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

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| FAIR FIGHT ACTION, *et al.*,<br><br>Plaintiffs,<br><br>vs.<br><br>BRAD RAFFENSPERGER, in his official capacity as the Secretary of State of Georgia; *et al.*,<br><br>Defendants. | Civil Action No.: 1:18-cv-05391-SCJ |

**STATE DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE THE EXPERT REBUTTAL TESTIMONY OF SEAN TREND**E

## INTRODUCTION

Defendants' expert Sean Trende analyzed the only data presented by Plaintiffs about the length of time voters waited in line in Georgia, finding that there was insufficient evidence to conclude that "an increased African-American share of registered voters was associated with greater wait times." Doc. No. [195], ¶ 43. Finding themselves bereft of any evidence of widespread "voter suppression" as a result of long lines, Plaintiffs resort to a blunderbuss assault on Mr. Trende's qualifications, methodology, and the relevance of his testimony.

The problem with such attacks is that they are more noteworthy for the sound and fury than for their ability to hit the target. Plaintiffs attack Mr. Trende for using one of the most widely used tests in all of statistics, which certainly does not run afoul of Daubert. Plaintiffs attack Mr. Trende for not (yet) having earned a doctoral degree, but the caselaw is clear that this is not a prerequisite for testifying, and Mr. Trende's academic credentials and practical experience are more than sufficient to allow him to testify in this case. Mr. Trende is not a tenured professor, but he teaches college courses in his areas of proffered expertise. Most shockingly, Plaintiffs attack Mr. Trende's long career as an elections analyst for a media company based only on unfounded attacks on the company itself.

As this Court is well aware, the standards Plaintiffs would impose on Mr. Trende are not those applied by the courts under Daubert or its progeny. Mr. Trende is well-qualified, his expert methods are generally accepted in his field, and his analysis is highly relevant to the case at bar both in a general sense and for the purpose of rebutting the testimony of Dr. Graves. And it is under this standard that the Court must weigh Mr. Trende's analysis for admissibility, not the Plaintiffs' contrived and self-serving test of academic and political purity. At best, their attacks go to the weight to be afforded Mr. Trende's testimony, and not to its admissibility. Especially now that

Plaintiffs have waived their jury demand, Mr. Trende's testimony will assist this Court as the finder of fact and should not be excluded.

## RESPONSE TO FACTUAL BACKGROUND

Plaintiffs open their attack on Mr. Trende with an extended regurgitation of the claims in their Amended Complaint about the alleged length of lines in African-American areas, ignoring the fact that Dr. Graves' report is the sole evidence that draws a racial connection to line length. While those types of generalized claims about lines may have been appropriate for earlier stages of this case, as Defendants have pointed out in their dispositive motions, Plaintiffs' claims that long lines have a disparate impact on African-Americans in Georgia is not supported by any evidence currently before this Court. Doc. No. [450-1], pp. 17-19, 34, 48-49.[1]

While Plaintiffs focus primarily on the BPC/MIT Report, they also admit that only a limited number of precincts from a single county out of 159 counties in Georgia submitted data for that report. Doc. No. [443-1], p. 9 n.1. Plaintiffs also admit that Dr. Graves' initial report (to which Mr. Trende responded) "did not seek to address whether the Fulton County subset of the larger national dataset could, by itself, demonstrate a statistically significant

[1] For ease of reference, page-number citations in this brief are to the blue ECF numbering at the top of each page.

relationship between the percentage of Black voters and the wait time at a polling site." Doc. No. [443-1], p. 10. Perhaps most significantly, Plaintiffs agree with one of the major reasons Defendants sought to exclude Dr. Graves' report—that it found no "statistically significant relationship between wait times and the share of Black registered voters in any given precinct," because "Dr. Graves never asserted that he found any such relationship." Doc. No. [443-1], p. 10; see also Doc. No. [400], pp. 8-12 (seeking to exclude Dr. Graves' testimony based on relevance and methodology because of the lack of a statistically significant relationship and the small sample size of precincts in Fulton County).

## ARGUMENT AND CITATION TO AUTHORITY

Plaintiffs claim Mr. Trende fails every prong of the Daubert analysis on expert-opinion-testimony admissibility. This Court is familiar with the three-part test:

> (1) [T]he expert is qualified to testify competently regarding the matters he intends to address; (2) the methodology by which the expert reaches his conclusion is sufficiently reliable as determined by the sort of inquiry mandated in Daubert; and (3) the testimony assists the trier of fact, through the application of scientific, technical, or specialized expertise, to understand the evidence or to determine a fact in issue.

Allison v. McGhan Med. Corp., 184 F.3d 1300, 1309 (11th Cir. 1999). More specifically, Federal Rule of Evidence 702 permits a "witness who is qualified

as an expert by knowledge, skill, experience, training, or education" to give an opinion or otherwise testify if "the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue," "the testimony is based on sufficient facts or data . . . [and] is the product of reliable principles and methods," and "the expert has reliably applied the principles and methods to the facts of the case." Fed R. Evid. 702 (emphasis added). In short, expert qualifications center on the merit of the proffered individual and the methods used, not any formulaic requirement of a particular degree or background.

## I. Mr. Trende is qualified to present rebuttal expert testimony and statistical analysis on wait times.

"Experts may be qualified by scientific training, education, or experience in the relevant field; they need not be formally educated to qualify as experts." United States v. Williams, 865 F.3d 1328, 1338 (11th Cir. 2017), citing United States v. Frazier, 387 F.3d 1244, 1260 (11th Cir. 2004).

Plaintiffs open their attack on Mr. Trende's formal qualifications—which are robust—by noting "he has not completed his Ph. D. and is not a professor." Doc. No. [443-1], p. 12. Erroneously referring to Mr. Trende as nothing more than a "student," Plaintiffs fail to mention his dual Master's degrees in Political Science and, importantly for purposes of the instant

motion, Applied Statistics. Doc. No. [195-1], p. 2. Plaintiffs also minimize the remainder of his CV by breezily asserting that he has "authored portions of a few political books, such as a chapter of the book, 'Trumped.'"[2] Doc. No. [443-1], p. 13. In fact, Mr. Trende is not even a student anymore. He is a doctoral candidate, which means that he has completed all his coursework and passed comprehensive examinations in the fields of both statistical methods and American Politics. Doc. No. [195] at ¶ 10.

Although Plaintiffs provide a footnote conceding that a doctorate and professorship are not required to qualify as an expert, this half-hearted admission belies the substance of their argument against Mr. Trende, which they make plain in the corresponding sentence:

> Simply put, Mr. Trende is an aspiring academic who has never designed a research question suitable for peer review and academic publication and has no experience reviewing the research design of others and assessing their methodology. He may well achieve that status and experience, but he is not there yet.

[2] Plaintiffs omit Mr. Trende's authorship of his own book, The Lost Majority, his co-authorship of the seminal Almanac of American Politics 2014, and his contributions to other books such as Barack Obama and the New America: The 2012 Election and the Changing Face of Politics, and The Blue Wave. They also neglect to mention that these latter books, including Trumped, are collections edited by Dr. Larry Sabato, a leading scholar of elections at the University of Virginia. Given the underlying political nature of this case, that is sadly unsurprising. Doc. No. [195-1], p. 2.

Id.

Of course, Daubert requires no underlying academic credentials. It does not require an expert to design questions to the liking of Plaintiffs. And it does not require that the proffered expert has been subjected to some kind of peer-review process. Allison, 184 F.3d at 1312 (peer review is only one of four "noninclusive factors" related to the reliability prong).[3] While all these may be useful in determining whether an expert is qualified, none are necessary. To the contrary, "[i]f the expert meets liberal minimum qualifications, then the level of the expert's expertise goes to credibility and weight, not admissibility." Kannankeril v. Terminix Intern., Inc., 128 F.3d 802, 808 (3d Cir. 1997), citing In re Paoli R.R. Yard PCB Litigation, 35 F.3d 717, 741 (3d Cir. 1994). See also Fitzgibbon v. Winnebago Indus., Inc., 2020 U.S. Dist. LEXIS 44500, at *5 (S.D. Fla. Jan. 30, 2020) ("The qualification standard for expert testimony is 'not stringent,' and so long as the expert is minimally qualified, objections to the level of the expert's expertise [go] to credibility and weight, not admissibility."(alteration in original) (citation omitted)).

[3] Beyond this, the "peer review" standard is geared toward assessing the suitability of the theory or technique employed, not necessarily the individual employing it. Daubert, 509 U.S. at 593

Mr. Trende more than meets the qualification prong of Daubert. His Master's Degree in Applied Statistics, standing alone, should be sufficient for admitting his opinion on the exact testimony in his rebuttal expert report—utilizing a generally accepted statistical method and applying it to facts and data that neither Plaintiffs nor Defendants dispute. It is clear that Dr. Graves and Plaintiffs do not like the particular method applied by Mr. Trende, but that has no bearing on whether he is qualified to apply it.

Second, Mr. Trende's experience utilizing statistical analysis is directly related to his proffered rebuttal testimony. He has served as an expert witness on several occasions and, despite Plaintiffs' attempts to distinguish statistical analysis in redistricting cases from statistical analysis in line-length cases, their efforts at doing so are a distinction without a difference. Mr. Trende highlighted this in his deposition, stating "[t]here's a broader approach to statistics that . . . we will say relates to all of American politics and then the subspecialty of elections which is what it falls under." Doc. No. [446-1] at 33:2–6. This is especially true given Dr. Graves has never taught a course on election administration (or American Politics) and has only testified about taking selfies in a polling place and straight-ticket voting in past election cases. Doc. No. [407-1] at 12:16-21, 15-21-17:24. Dr. Graves' resume suggests that he lacks any degree in statistics.

Additionally, Mr. Trende's many years writing at RealClearPolitics[4] as an elections analyst, Doc. No. [446-1] at 43:12–19, his contributions to the statistical analysis of Dr. Larry Sabato at the University of Virginia Center for Politics, Doc. No. [195] at ¶¶ 14, 16, and the classes on media, on elections, and on voter participation and turnout that he has taught at Ohio Wesleyan University and The Ohio State University, all inform his expertise. Id. at ¶ 19.

Mr. Trende undoubtedly meets the "liberal minimum qualifications" of the Federal Rules of Evidence. Plaintiffs are free to attempt to attack the credibility of Mr. Trende on cross-examination, but their concerns regarding his background are best addressed at trial so that this Court may examine the evidence before it in the most comprehensive manner. Mr. Trende is qualified to offer expert testimony under Daubert, and his report should be admitted.

[4] Plaintiffs' extended attack on RealClearPolitics as not a "balanced" news source, Doc. No. [443-1], pp. 15-17, is strange and irrelevant. This continues a pattern of attacks on Mr. Trende—during his deposition, Plaintiffs' counsel attempted unsuccessfully to tie RealClearPolitics and Mr. Trende to a secret Facebook page with offensive content that Plaintiffs' counsel characterized as a "far right, you know, outfit." Doc. No. [446-1] at 49:3-54:1. Even if those attacks had merit (which they do not), nothing in Daubert requires an experts' employer to be fair and balanced; it certainly does not require the employer to meet the expectations of Plaintiffs' counsel on this score.

## II. Mr. Trende's expert rebuttal report fits well within Daubert's reliability standard.

The Daubert reliability inquiry considers "(1) whether the theory or technique can be tested; (2) whether it has been subjected to peer review; (3) whether the technique has a high known or potential rate of error; and (4) whether the theory has attained general acceptance within the scientific community." Allison, 184 F.3d at 1312 citing Daubert, 509 U.S. at 593-94.

Curiously—or perhaps appropriately—Plaintiffs' attempts to bar the admissibility of Mr. Trende's opinion and testimony on the basis of reliability do not mention these factors. Instead, Plaintiffs again concede that Dr. Graves did not find exactly what Mr. Trende said he did not find—a statistically significant relationship between wait times and African-American-majority precincts. Doc. No. [443-1], p. 18.

Plaintiffs then devote the rest of their arguments about reliability to explaining why they believe their expert's methods are superior to the statistical methods employed by Mr. Trende. But the Court's gatekeeping role of determining admissibility is not the appropriate stage to engage in this type of analysis. "[A] district court's gatekeeper role under Daubert is 'not intended to supplant the adversary system or the role of the [factfinder].'" Quiet Tech. DC-8, Inc. v. Hurel-Dubois UK Ltd., 326 F.3d 1333, 1341 (11th

Cir. 2003), quoting Maiz v. Virani, 253 F.3d 641, 666 (11th Cir. 2001). It is at trial through direct and cross-examination where this battle takes place, because disputes as to any alleged "faults in [an expert's] use of [a particular] methodology, or lack of textual authority for his opinion, go to the weight, not the admissibility, of his testimony." Kennedy v. Collagen Corp., 161 F. 3d 1226, 1231 (9th Cir. 1998) citing McCullock v. H.B. Fuller Co., 61 F. 3d 1038, 1044 (2d Cir. 1995). Moreover, where conflicting expert testimony creates a battle of the experts, "the resolution . . . is properly left to the [factfinder]." In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices & Prods. Liab. Litig. 978 F. Supp. 2d 1053, 1070 (C.D. Cal. 2013).

Generally, so long as the methodology is "rooted in science" and is "empirically testable," the resulting opinions are admissible. Coggon v. Fry's Elecs., Inc. 2019 U.S. Dist. LEXIS 84598, at *7, citing Quiet Tech., 326 F.3d at 1346. No one can reasonably dispute that the t-test or the non-parametric tests that Mr. Trende proposes, in either their "one-tailed" or "two-tailed" form, run afoul of any of the four Daubert reliability factors, because they are well-established tests. There is no suggestion—nor could there be—that t-tests and non-parametric tests are un-testable, have not been subjected to peer review, have a high error rate, or are not generally accepted. Both t-tests and non-parametric tests are, in fact, widely used and widely taught in basic

statistics classes and graduate-level courses. This is true across disciplines, including in Dr. Graves' own field of engineering. See Sheldon M. Ross, Introduction to Probability and Statistics for Engineers and Scientists 311, 325, 521 (5th ed. 2014) (explaining both t-tests and non-parametric tests); Morris H. DeGroot & Mark J. Schervish, Probability & Statistics 577 (4th ed. 2012) (describing t-tests as "unbiased"); Larry Wasserman, All of Statistics 170 (2004).

Nor does anyone seriously dispute that both two-sided and one-sided tests, in general, meet all four Daubert prongs, and that they are also widely taught. See Wasserman at 151, Myles H. Hollander, Douglas A. Wolfe, & Eric Chicken, Nonparametric Statistical Methods 11-12 (3d ed. 2014) (describing both one-sided and two-sided tests).

Instead, Plaintiffs' entire argument centers around a contention that, in this circumstance, a one-tailed test would be better than a two-tailed test. As described above, this is a question for the finder of fact, not the Daubert stage. But in the event the Court wishes to reach this question, the two-tailed test proffered by Mr. Trende is perfectly acceptable.

In reviewing the wait times for voters, there are three possibilities: (1) African-Americans clearly wait longer than non-Hispanic Whites, (2) non-Hispanic Whites clearly wait longer than African Americans, or (3) we lack

sufficient evidence to decide one way or the other. As Mr. Trende explained in his deposition, a two-tailed test considers both whether wait times for white voters is greater than for African-American voters and whether wait times for African-American voters is greater than for white voters. Doc. No. [446-1] at 62:2-21. Using a one-tailed test would only find a significant result if the wait time increased as the share of African-American registered voters increased, disregarding the possibility that wait times of white voters might be longer than those of African American registered voters. Id. at 63:10-17.

While Plaintiffs may not be interested in whether non-Hispanic Whites wait longer than African Americans, Defendants certainly are. This Court should also take an interest in that question, because longer wait times for non-Hispanic-White voters would be fatal to Plaintiffs' case and would be stronger evidence than the ambiguity Dr. Graves' data present.

Moreover, Plaintiffs' claim that the two-tailed test is somehow inappropriate here is simply incorrect. To begin, "[t]he most common tests are two-sided," Wasserman at 151, and "[t]ypically you need a strong reason to move away from using two-tailed tests." Jim Frost, Hypothesis Testing 153 (2020). Dr. Graves relied exclusively on anecdotal evidence to select a one-tailed test, but in the process, only attempted to answer the question of whether there was support for a difference in wait times for African-

Americans by excluding the possibility that white wait times were longer—and his evidence, like Mr. Trende found, suggested there was no such support.[5] Doc. No. [446-1] at 65:13-17.

Ultimately, all of these debates about which methodology was appropriate go to the weight, not the admissibility, of Mr. Trende's testimony. This Court recently recognized as much, summarizing an Eleventh Circuit holding on a similar question as "finding no error in the district court's decision to admit expert testimony where the parties agreed that the mathematical equation the expert used was a valid equation, but the plaintiff asserted it was the wrong equation to use." Coggon, 2019 U.S. Dist. LEXIS 84598, at *6-7, citing Quiet Tech., 326 F.3d at 1344, 1344 n.11, 1345. This Court should not exclude Mr. Trende's testimony because Plaintiffs would use a slightly different statistical method.

Separately, Plaintiffs claim "Mr. Trende's opinion is not a rebuttal of Dr. Graves because Dr. Graves never used the Fulton County data to

[5] To use an example, imagine the only question a researcher is studying is to compare a particular weedkiller's ability to kill weeds to no treatment at all. Either the weedkiller works or it does not and a one-tailed test would be appropriate. In contrast, if you wanted to know whether a particular chemical substance promoted weed growth, killed weeds, or did nothing at all, you would need a two-tailed test—just as if you wanted to know whether there was a possible overall impact on wait times based on race instead of merely a possible impact on African-American voters.

establish a statistically significant relationship." Doc. No. [443-1], p. 18. But Plaintiffs point to no authority for the proposition that rebuttal testimony is limited only to the questions the original expert would have wanted considered. Indeed, it is self-evident that a rebuttal expert may provide useful context, or further elucidate relevant information, to provide the factfinder with an appropriately broad scope of issues and information to consider. "As a rebuttal witness, [the expert] may . . . point out flaws in [another expert's] methodologies or conclusions." In re Toyota Motor Corp., 978 F. Supp. 2d at 1065 (emphasis added). Simply by forcing Dr. Graves to forthrightly concede that he cannot be scientifically certain that the relationship he describes between race and wait times is, in fact, real, this Court can easily find that Mr. Trende's report and testimony is based on reliable methods and will greatly assist the factfinder in this case.

Mr. Trende pointed out a major flaw in Dr. Graves' conclusion by pointing out that Dr. Graves' statistically based conclusions are not, in fact, statistically significant. It is true that Dr. Graves now agrees that he did not say that his findings were "statistically significant." Doc. No. [208], p. 2. But as Mr. Trende explained in his deposition, Dr. Graves made statements that, if left unexplained, may accord his conclusions considerably more persuasive value than they are due. For example, in the same response to Mr. Trende,

Dr. Graves states that his analysis "impl[ies] that we have an 84% confidence level that the true value of the slope coefficient is positive." Id. at p. 4. Mr. Trende expanded upon Dr. Graves' statement to ensure the factfinder does not overvalue Dr. Graves' findings:

> I think you need to understand, when [Dr. Graves] says confidence level, he's not saying we're 84 percent – he's not saying we're 84 percent confident the slope is positive. You can't say that, and I don't think he would say that. He's talking about confidence in the process… I guess there's two prongs… The first prong is that… it may exist but I'm not aware of null hypotheses being rejected with p-value of 0.16 [Dr. Graves' result] is not what would be considered reasonable scientific certainty within the discipline. The second objection is you have to be very – he worded that last sentence in a very specific way, and you cannot take it to mean an 84 percent chance that the slope is positive.

Doc. No. [446-1] at 69:19–71:12 (emphasis added). Put differently, a p-value is a way of saying that the null hypothesis (the opposite of Dr. Graves' suggested theory) were true, then we would see this sort of evidence x percent of the time. One cannot, however flip this around and claim a p-value of .16 suggests a basis for rejecting the null hypothesis. One also cannot then go a step further and say that there is an 84 percent chance that the original hypothesis (a relationship exists between wait times and race) exists. Wasserman at 157. Thus, by further elucidating the statistical significance of Dr. Graves' findings, or lack thereof, Mr. Trende explains another flaw in Dr. Graves' underlying conclusion. Contrary to what Plaintiffs suggest, this is

precisely the analysis appropriate for a rebuttal expert. Here, as in other instances in this case, Plaintiffs again make the mistake of assuming that, because Dr. Graves did not put certain information into his purported expert analysis—or did not directly discuss a particular topic—it is somehow off limits for an opposing expert to consider on rebuttal. If this were the rule, the so-called "battle of the experts" would not be much of a battle: any expert that encountered a weakness in some portion of his opinion could simply avoid criticism by declining to acknowledge it altogether. This is antithetical to the rigor required by scientific analysis, and this Court should not allow an expert to shield the weakness of his opinion through silence.

If Plaintiffs have issue with Mr. Trende's analysis, or the persuasive value of whether Dr. Graves' analysis is statistically significant,[6] a Daubert motion is not the appropriate venue. Because Plaintiffs have failed to establish Mr. Trende lacks any of the factors weighed by a court considering the reliability of expert analysis for the purpose of admissibility, Mr. Trende's testimony is sufficiently reliable under Daubert. It should be admitted.

[6] Plaintiffs concede that, whether a one-tailed or two-tailed test is used, Dr. Graves' analysis is not statistically significant.

## III. Mr. Trende's analysis will certainly assist this Court as the trier of fact.

The final requirement for admissibility of expert testimony under Rule 702 is that it "assist the trier of fact." Frazier, 387 F.3d at 1262. This is also known as the "relevance" inquiry. Traditionally, courts' best exercise their gatekeeping role by guarding against admitting potentially misleading or confusing testimony by deeming it irrelevant. "Exclusion under Rule 403 is appropriate if the probative value of otherwise admissible evidence is substantially outweighed by its potential to confuse or mislead the jury . . . ." Id. at 1263. But because Plaintiffs have now requested that their jury demand be struck, Doc. No. [465], this Court sits both in its traditional role as "gatekeeper" of expert testimony, and in the broader role of factfinder. While the relevance analysis still requires that the expert opinion "logically advances a material aspect of the proposing party's case," Allison, 184 F.3d at 1309-10, quoting Daubert, 43 F.3d at 1315 (on remand), the Court may now be confident that the potential for any expert testimony to confuse the factfinder in this action starts and ends with the Court itself. That being said, Mr. Trende's testimony is highly informative and explains the statistical shortcomings of Dr. Graves' analysis, even if Plaintiffs disagree with or do not like the outcome of that explanation.

The purpose for which Plaintiffs' offer Dr. Graves' limited testimony is that it represents "part of the evidentiary puzzle [offered by Plaintiffs] because it substantiates the reasonable inference that Black voters in Fulton County, like those nationally, face a burden on their right to vote." Doc. No. [443-1], p. 26 (emphasis added). But establishing a burden on the right to vote, as Plaintiffs admit, is indeed a much larger puzzle that requires solid evidence. And a factfinder considering whether certain factors establish that burden is not limited to—and indeed may be inhibited by—considering only those statistical analyses offered by the Plaintiffs. Moreover, it is Plaintiffs that offered Dr. Graves' statistical analysis in an effort to bolster the credibility of the BPC/MIT report. The factfinder would definitely be interested in and aided by understanding whether the assertions Dr. Graves makes about the applicability of a national trend to Georgia's individual circumstances are underpinned by a statistically significant dataset or only by a somewhat-connected supposition. Far from "irrelevant," this goes directly to the heart of Plaintiffs' evidentiary puzzle, and the question of whether they have enough pieces to complete it.

Because Mr. Trende's testimony will assist the factfinder in determining an issue in this case, it should be admitted.

## CONCLUSION

Mr. Trende is a qualified expert under the standards outlined in Daubert and its progeny. Plaintiffs attempt to undermine his credentials by insisting on an expert witness standard that is far beyond the requirements of the Federal Rules of Evidence. Moreover, they improperly attempt to argue the merits of competing expert testimony at a stage when the only relevant issue is not whether a particular expert testimony is correct, but whether it is admissible. Mr. Trende's methodology clearly satisfies the reliability prong of Daubert, and should not be excluded merely because it does not serve Plaintiffs' case as well as the more-cramped methodology applied by their expert. Finally, Mr. Trende is at no risk of unduly influencing or confusing the factfinder, because the Court is occupying that role in this case. Mr. Trende's testimony will assist this Court in determining what degree of statistical certainty is appropriate to confirm whether the BPC/MIT Report is supported by actual evidence in the state of Georgia.

Respectfully submitted this 29th day of July, 2020.

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing STATE DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE THE EXPERT REBUTTAL TESTIMONY OF SEAN TRENDE was prepared double-spaced in 13-point Century Schoolbook pursuant to Local Rule 5.1(C).

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