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

LUCILLE ANDERSON, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official capacity as the Georgia Secretary of State and Chair of the Georgia State Election Board, *et al.*,

Defendants.

CIVIL ACTION FILE
NO. 1:20-cv-03263-MLB

COUNTY DEFENDANTS'[1] CONSOLIDATED BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

INTRODUCTION

Nearly three months after the General Primary election on June 9, 2020, Plaintiffs[2] seek to judicially impose a slew of new changes to longstanding Georgia processes for running elections in a presidential general election

[1] County Defendants are the members of the Boards of Election for Chatham, Clayton, Cobb, DeKalb, Douglas, Fulton, Gwinnett, Henry, and Macon-Bibb Counties, as listed on pages 3-4 of Plaintiffs' Complaint [Doc. 1], and as further amended by the Court's Order substituting a Henry County Board of Elections and Registration Official-Capacity Defendant [Doc. 90].

[2] Plaintiffs are three individual Georgia voters ("Individual Plaintiffs") and two political organizations: the DSCC and the Democratic Party of Georgia, Inc. ("DPG") (collectively, the "Organizational Plaintiffs").

already underway. [Doc. 92-1] ("Plaintiffs' Motion"). Although Plaintiffs allege issues dating back well over a decade, they waited until just 63 days before Election Day to file their Motion. While the reason behind Plaintiffs' long delay is not clear (and is inexplicable given the extraordinary relief sought), what is obvious is that they have not acted with reasonable diligence to raise these issues to the Court. In addition, the relief they propose would place incredible burdens on county officials already working to operate elections in exceptionally challenging circumstances.

County Defendants take no position on the constitutionality of the practices Plaintiffs challenge,[3] but this Court should still deny Plaintiffs' Motion. As County Defendants explained earlier in their Motion to Dismiss [Doc. 105-1], this Court lacks jurisdiction to hear Plaintiffs' claims. But even setting aside the jurisdictional infirmities, Plaintiffs show no basis for this Court to grant their requested relief. Instead, Plaintiffs seek to throw the upcoming election into procedural chaos by asking the Court to serve as a legislative and administrative proxy for their own agenda instead of pursuing their agenda through the appropriate policymaking channels. Frustrated though they may be, frustration alone does not grant this Court extra-

[3] Plaintiffs do not challenge any particular statutes—they only seek relief on the allocation of election equipment and other practices related to elections.

constitutional authority. Thus, this Court should reject Plaintiffs' request for relief because it lacks support in law, subverts the public interest, and produces inequitable results.

FACTUAL BACKGROUND

I. Data on long lines.

Plaintiffs claim to present "extensive" evidence about election line lengths in Georgia. [Doc. 92-1, pp. 9-10]. But, in reality, Plaintiffs only cite a survey sampling of a handful of precincts in Fulton County. Even a cursory review reveals Plaintiffs' "extensive" evidence relies on the work of others, primarily a study of the Bipartisan Policy Center. But another expert for another group of Plaintiffs in this District noted that the Bipartisan Policy Center study only included usable data from 68 polling locations in a single county in a single election. Report of Stephen Graves, p. 3, located at Doc. 166 in *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ. This is hardly a basis on which to draw conclusions from all of Fulton County, let alone the entire state, as Dr. Graves agreed. Deposition of Stephen Graves, p. 24:17-18, located at Doc. 400-1 in *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ.

Data from the June 9 primary—collected in the midst of a worldwide pandemic—suggest the rate of check-ins varied from county to county and that

lines and wait times mainly occurred because of the rate of voters showing up rather than other practices. *See* Stephen Fowler, *Here's What the Data Shows About Polling Places, Lines in Georgia's Primary* (July 17, 2020) (available at https://www.gpb.org/news/2020/07/17/heres-what-the-data-shows-about-polling-places-lines-in-georgias-primary. In other words, the data undermines Plaintiffs' theory that unidentified—but somehow unconstitutional—practices or individual County Defendants' conduct caused the "violations" at issue.

Without factual support, Plaintiffs repeatedly claim the June 9 primary is the culmination of a long history of long lines in Georgia. But they ignore the unique circumstances present on June 9—a new voting system, a lack of poll workers and polling locations, and a global pandemic. Declaration of Kristi Royston, attached as Ex. A ("Gwinnett Dec."), ¶ 4; Declaration of Richard Barron, attached as Ex. B ("Fulton Dec."), ¶ 3. While Plaintiffs claim to know where "more voters, more poll pads, voting machines, and scanners are needed," [Doc. 92-1, p. 16], their expert examined the allocation of voting equipment in only *two* counties in the entire state of Georgia. [Doc. 93-62, p. 6]. Even worse than their "evidence," Plaintiffs fail to connect the necessary dots between past, present, and future harms necessary for extraordinary injunctive relief.

Rather, Plaintiffs rely on some 30 or so newspaper and internet news stories. Aside from being hearsay, Plaintiffs' sources offer no other value for this Court in its consideration of the requested preliminary injunction. Likewise, Plaintiffs offer declarations from voters who merely describe one-off experiences of voting in a pandemic—which was difficult, unfortunate, and new for all involved.[4] But the declarations do not support Plaintiffs' claims.

Plaintiffs rely even more on orders holding polling places open beyond scheduled times of operation as evidence of something going awry. [Docs. 93-41 through 93-58]. But the orders actually show the opposite—that Georgia's Election Code provides an orderly (and timely) process to deal with problems opening or operating precincts on Election Day. O.C.G.A. §§ 21-2-412, -418(d).

II. Preparations for the November election.

Plaintiffs claim that County Defendants "have not taken sufficient, concrete action to ensure that November is not a repeat of the June Primary," [Doc. 92-1, p. 21], but do so with no factual support. That is with good reason—because County Defendants took many steps to learn from the June primary and prepare for the November election. Gwinnett Dec. ¶ 5; Fulton Dec. ¶ 5.

[4] A significant number of the declarations are from Fulton County, which had well-documented challenges with absentee-ballot processing in the June 9 election. Fulton Dec. ¶ 4. Fulton County has made significant changes to address those issues for the November election. *Id.*

Plaintiffs appear not to realize that election officials are already running the November general election. Fulton Dec. ¶ 9. Absentee ballots begin going out this week. Gwinnett Dec. ¶ 19. Early voting begins on October 12. Gwinnett Dec. ¶ 20.

The COVID-19 pandemic has increased the burden on election officials, but they are working to meet the challenge. Fulton Dec. ¶ 5. Many longstanding polling locations ceased serving in that role, requiring officials to locate new facilities. *Id.*; Gwinnett Dec. ¶ 6. Counties are working to address any shortage of polling places, but opening new polling locations now would implicate the Election Code's emergency rules because it is within 60 days of the election. Gwinnett Dec. ¶ 7; Declaration of Ameika Pitts, attached as Ex. C ("Henry Dec.") ¶ 5; Fulton Dec. ¶ 6; O.C.G.A. § 21-2-265(f). Social-distancing requirements have made it necessary to revamp precinct layouts. Gwinnett Dec. ¶ 8; Fulton Dec. ¶ 6. The new voting equipment takes up more space, thus requiring more planning for the delivery of equipment to precincts ahead of Election Day, which election officials have been developing based on a variety of factors. Gwinnett Dec. ¶ 9; Fulton Dec. ¶ 6; Henry Dec. ¶ 6.

Recruitment of poll workers has been especially challenging during COVID-19. Gwinnett Dec. ¶ 10; Fulton Dec. ¶ 7; Henry Dec. ¶ 7. Many counties lost hundreds of regular poll workers and have worked to recruit from various

sources after June 9, focusing mostly on high school and college students. Gwinnett Dec. ¶¶ 11-12; Fulton Dec. ¶ 7. Most counties already announced they tapped enough poll workers for the November election. Fulton Dec. ¶ 7; s*ee also* Zachary Hansen, *Metro Atlanta counties on pace to staff polls by election, officials say*, Atlanta J.-Const. (September 11, 2020) (*available at* https://www.ajc.com/news/atlanta-news/metro-atlanta-counties-on-pace-to-staff-polls-by-election-officials-say/VEK7RFPLERGWZHERHOPTPKBCTU/); Henry Dec. ¶ 7 (developed plan for back-up poll workers in case additional workers are needed); Gwinnett Dec. at ¶ 12 (nearly enough poll workers).

In addition, training is already revamped for poll workers to provide more hands-on opportunities to prepare equipment and understand the procedures. Gwinnett Dec. ¶ 12; Henry Dec. ¶ 9; Fulton Dec. ¶ 8. Poll worker training is ongoing, with both online and in-person training underway for the November general election. Gwinnett Dec. ¶¶ 13-16; Henry Dec. ¶ 8; Fulton Dec. ¶¶ 8, 10. Adding new requirements, like tracking wait times, for poll workers at this point would be too burdensome to be practical. Gwinnett Dec. ¶ 17.

Decisions about equipment allocation to precincts must take place prior to programming of the BMDs and Poll Pads and the start of Logic and Accuracy testing. Gwinnett Dec. ¶ 18. Those efforts are beginning at least this week and

making changes to equipment allocation would require reprogramming election equipment. *Id*.

Polling places will have paper back-up lists of voters in case of issues with power outages or machine malfunctions. Henry Dec. ¶ 10; Ga. Comp. R. & Regs. r. 183-1-12-.19(1). The State Election Board already requires emergency paper ballots at each polling place in case of problems with the BMDs on election day. Ga. Comp. R. & Regs. r. 183-1-12-.11; Henry Dec. ¶ 11.

III. Plaintiffs' ideas about election administration.

Into the midst of this active election, Plaintiffs now offer a few ideas—in the context of a lawsuit against the very officials trying to administer that election—that they believe could make things better. Yet Plaintiffs did not offer those ideas at any point before filing this case nor did they include declarations from elections officials who endorse making the changes they propose on the eve of an election.

Those ideas include (1) a new formula for allocating equipment (which apparently glosses over state law on the required ratios of equipment to voters in O.C.G.A. § 21-2-367(b)); (2) adding a new requirement on poll workers to record wait times and report them; and (3) reporting wait times to the Court and Plaintiffs. [Doc. 92-2, ¶¶ a, c, h]. Plaintiffs also ask for an order requiring "sufficient" ballots, paper poll pads, and drop boxes; "sufficient" poll workers;

"adequate[]" training; "sufficient" technicians; and "adequate[]" testing of equipment. [Doc. 92-2, ¶¶ b, d, e, f, g]. However, Plaintiffs never specify what the Court should deem as "adequate" or "sufficient" in any of these contexts, and they completely ignore that existing regulations already cover most of Plaintiffs' "requests," including emergency ballots, Ga. Comp. R. & Regs. r. 183-1-12-.01 and -.11(c), (d); paper pollbook backups, *id*. at -.19; pre-election testing of equipment, *id*. at -.08; delivery of equipment for election day, *id*. at -09; and poll worker training and requirements, O.C.G.A. §§ 21-2-70(6)–(9), -405. Although Plaintiffs submitted what purports to be voluminous "support" for their positions, that "support" sorely lacks the actual substance necessary to obtain the broad-sweeping and non-specific injunctive relief they seek.

ARGUMENT AND CITATION OF AUTHORITY

Because temporary restraining orders and preliminary injunctions are such extraordinary and drastic remedies, courts may not grant this type of relief "unless the movant clearly established the 'burden of persuasion' as to the four requisites." *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998) quoting *All Care Nursing Serv., Inc. v. Bethesda Mem'l Hosp., Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989). Plaintiffs must show that: (1) they have a substantial likelihood of success on the merits of their claims; (2) they will likely suffer irreparable harm in the absence of an injunction; (3) the balance

of equities tips in Plaintiffs' favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 374 (2008).

Preliminary injunctions are never granted as of right, even if a plaintiff can show a likelihood of success on the merits. *Benisek v. Lamone*, 138 S. Ct. 1942, 1943–44 (2018). While a preliminary injunction is already a form of extraordinary relief, that relief is even more drastic in the context of elections, because of the public interest in orderly elections and the integrity of the election process. *Purcell v. Gonzalez*, 549 U.S. 1, 4–5, 127 S. Ct. 5 (2006). And heeding the ever-changing circumstances that accompany the COVID-19 medical pandemic, "[i]t is especially important . . . that the Court hew closely to the Constitution's original imperatives. This starts with the Elections Clause, which commits the administration of elections to Congress and state legislatures – not Courts." *Coal. For Good Governance v. Raffensperger*, No. 1:20-cv-1677-TCB, 2020 U.S. Dist. LEXIS 86996, *7–8 (N.D. Ga. May 14, 2020).

Also noteworthy here is the U.S. Supreme Court's recognition that when "an impending election is imminent and a State's election machinery is already in progress," equitable considerations justify a court denying an attempt to gain immediate relief. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964); *see also Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020) ("This Court has repeatedly emphasized that lower federal courts

should ordinarily not alter the election rules on the eve of an election."). This is because parties must show they exercised reasonable diligence, especially in the context of elections. *Benisek*, 138 S. Ct. at 1944.

Plaintiffs here are not entitled to the preliminary injunction they seek because they have not shown they have standing to pursue these claims. And they do not appear to challenge specific provisions in Georgia's Election Code or administrative regulations. Injunctive relief is also not in the interest of the public at this stage of the election process and the burden on County Defendants from Plaintiffs' proposed relief is significant. To be sure, this unnecessary burden does not just fall on the County Defendants, but the voters as well. Forcing voters into an unfamiliar election process on the eve of a presidential general election at the behest of Plaintiffs is courting disaster and will do more harm than good to their purported goal of a robust franchise.

I. Plaintiffs do not show a likelihood of success on the merits.

A. Plaintiffs' claims are not properly before this Court.

As explained in County Defendants' Motion to Dismiss, which is incorporated by reference, [Doc. 105-1], Plaintiffs have not sufficiently alleged standing, have sued the wrong parties, and their claims are barred by the political-question doctrine. County Defendants will not repeat those arguments here.

B. Plaintiffs' proposed remedies are barred by the Eleventh Amendment.

Plaintiffs request only vague relief that is already covered by state law and regulations. Specifically, Plaintiffs ask for an order requiring "sufficient" ballots, paper poll pads, and drop boxes; "sufficient" poll workers; "adequate[]" training; "sufficient" technicians; and "adequate[]" testing of equipment. [Doc. 92-2, ¶¶ b, d, e, f, g].

Yet existing regulations already address these issues, including the amount and allocation of emergency ballots, Ga. Comp. R. & Regs. r. 183-1-12-.01 and -.11(c), (d); the required use of paper pollbook backups, *id*. at -.19; pre-election testing of equipment, *id*. at -.08; delivery of equipment for election day, *id*. at -09; and poll worker training and requirements, O.C.G.A. §§ 21-2-70(6)–(9), -405. As a result, for this Court to order relief about any of the "sufficient" and "adequate" categories of relief, this Court would have to conclude that County Defendants are violating state law.

The Eleventh Amendment generally bars claims against the State Defendants in their official capacities. *See Kentucky v. Graham*, 473 U.S. 159, 169 (1985). While *Ex Parte Young*, 209 U.S. 123 (1908), provides an exception to Eleventh-Amendment immunity, it does so only for prospective injunctive relief grounded in a violation of *federal* law. *See Pennhurst State Sch. v.*

Halderman, 465 U.S. 89, 105–106 (1984). This is because the *Ex Parte Young* exception "'rests on the need to promote the vindication of federal rights,' but in a case alleging that a state official has violated state law, this federal interest 'disappears.'" *Alabama v. PCI Gaming Auth.*, 801 F.3d 1278, 1290 (11th Cir. 2015) (citations omitted).

While *Brown v. Ga. Dep't of Revenue*, 881 F.2d 1018, 1023-24 (11th Cir. 1989), allowed relief for a violation of state law grounded in federal constitutional rights, Plaintiffs' proposed relief is exclusively grounded in interpreting state statutes and state regulations. More specifically, Plaintiffs baldy allege that County Defendants do not currently comply with State Election Board regulations on poll worker training, emergency ballots, paper pollbook backups, testing of equipment, and delivery of election equipment. When the "claims necessarily rely on a determination that a state official has not complied with state law, [then] a determination . . . is barred by sovereign immunity." *Fair Fight Action v. Raffensperger*, Case No. 1:18-cv-05391-SCJ (Doc. 188), slip op. at 15 (December 27, 2019) (denying motion for preliminary injunction). For Plaintiffs to obtain the relief they seek, this Court must determine that a *state* official has violated *state* law. *Alabama*, 801 F.3d at 1290.

This Court should decline Plaintiffs' invitation to adjudicate these state-law claims. Or, at the very least, the Court should certify the questions to the Georgia Supreme Court as questions of state law. *See Gonzales v. Governor of Ga.*, Appeal No. 20-12649 (11th Cir. Aug. 11, 2020).

II. Plaintiffs do not establish irreparable harm.

Plaintiffs make the conclusory claim that their constitutional rights have been violated and, thus, that harm is "irreparable." [Doc. 92-1, p. 29]. But Plaintiffs fail to establish such a violation, and they do not acknowledge the reality that not every perceived injury related to voting threatens the right to vote. *See, e.g.*, *McDonald v. Bd. of Election Comm'rs*, 394 U.S. 802, 807, 89 S. Ct. 1404, 1408 (1969) (threat to right to absentee ballot, not right to vote).

Further, "[a]lthough the right to vote is fundamental, '[i]t does not follow, however, that the right to vote in any manner . . . [is] absolute." *Gwinnett Cty. NAACP v. Gwinnett Cty. Bd. of Registrations & Elections*, 2020 U.S. Dist. LEXIS 36702 *14–15 (March 3, 2020) quoting *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). While Plaintiffs request a litany of desired changes to election practices in Georgia and certain hand-selected counties, they do not show an actual and certainly impending disenfranchisement caused by the challenged practices, for the simple reason that they cannot.

Georgia's election system already provides various ways in which voters can avoid the uncertainty of the time necessary to cast a ballot on Election Day. These include early voting and absentee voting by mail. Further, because of the COVID-19 pandemic, the State Election Board extended the emergency rules allowing the continuing use of drop boxes for absentee ballots for the general election, effectively obviating the potential injury forming the basis of Plaintiffs' Complaint because there is no need for them to stand in a line of any sort. Ultimately, Plaintiffs present only a chain of seemingly unrelated possibilities—*if* the virus continues to Election Day and *if* a large number of people decline to vote early or vote by mail and *if* machines malfunction and *if* there are not enough machines and *if* poll workers refuse to show up because of the pandemic and *if* those poll workers that do show up are poorly trained, then they *might* be injured by a yet-to-be-determined long line. But a daisy chain arising from "life's vagaries," *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 197 (2008), is not irreparable harm. And Plaintiffs assume that long lines, standing alone, are a practice of voting when, in other contexts, courts have determined that long lines, standing alone, are not a practice or procedure of voting for purposes of Section 2 of the Voting Rights Act. *Lee v. Va. State Bd. of Elections*, 155 F. Supp. 3d 572, 583 (E.D. Va. 2015) *partially modified after reconsideration on other grounds by Lee v. Va. State Bd. of Elections*, Civil

Action No. 3:15CV357-HEH, 2016 U.S. Dist. LEXIS 185846, at *5 (E.D. Va. Feb. 2, 2016).

In the context of a preliminary injunction, "the asserted irreparable injury 'must be neither remote nor speculative, but actual and imminent.'" *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (quoting *NE Fla. Chapter of Ass'n of Gen. Contractors v. Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990)). But here, Plaintiffs purported injuries are entirely speculative and remote. They cannot show any irreparable harm if the Court declines to enter injunctive relief at this stage.

III. The balance of equities does not favor Plaintiffs.

Plaintiffs wave away the equities by simply claiming that County Defendants face mere administrative inconveniences or no burden at all. [Doc. 92-1, pp. 27-28, 30]. This betrays a dangerous lack of understanding of election administration.

This is already a high-degree-of-difficulty election. The November 2020 election is a presidential election, with expected record turnout, on newer voting equipment, with a group of new poll workers. Making changes at the last minute is a recipe for disaster for election administration. Gwinnett Dec. ¶ 21-22; Fulton Dec. ¶ 11. After the November 2018 elections, Georgia significantly updated its entire administrative structure, including the rollout

of a new paper-ballot voting system using paper ballots and new check-in machines. *See* 2019 Ga. Laws Act 24, H.B. 316 (2019). Shockingly, Plaintiffs present almost no evidence on the feasibility of their remedy, especially when early voting will begin less than a month from today.

As a practical and policy matter, the issues presented by Plaintiffs may be something for the General Assembly to consider, but this Court cannot "erase a duly enacted law from the statute books." *Jacobson v. Fla. Sec'y of State*, No. 19-14552, 2020 U.S. App. LEXIS 28078, at *41 (11th Cir. Sep. 3, 2020) (quoting Jonathan F. Mitchell, *The Writ-of-Erasure Fallacy*, 104 VA. L. REV. 933, 936 (2018)). This Court can stay the use of particular statutes, but cannot rewrite the rest of Georgia's Election Code to bring about the policy changes Plaintiffs seek. *Mitchell*, supra at 936; *see also Ga. Muslim Voter Project v. Kemp*, 918 F.3d 1262, 1286 (11th Cir. 2019) (Tjoflat, J. dissenting) (criticizing rewrite of Georgia Election Code in injunction).

Plaintiffs' failure to join all 159 counties in Georgia, leads to another massive problem with the equities, because this Court may "exercise that power only when the officials who enforce the challenged statute are properly made parties to a suit." *Jacobson*, 2020 U.S. App. LEXIS 28078, at *42. Election systems in the United States must avoid "arbitrary and disparate treatment to voters." *Bush v. Gore*, 531 U.S. 98, 107 (2000). If this Court grants

all the relief Plaintiffs seek, their remedy will ensure that voters in nine counties will have their equipment allocation and wait times treated one way, while voters in 150 other counties will have their votes treated according to existing law. Quite simply, the equities do not favor making the kinds of changes Plaintiffs propose.

IV. The public interest does not favor Plaintiffs.

Despite the importance of serving the public interest, particularly in the election context, Plaintiffs devote exactly one paragraph to this prong in their brief. [Doc. 92-1, p. 31]. Plaintiffs' proposed injunction is not in the public interest because of their lack of diligence and because the granting of such injunction and the confusion that will follow would likely harm the voting rights of the public, create voter frustration, and even disenfranchisement.

Litigation involving elections is unique because of the interest in the orderly administration and integrity of the election process. *Purcell*, 549 U.S. at 4. The risks of voter confusion and conflicting orders counsel against changing election rules, especially when there is little time to resolve factual disputes. *Id*. at 5-6. To show they are entitled to a preliminary injunction, Plaintiffs must show they exercised reasonable diligence—something they cannot do. *Benisek*, 138 S. Ct. at 1944.

Even assuming everything Plaintiffs claim in their Motion is true, the practices Plaintiffs challenge are not new, as Plaintiffs readily admit throughout their Motion. Yet Plaintiffs inexplicably delayed in bringing this Complaint that now proceeds on an emergency basis—without the benefit of the full adversarial process designed by the Federal Rules of Civil Procedure—far too close to the election they seek to change. And granting Plaintiffs' Motion would throw the 2020 election into serious disarray. Gwinnett Dec. ¶ 22; Fulton Dec. ¶ 12. Such an obvious outcome hardly shows Plaintiffs exercised reasonable diligence in this case. *Reynolds*, 377 U.S. at 585; *Benisek*, 138 S. Ct. at 1944.

As the past few months have shown, changing election practices can lead to confusion by voters, poll workers, and others involved in the process. The potential for voter confusion by again changing still more practices and procedures is significant and counsels against granting a preliminary injunction. *Benisek*, 138 S. Ct. at 1944-45.

CONCLUSION

Plaintiffs' Motion is a policy proposal masquerading as a federal lawsuit. Election officials in Georgia are implementing state law in the administration of elections and Plaintiffs' ideas—whether they have merit—may be appropriate to present to the General Assembly or the State Election Board.

But this Court should not second-guess the policy decisions of the election officials who are running an actual election right now. This Court should deny Plaintiffs' Motion and allow the 2020 election to proceed with rules already in place and clear for all involved.

Respectfully submitted this 15th day of September, 2020.

[Signature blocks on following pages]

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing COUNTY DEFENDANTS' CONSOLIDATED BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
Bryan P. Tyson