of backup emergency paper ballots for use when problems do arise, as well as clear guidance and training on when to use those ballots, and ensuring adequate poll worker training and technical

support. But as Macon-Bibb County's history clearly shows, and the reactions to the June Primary have laid bare, neither the State Defendants nor the Macon-Bibb County Defendants will do so as both continue to lay the blame at the other's feet. The result for November is inevitable.

189. If the State Defendants and Macon-Bibb County Defendants are not required to make substantial efforts to reduce long lines at polling locations by remedying their systemically poor election administration, long lines and deterred and disenfranchised voters will result.

IV. The COVID-19 pandemic only exacerbates the burden that Georgia's long lines impose on in-person voters.

190. The burdens of waiting in a long line to vote in the November General Election are likely to be severe even without a pandemic but, as the June Primary demonstrates, will be significantly exacerbated by it. For example, during the June Primary, many experienced poll workers, who are often over the age of 60 and thus at a higher risk of complications from COVID-19, cancelled their shifts in high numbers during the June Primary. Moreover, many locations will be unwilling to host polls as they have done in the past. Under the current circumstances, even more Georgia County voters than usual will be unable or unwilling to stand in a long line to vote because doing so could potentially be life threatening.

191. As of the date of this filing, the United States continuously logs tens of

thousands of new confirmed COVID-19 cases each day. In all, the United States has reported over 4.65 million confirmed cases and over 151,000 deaths.

192. Georgia is currently experiencing a surge in COVID-19 cases statewide. As of August 4, 2020, Georgia has confirmed over 197,000 cases of COVID-19 and recorded over 3,900 deaths.

193. To prevent the spread of the disease, the U.S. Centers for Disease Control and Prevention (“CDC”) recommends that people avoid close contact with others.

194. Consistent with this advice, Georgia Governor Brian Kemp recently extended a ban on gatherings of more than 50 people, unless people can maintain six feet of distance from each other, through September 10, 2020. That same order extends the shelter at home order for elderly and high-risk Georgians. *See* Executive Order 07.31.20.01. Governor Kemp has also extended a separate executive order that prohibits local governments from requiring people to wear masks in public. *See* Executive Order 07.31.20.02.

195. Given the surge of COVID-19 cases in Georgia and throughout the United States, the need for protective measures, such as social distancing, will lead to longer lines at polling locations in the November General Election, just as the nation witnessed in the June Primary. COVID-19 also makes more acute the need to

limit lines at the polls and the amount of time a voter spends waiting in line to vote.

196. Longer lines at polling places increases the risk of exposure to COVID-19. The burden of waiting in a long line cannot be overstated, especially for those at higher risk for complications from the virus, such as elderly and immunocompromised people. Voters should not have to choose between increased risk to their personal health and exercising their fundamental right to vote.

CLAIMS FOR RELIEF

COUNT I

Violation of the First and Fourteenth Amendments to the U.S. Constitution 42 U.S.C. § 1983, 28 U.S.C. §§ 2201, 2202 Undue Burden on the Right to Vote (All Defendants)

197. Plaintiffs reallege and reincorporate by reference Paragraphs 1-196 of this Complaint as though fully set forth herein.

198. Under the First and the Fourteenth Amendments, a state cannot utilize election practices that unduly burden the right to vote. When addressing a challenge to a state election law, courts balance the character and magnitude of the burden the law causes on any First and Fourteenth Amendment rights the plaintiff seeks to vindicate against the justifications offered by the State in support of the challenged law. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

199. “However slight th[e] burden may appear, ... it must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation.” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 191 (2008) (Stevens, J., controlling op.) (quotation marks omitted).

200. The long lines resulting from Defendants’ systematic and ongoing failure to provide an equitable distribution and adequate number of voting locations, suitable training for poll workers, sufficient staff, and technical support, sufficient time to set up polling locations, backup paper pollbooks for when the electronic versions malfunction or are unavailable, sufficient numbers or access to emergency paper ballots when Voting Systems malfunction, clear guidance and instructions on when to use emergency paper ballots, and other election resources will place a severe burden on the fundamental right to vote. *See Cortés*, 591 F. Supp. 2d at 764. For many voters, the increased wait times will prove too much, forcing them to leave their polling places without casting a vote. For many others, the increase in polling-place lines will deter them from voting at all, particularly during the pandemic where exposing themselves to others comes at great risk to their health and forces them to make an unconscionable choice between voting or potentially contracting or spreading COVID-19. Even those who eventually do cast a vote will be burdened by the cost of waiting in line for a significantly long period of time. And long polling-

place lines throughout the State will decrease voter confidence in the accuracy of Georgia's elections.

201. While Defendants' respective failures to implement adequate measures to equitably distribute and provide an adequate number of voting locations and election resources will unduly burden the fundamental right to vote of all voters in the Georgia Counties, Black, Latinx, and young voters will experience a disproportionately greater burden from those lines. Moreover, given the global pandemic, elderly and immunocompromised voters too will face a disproportionately greater burden by standing in long lines to vote. As a result, the cost of voting will be higher for these voters.

202. The Defendants' failure to provide an equitable distribution and adequate number of voting locations and election resources serves no legitimate, let alone compelling, governmental interest. As a result, the burdens imposed on the fundamental right to vote outweigh any alleged benefits.

203. Injunctive and declaratory relief are needed to resolve this existing dispute, which presents an actual controversy between Defendants and Plaintiffs, who have adverse legal interests, because Defendants will subject Plaintiffs to serious, concrete, and irreparable injuries by impairing their own or their core constituencies' fundamental right to vote in future elections including, most

immediately, the upcoming 2020 General Election.

COUNT II

Violation of the Fourteenth Amendment to the U.S. Constitution 42 U.S.C. § 1983, 28 U.S.C. §§ 2201, 2202 Substantive Due Process (All Defendants)

204. Plaintiffs reallege and reincorporate by reference Paragraphs 1-196 of this Complaint as though fully set forth herein.

205. “The Due Process Clause protects against extraordinary voting restrictions that render the Voting System ‘fundamentally unfair.’” *See, e.g., Ne. Ohio Coalition for the Homeless v. Husted*, 696 F.3d 580, 597 (6th Cir. 2012); *Warf v. Bd. of Elections of Green Cty., Ky.*, 619 F.3d 553, 559 (6th Cir.2010). “[S]ubstantial changes to state election procedures and/or the implementation of non-uniform standards run afoul of due process if they ‘result in significant disenfranchisement and vote dilution[.]’” *Husted*, 696 F.3d at 597; *Warf*, 619 F.3d at 559.

206. Defendants’ systemic failures in election administration have led to long lines that have resulted in significant disenfranchisement of Georgia voters for over a decade now as voters who are forced to wait in line leave and many others never enter the line at all, deterred by the impending wait. Georgia’s wait times have been steadily increasing, reaching new heights in the June Primary, as voters stood

in line for up to 8 hours to cast their vote, an entire day's work of standing in line.

207. Georgia's long lines will continue in November due to the systematic and ongoing failure to provide an equitable distribution and adequate number of voting locations, suitable training for poll workers, sufficient staff, and technical support, sufficient time to set up polling locations, backup paper pollbooks for when the electronic versions malfunction or are unavailable, sufficient numbers or access to emergency paper ballots when Voting Systems malfunction, clear guidance and instructions on when to use emergency paper ballots, and other election resources, all exacerbated in November due to the pandemic. Indeed, just as Georgia saw in June, experienced poll workers will continue to back out due to concerns about the virus, new poll workers will not be provided sufficient training, and traditional polling locations will back out ensuring that even more voters walk away, forced to make an unconscionable choice of not voting or risking their health by standing in line for hours surrounded by people to vote.

208. There is no indication that the State or County Defendants—who have failed to take action for a decade—will do anything but continue to engage in the fundamentally unfair treatment of their voters.

209. The long lines resulting from the Defendants' systematic and ongoing failure to provide an equitable distribution and adequate number of voting locations,

suitable training, technical support, and election resources amount to “extraordinary voting restrictions that render the Voting System ‘fundamentally unfair.’” *Husted*, 696 F.3d at 597.

COUNT III

Violation of the Fourteenth Amendment to the U.S. Constitution

42 U.S.C. § 1983, 28 U.S.C. §§ 2201, 2202

Equal Protection

Arbitrary and Disparate Treatment

(The State Defendants)

210. Plaintiffs reallege and reincorporate by reference Paragraphs 1-18 and 20-196 of this Complaint as though fully set forth herein.

211. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV, § 1. This constitutional provision requires that “all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985).

212. The Equal Protection Clause’s protections extend to voting. “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000). Among other things, this requires “specific rules designed to ensure uniform treatment” in order to prevent “arbitrary and disparate

treatment to voters” based on which county or local jurisdiction they live in. *Id.* at 106-07.

213. The State Defendants’ continued failure to prevent or remedy extremely long lines at polling locations within the Georgia Counties as compared to other counties in Georgia places widely different burdens on voters across the State. Among other responsibilities, the State Defendants must ensure uniform election processes across Georgia. O.C.G.A. § 21-2-31. Voters in many of Georgia’s 159 counties are not forced to wait in long lines to exercise their fundamental right to vote, and some wait in no lines at all, whereas voters in the Georgia Counties must stand in line for up to eight hours to cast their vote. Similarly-situated voters are therefore placed on unequal terms depending on the counties in which they live, and their right to vote is burdened.

214. There is no indication that the State Defendants—who have failed to take action for a decade—will do anything but continue to allow the arbitrary and disparate treatment of voters in different counties across Georgia.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

- a. Declaring, under the authority granted to this Court by 28 U.S.C. § 2201, that the Defendants' ongoing and systemic failure to provide both an equitable distribution and adequate number of voting locations, sufficient and adequately trained poll workers, sufficient technicians, sufficient time to set up polling locations, sufficient backup paper pollbooks, sufficient numbers or access to emergency paper ballots when the Voting System malfunctions, clear guidance or instruction on when to use emergency paper ballots, and other election resources violates the First and Fourteenth Amendments to the United States Constitution;
- b. Issuing an injunction requiring Defendants to provide a sufficient number, and equitable distribution, of polling places and other election resources to prevent voters from having to wait in unreasonably long lines on Election Day, including, but not limited to, the provision of sufficient poll workers, adequately trained poll workers, sufficient technicians for each location, sufficient time to set up polling locations, sufficient backup paper pollbooks, sufficient backups, and sufficient emergency paper ballots as a backup in the event of Voting System problems, as well as clear guidance and instructions as to when to use emergency paper ballots;

- c. Awarding Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- d. Granting such other and further relief as the Court deems just and proper.

Dated: August 6, 2020

Respectfully submitted,

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**Pro hac vice* motions forthcoming