

Multiple Documents

Part	Description
1	Main Document
2	Brief in Support
3	Statement of Material Facts About Which There Is No Genuine Dispute
4	Exhibit Index
5	Exhibit A
6	Exhibit B
7	Exhibit C
8	Exhibit D
9	Exhibit E
10	Exhibit F
11	Exhibit G
12	Exhibit H
13	Exhibit I
14	Exhibit J
15	Exhibit K
16	Exhibit L
17	Exhibit M

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

STATE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, the State Defendants respectfully request that the Court enter summary judgment in their favor on each of Plaintiffs' First Amendment claims. As demonstrated in the accompanying memorandum of law, Plaintiffs have failed to identify any evidence showing that any of the statutory provisions they challenge unconstitutionally burdens their First Amendment rights. In contrast, the

State Defendants have presented overwhelming evidence showing that each provision furthers a compelling State interest and responds directly to concerns and confusion raised by voters about the activities of various groups, including Plaintiffs themselves. Accordingly, summary judgment should be entered for the State on all counts of Plaintiffs' complaint.

Respectfully submitted this 13th day of December, 2022.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene McGowan
Assistant Attorney General
Georgia Bar No. 697316
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Gene C. Schaerr
Gene C. Schaerr*
Special Assistant Attorney General
Erik Jaffe*
H. Christopher Bartolomucci*
Brian J. Field*
Edward H. Trent*
Joshua J. Prince*
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006

(202) 787-1060
gschaerr@schaerr-jaffe.com
**Admitted pro hac vice*

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com
Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenghish.com
Taylor English Duma LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7249
Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(C).

/s/ Gene C. Schaerr
Gene C. Schaerr

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

**STATE DEFENDANTS' MEMORANDUM OF LAW
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	3
A. Factual background	3
B. Procedural background	8
LEGAL STANDARDS	9
ARGUMENT	9
I. The Pre-Filling Prohibition and the Anti-Duplication Provision Survive Any Level of Scrutiny.....	10
A. The Pre-Filling Prohibition and Anti-Duplication Provision do not restrict Plaintiffs’ core political speech or their expressive conduct, and they are thus subject to, and survive, rational-basis review.	10
B. The Pre-Filling Prohibition and the Anti-Duplication Provision Would Also Survive <i>Anderson-Burdick</i> scrutiny.....	16
II. The Disclaimer Provision Does Not Unconstitutionally Burden or Compel Plaintiffs’ Speech.....	19
A. The Disclaimer Provision Survives <i>Anderson-Burdick</i> scrutiny.....	20
B. The Disclaimer Provision Survives Exacting Scrutiny.	23
III. The Challenged Provisions do not Implicate Plaintiffs’ Freedom of Association.	25
IV. The Challenged Provisions are not Overbroad.....	27
V. The Challenged Provisions are not Vague.....	32
CONCLUSION.....	35

TABLE OF AUTHORITIES

Cases

Am. Party of Tex. v. White,
415 U.S. 767 (1974) 19

Ams. for Prosperity Found. v. Bonta,
141 S. Ct. 2373 (2021) 24

Anderson v. Celebrezze,
460 U.S. 780 (1983) 17

Anderson v. Liberty Lobby, Inc.,
477 U.S. 242 (1986) 9

Ave. CLO Fund, Ltd. v. Bank of Am., N.A.,
723 F.3d 1287 (11th Cir. 2013) 9

Boy Scouts of Am. v. Dale,
530 U.S. 640 (2000) 26

Brnovich v. Democratic Nat’l Comm.,
141 S. Ct. 2321 (2021) 19

Broadrick, v. Oklahoma,
413 U.S. 601 (1973) 28

Burdick v. Takushi,
504 U.S. 428 (1992) 17

Citizens United v. FEC,
558 U.S. 310 (2010) 24

Clark v. Cmty. for Creative Non-Violence,
468 U.S. 288 (1984) 10

Crawford v. Marion Cnty. Election Bd.,
553 U.S. 181 (2008) 17

Daubert v. Merrill Dow Pharms., Inc.,
509 U.S. 579 (1993) 21

Democracy N.C. v. N.C. State Bd. of Elections,
476 F. Supp. 3d 158 (M.D.N.C. 2020) 12

Feldman v. Arizona Secretary of State’s Office,
843 F.3d 366 (9th Cir. 2016) 12

Hershey v. City of Clearwater,
834 F.2d 937 (11th Cir. 1987) 28, 33, 34

Johnson v. Robison,
415 U.S. 361 (1974) 15

Johnson v. United States,
576 U.S. 591 (2015) 32

Lubin v. Panish,
415 U.S. 709 (1974) 24

Mazo v. New Jersey Sec’y of State,
No. 21-2630, 2022 WL 17172673 (3d Cir. Nov. 23, 2022) 15, 17

McCutcheon v. FEC,
572 U.S. 185 (2014) 25

Members of City Council of L.A. v. Taxpayers for Vincent,
466 U.S. 789 (1984) 28, 29, 30

Meyer v. Grant,
486 U.S. 414 (1988) 14

MidAmerica C2L Inc. v. Siemens Energy Inc.,
25 F.4th 1312 (11th Cir. 2022) 9

New Ga. Project v. Raffensperger,
484 F. Supp. 3d 1265 (N.D. Ga. 2020)..... 11

New Ga. Project v. Raffensperger,
976 F.3d 1278 (11th Cir. 2020) 19

New York v. Ferber,
458 U.S. 747 (1982) 28

Richardson v. Tex. Sec’y of State,
978 F.3d 220 (5th Cir. 2020) 17, 19

Roberts v. U.S. Jaycees,
468 U.S. 609 (1984) 25

Rumsfeld v. FAIR,
547 U.S. 47 (2006) 11

Texas v. Johnson,
491 U.S. 397 (1989) 11, 12

<i>United Sav. Ass’n. of Tex. v. Timbers of Inwood Forest Assocs.</i> , 484 U.S. 365 (1988)	33
<i>Virginia v. Hicks</i> , 539 U.S. 113 (2003)	28, 30
<i>Voting for Am., Inc. v. Steen</i> , 732 F.3d 382 (5th Cir. 2013)	12, 14
<i>Williams v. Pryor</i> , 240 F.3d 944 (11th Cir. 2001)	16
Statutes	
O.C.G.A. § 21-2-381	5, 7, 8, 30, 34

INTRODUCTION

Recent elections in Georgia have revealed that third-party organizations like Plaintiffs sent absentee-ballot applications that caused confusion and concern among Georgia voters. For instance, Plaintiffs sent applications that were pre-filled with incorrect information about voters. And Plaintiffs sent multiple applications to the same voters. This caused many recipients of Plaintiffs' mailings to contact the State with concerns about election integrity and the potential for voter fraud. This also required State officials to divert their finite resources away from other election-related responsibilities.

In response, the Georgia General Assembly included three modest regulations governing these activities (the "Challenged Provisions") as part of a larger election law—SB 202. First, complaints and confusion about the receipt of applications with incorrect pre-filled information led to SB 202's prohibition on pre-filled applications ("Pre-Filling Prohibition"). Second, complaints and confusion about multiple absentee-ballot applications led to SB 202's prohibition on sending applications to voters who already applied for such a ballot ("Anti-Duplication Provision"). Third, complaints and confusion about whether unsolicited *applications* were actually State-issued *ballots* led to SB 202's disclaimer requirement—i.e., a statement that the applications are not ballots and are not sent by the State ("Disclaimer Provision").

At each turn, however, the General Assembly ensured that organizations like Plaintiffs may still communicate their messages about absentee voting to Georgia voters. Indeed, SB 202 regulates no other mailings Plaintiffs wish to send to voters encouraging them to vote by absentee ballot. SB 202 thus struck a careful balance between prohibiting conduct that caused significant concern and confusion among voters and allowing Plaintiffs to still communicate their messages to Georgia voters. Indeed, the Court agreed with that fundamental conclusion when it denied Plaintiffs' motion for a preliminary injunction.

Since then, discovery has confirmed that the Challenged Provisions cause Plaintiffs little to no harm. In contrast, the record developed through discovery confirms that the harms to the State and Georgia voters by the actions of Plaintiffs and other groups were significant.

For these reasons, summary judgment should be entered in favor of the State on each of Plaintiffs' claims. For instance, the Pre-Filling Prohibition and the Anti-Duplication Provision do not restrict Plaintiffs' speech and are thus subject only to rational-basis review, which each provision easily satisfies. But even under *Anderson-Burdick* review, these provisions survive because they are reasonable restrictions that impose only minimal burdens on Plaintiffs' activities and are justified by the State's legitimate interests.

The same is true for the Disclaimer Provision, which, although it affects

Plaintiffs' speech, is also subject only to *Anderson-Burdick* review. Here again, Plaintiffs have shown no harm caused by a disclaimer on their application mailings, but the State has shown how this provision is tied to its significant interest in minimizing voter confusion and ensuring efficient elections.

Plaintiffs' freedom-of-association challenges to these provisions are equally doomed by the simple fact that, as this Court already concluded (Order at 27 [Doc. 131]), Plaintiffs typically send their application materials to strangers, and each provision serves compelling State interests.

Finally, Plaintiffs' overbreadth and vagueness challenges fail because Plaintiffs rely exclusively on far-fetched hypotheticals to support their claims. But the record developed through discovery confirms that each of the Challenged Provisions is clear, and Plaintiffs developed no evidence showing otherwise. Accordingly, summary judgment should be entered for the State.

BACKGROUND

A. Factual background

Plaintiffs' absentee-ballot application mailings. For several election cycles, Plaintiffs Voter Participation Center ("VPC") and the Center for Voter Information ("CVI")¹ sent absentee-ballot applications to voters in many

¹ Plaintiff VoteAmerica dismissed its claims. [Doc. 142].

states, including Georgia. Depo. of T. Lopach 42:8–11, 62:4–12 (Ex. A). In each such mailing, Plaintiffs included a cover letter explaining why they believe that absentee voting is important and encouraging the recipient to complete and return the application. *Id.* 63:2–7, 64:13–65:4. Plaintiffs’ cover letter also included instructions for how to complete and return the application. Ex. B.

In more recent election cycles, Plaintiffs began pre-filling those applications with what they believed was the voter’s personal information. Lopach Depo. 112:8–13. But, as Plaintiffs acknowledge, that information was often incorrect. *Id.* 127:20–128:2, 129:14–19. And, as Plaintiffs also acknowledge, they routinely sent *multiple* absentee-ballot applications to the same voters. *Id.* 109:20–110:15, 111:9–12. Those recipients often contacted Plaintiffs to complain about the mailings and to request removal from future mailing lists. PI Hr’g Tr. 84:13–24 (“Day 1 Tr.”) (Ex. C); Lopach Depo. 102:19–103:12, 153:15–154:5.

SB 202 responds to voter concerns. At the same time, Georgia voters complained to the State about the absentee-ballot applications they were receiving from third-party organizations like Plaintiffs. Decl. of R. Germany ¶¶ 13, 23, 41, 49–50 [Doc. 113-2]; Depo. of R. Germany 181:7–12 (Ex. D); Depo. of M. Mashburn 90:11–23, 91:2–13 (Ex. E). In particular, voters complained about: (1) receiving applications that were pre-filled with incorrect

information; (2) receiving duplicate applications; and (3) receiving applications that were not sent by the State. SB 202 addresses each of these complaints.

Pre-Filling Prohibition. As noted, before SB 202, organizations like Plaintiffs increased their use of pre-filled absentee-ballot applications. Germany Decl. ¶¶ 20–21; Mashburn Depo. 88:16–89:15; PI Hr’g Tr. 18:13–20, 19:4–13, 19:25–20:5 (“Day 2 Tr.”) (Ex. F); Lopach Depo. 34:1–10, 153:7–9. And that pre-filled information was often incorrect. For instance, many voters complained that the pre-filled applications listed individuals who no longer (or never) lived at the address. Ex. G. Other voters complained to the State that the applications were pre-filled with incorrect information. *Id.* These errors caused many Georgia voters to contact the Secretary of State’s office with questions and concerns about potential fraud. Germany Decl. ¶ 22; Day 2 Tr. 22:4–14; Mashburn Depo. 84:3–4; Ex. G.

Responding to these concerns, SB 202 prohibits sending absentee-ballot applications that are “prefilled with the elector’s required information.” O.C.G.A. § 21-2-381(a)(1)(C)(ii). But this provision still allows organizations like Plaintiffs to send absentee-ballot applications. They simply may not pre-fill the applications.

Anti-Duplication Provision. Georgia voters also complained about receiving multiple absentee-ballot applications from organizations like

Plaintiffs. Germany Decl. ¶ 39; Day 2 Tr. 19:25–20:5, 22:4–14; Ex. H. Voters were worried that these applications presented an open invitation for voter fraud—a concern exacerbated by voters believing that the *applications* themselves were actually *ballots*. Germany Decl. ¶ 42; Day 2 Tr. 20:3–5.

Moreover, voters who received multiple applications often returned multiple applications. Germany Depo. 51:2–18. And, in some instances, they did so even though they did not intend to vote by absentee ballot. Germany Decl. ¶ 43; Day 2 Tr. 28:12–16, 42:16–22; Germany Depo. 199:13–25. This required election officials to divert their finite resources to processing many unnecessary absentee-ballot applications. Day 2 Tr. 28:16–21. Then, on Election Day, officials were required to process many absentee-ballot cancellations when voters who had submitted absentee-ballot applications arrived to vote in person, leading to longer lines. Day 2 Tr. 29:25–30:4; Germany Depo. 199:13–200:7. For the 2020 general election, for instance, there were 40,694 absentee-ballot applications cancelled by voters when they arrived to vote in person, compared with only 5,472 such cancelled applications during the 2018 general election, and 3,170 cancelled applications during the 2016 general election. Germany Decl. ¶ 31.

Responding to these concerns, SB 202 prohibits distributing duplicate applications once a voter has requested an absentee ballot. O.C.G.A. § 21-2-

381 (a)(3)(A). But this provision does *not* prohibit organizations like Plaintiffs from sending multiple applications *before* a voter requests a ballot. *Id.* And it contains a safe harbor allowing Plaintiffs to avoid liability for sending duplicate applications if they relied upon information made available by the State within five business days before their mailing. *Id.*

Disclaimer Provision. Finally, Georgia voters expressed confusion about who was sending the various absentee-ballot applications. Day 2 Tr. 13:12–15; Mashburn Depo. 90:10–23. In many instances, voters thought they came from the State, and thus they contacted election officials with questions. Mashburn Depo 90:11–23. And, as noted above, these questions included concerns about whether the *applications* were actually *ballots*. *Id.* 84:4–6, 90:10–23, 91:2–13. As one county election supervisor explained, the misimpression that each such application was sent by the State would lead “people [to] feel the need to complete and sign [the] form without really paying attention to what it is for.” Germany Decl. ¶ 49.

To address this problem, SB 202 requires that, when Plaintiffs and similar organizations send absentee-ballot applications, they include a short disclaimer stating that the application is “NOT an official government publication and was NOT provided to you by any governmental entity and this is NOT a ballot.” O.C.G.A. § 21-2-381(a)(1)(C)(ii). Through this short

disclaimer, SB 202 addressed the various concerns expressed by voters about prior practices. The disclaimer explains that the application is not a ballot, and it informs a voter that the application was not sent by the State. As Plaintiffs' own expert confirmed, this disclaimer is "true." Day 1 Tr. 215:23–216:16.

B. Procedural background

Plaintiffs filed their complaint on April 7, 2021. [Doc. 1]. On December 9, 2021, this Court denied Defendants' motion to dismiss. [Doc. 57]. On June 30, 2021, this Court also denied Plaintiffs' motion for a preliminary injunction. [Doc. 131]. In so doing, this Court held that neither the Pre-Filling Prohibition nor the Anti-Duplication Provision implicated the First Amendment and were thus subject only to *Anderson-Burdick* scrutiny, a test they likely passed. *Id.* at 36–40. Likewise, the Court held that, while the Disclaimer Provision compelled speech, the compulsion was minor, and that the Disclaimer Provision was also subject to and likely passed *Anderson-Burdick* scrutiny. *Id.* at 40–43. In the alternative, the Court applied First Amendment scrutiny and found that both the Anti-Duplication Provision and the Pre-Filling Prohibition survived rational-basis review and that the Disclaimer Provision was subject to and likely survived the exacting scrutiny standard that applied to disclaimers in the election context. *Id.* at 44–47.

LEGAL STANDARDS

Summary judgment is appropriate where the record shows that there is no genuine dispute about any material fact and the moving party has shown that it is entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). A factual dispute is “material” only if it “might affect the outcome of the suit under the governing law.” *Id.* at 248. And a dispute is only “genuine” if supported by more than a mere “scintilla of evidence.” *Id.* at 252. Although the Court views the record in the light most favorable to the non-moving party, *MidAmerica C2L Inc. v. Siemens Energy Inc.*, 25 F.4th 1312, 1325 (11th Cir. 2022), the non-moving party cannot rely on speculation or conjecture to meet its burden of production, *Ave. CLO Fund, Ltd. v. Bank of Am., N.A.*, 723 F.3d 1287, 1294 (11th Cir. 2013).

ARGUMENT

Plaintiffs’ First Amendment claims fail because the record shows that each of the Challenged Provisions furthers compelling interests and Plaintiffs have failed to identify evidence showing that their speech or freedom of association is harmed. Additionally, Plaintiffs’ vagueness and overbreadth claims fail because Plaintiffs rely exclusively on unsupported hypothetical concerns, not upon any genuine vagueness or overbreadth.

I. The Pre-Filling Prohibition and the Anti-Duplication Provision Survive Any Level of Scrutiny.

As this Court has already held, neither the Pre-Filling Prohibition nor the Anti-Duplication Provision “implicate[s] Plaintiffs’ First Amendment rights.” [Doc. 131 at 38, 44–45]. Both are therefore subject to rational-basis review. But even under *Anderson-Burdick*, these provisions pass constitutional muster and summary judgment should be entered for the State.

A. The Pre-Filling Prohibition and Anti-Duplication Provision do not restrict Plaintiffs’ core political speech or their expressive conduct, and they are thus subject to, and survive, rational-basis review.

As noted, Plaintiffs have failed to meet their “obligation,” as the Supreme Court requires, to “demonstrate that the First Amendment even applies” to their pre-filled absentee-ballot applications or their duplicate mailings. *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 n.5 (1984). Rather, as this Court correctly recognized, “the Prefilling and Anti-Duplication Provisions do not implicate Plaintiffs’ First Amendment rights.” [Doc. 131 at 38]. And the record developed through discovery confirms that conclusion.

1. As this Court held (*id.* at 17–28), Plaintiffs’ claims that these provisions violate the First Amendment are foreclosed by Supreme Court precedent. Indeed, while the First Amendment protects certain speech and expressive conduct, the Supreme Court has repeatedly explained that the Free

Speech Clause protects only “inherently expressive” conduct. *E.g.*, *Rumsfeld v. FAIR*, 547 U.S. 47, 66 (2006). And such a showing requires more than merely “combining speech and conduct.” *Id.* Otherwise, “a regulated party could always transform conduct into ‘speech’ simply by talking about it.” *Id.* But that is what Plaintiffs try to do here, asking the Court to import the expressive conduct from their cover letters—which SB 202 does not affect—into the activity that SB 202 does affect—namely, their absentee-ballot applications.

To avoid such gaming of the system, the Supreme Court developed a two-part test to determine whether conduct is inherently expressive. First, courts ask whether the plaintiff intended to “convey a particularized message.” *Texas v. Johnson*, 491 U.S. 397, 404 (1989). Second, courts ask whether that message would likely be “understood by those who viewed it.” *Id.* Plaintiffs cannot satisfy this test.

In fact, courts across the country have applied the two-part *Johnson* test and rejected claims that sending or collecting forms is protected expressive conduct. *See New Ga. Project v. Raffensperger*, 484 F. Supp. 3d 1265, 1300 (N.D. Ga. 2020) (collecting cases). In *Feldman v. Arizona Secretary of State’s Office*, for instance, the Ninth Circuit explained that a similar activity—collecting ballots—is not expressive conduct, despite the “ballot collectors’ inten[t] to communicate that voting is important.” 843 F.3d 366, 392 (9th Cir.

2016). Similarly, the Fifth Circuit applied *Johnson* and rejected a challenge to a law that limited who could work with voter-registration forms, holding that “non-expressive conduct does not acquire First Amendment protection whenever it is combined with another activity that involves protected speech.” *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 389, 392 (5th Cir. 2013).

Applying this same standard, this Court previously held (Doc. 131 at 25–26) that the inclusion of a cover letter with an absentee-ballot application does not convert the application *itself* into speech, but that providing the application is instead simply a way to facilitate the machinery of voting—that is, it is conduct. *See Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 225 (M.D.N.C. 2020) (“Delivering absentee ballot requests is not expressive conduct.”). For that reason, the application itself—the only part of Plaintiffs’ mailing that SB 202 regulates—could not be “understood by those who viewed it” to “convey a particularized message.” *Johnson*, 491 U.S. at 404.

2. Nothing in the record developed since the Court issued its preliminary-injunction Order changes that conclusion. Rather, it remains true that Plaintiffs’ sending pre-filled applications is not “expressive conduct subject to First Amendment protections.” [Doc. 131 at 26]. Indeed, as this Court explained, “Plaintiffs’ pro-absentee voting message is not necessarily intrinsic to the act of sending prospective voters an application form” because recipients

could understand the receipt of the application, without more, to “mean a number of things” beyond Plaintiffs’ intended message. *Id.* Rather, it is the *cover letter* that expresses Plaintiffs’ views, which is no doubt why Plaintiffs have never sent absentee-ballot applications without a cover letter. Lopach Depo. 62:4–63:7, 70:4–11.²

Thus, Plaintiffs’ sending absentee-ballot applications—prefilled or not—is entirely separate from their absentee-voting message, which is typically included in their cover letters. While Plaintiffs may wish to “encourage all Georgians ... to participate in elections through absentee voting,” Decl. of T. Lopach ¶ 12 [Doc. 103-3], that message is delivered through the cover letter Plaintiffs send with the ballot application, not by the application itself, *id.* ¶ 17. And that cover letter is unaffected by SB 202.

In fact, as this Court recognized, Plaintiffs may say whatever they wish to Georgia voters “as often as—and in whatever form—that they desire.” [Doc. 131 at 20]. And both the cover letter and the absentee-ballot applications

² If the application itself expressed a message, there would certainly be instances of Plaintiffs’ sending applications alone, considering that doing so would be much less expensive. Lopach Depo. 62:4–63:7, 70:4–11.

at issue here “can exist and be sent without the other.” *Id.* at 21.³ Thus, as this Court correctly held, the sending of multiple or pre-filled applications is not “characteristically intertwined” with otherwise protected speech. *Id.*

Accordingly, the record confirms that SB 202 does not restrict Plaintiffs’ ability to “explain ... how to request and cast an absentee ballot” or to send “messaging that express[es] VPC/CVI’s advocacy for absentee voting and encourages voters to apply to vote absentee.” *Id.* Sending the application is conduct, not speech.⁴

3. Because these provisions do not implicate speech, they are subject only to rational-basis review. *Steen*, 732 F.3d at 392; *Johnson v. Robison*, 415 U.S.

³ Before SB 202, for example, “VPC/CVI sent follow up mail to Georgia voters reminding them to submit mail ballots if they had requested one and had not yet submitted it.” Pls.’ Resps. to RFAs, No. 3 (Ex. I). They may still do so.

⁴ Because the applications are conduct, and not speech, Plaintiffs’ claim (Doc. 103 at 13–15) that the applications are *core political* speech likewise fails. As this Court already recognized, these provisions of SB 202 do not implicate the “type of interactive debate and advocacy that the Supreme Court found constituted core political speech in *Meyer [v. Grant]*, 486 U.S. 414 (1988).” [Doc. 131 at 20]. Rather, *Meyer* involved the “circulation of a petition” that included “both the expression of a desire for political change and a discussion of the merits of the proposed change,” including “an explanation of the nature of the proposal and why its advocates support it.” *Id.* at 17 (quoting *Meyer*, 486 U.S. at 421). Those features are absent from Plaintiffs’ absentee-ballot applications.

361, 375 n.14 (1974).⁵ Under that standard, each provision easily survives scrutiny because they are rationally related to the compelling ends of “avoiding voter confusion and reducing the administrative burden on election officials.” [Doc. 131 at 45].

As the General Assembly confirmed when passing SB 202, these provisions addressed “some outside groups” sending “multiple absentee ballot applications,” often “with incorrectly filled-in voter information,” leading to “significant confusion by electors.” SB 202 § 2(8). Many voters contacted the State to express confusion about why they were receiving incorrect or duplicate applications and to express concern that such applications invited fraud. Day 2 Tr. 19:4–13, 19:25–20:5; Germany Decl. ¶¶ 23, 41; Germany Depo. 181:7–17. State Election Board (“SEB”) Member Matthew Mashburn gave further examples of such confusion, explaining that voters who received multiple applications sometimes considered them to be multiple ballots, or were not sure if they needed to fill out multiple copies of the form. Mashburn Depo. 83:22–84:14; *accord* Depo. of M. Kidd 183:7–184:13 (Ex. J). And, as Mr.

⁵ In fact, the Third Circuit recently recognized as much, holding that, even if a law regulates the mechanics of the electoral process, the *Anderson-Burdick* framework does not apply unless the law “burden[s] a relevant constitutional right.” *Mazo v. New Jersey Sec’y of State*, No. 21-2630, 2022 WL 17172673, at *6 (3d Cir. Nov. 23, 2022).

Mashburn further explained, there was a “giant wave of complaints” from voters who received applications “for people that used to live” at their homes but no longer do, applications that had women’s “maiden name[s],” or applications “for [a] dead relative[.]” Mashburn Depo. 88:16–89:15.

The Pre-Filling Prohibition and the Anti-Duplication Provision thus respond directly to these concerns. For instance, voters who already requested an absentee ballot will no longer receive an application from third-party groups that confuses those voters. Nor will voters face the confusion from receiving an official-looking form pre-filled with incorrect personal information. By addressing such concerns, these provisions of SB 202 easily survive rational-basis review. As the Eleventh Circuit explains: “Only in an *exceptional circumstance* will a statute not be rationally related to a legitimate government interest and be found unconstitutional under rational basis scrutiny.” *Williams v. Pryor*, 240 F.3d 944, 948 (11th Cir. 2001) (emphasis added). This is not such an “exceptional” case, and summary judgment should thus be entered for the State on Plaintiffs’ claim alleging free-speech violations.

B. The Pre-Filling Prohibition and the Anti-Duplication Provision Would Also Survive *Anderson-Burdick* scrutiny.

If the Court were to nonetheless conclude that the Pre-Filling Prohibition and the Anti-Duplication Provision regulate speech, the *Anderson-*

Burdick standard applies, and the provisions still survive. See *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). Under that test, the Supreme Court explains, if a “burden is not severe and imposes only reasonable, nondiscriminatory restrictions” on rights, “the State’s important regulatory interests are generally sufficient to justify the restrictions.” *Mazo v. New Jersey Sec’y of State*, No. 21-2630, 2022 WL 17172673, at *12 (quoting *Burdick*, 504 U.S. at 434). As the Fifth Circuit explains, this test looks at the “reasonable[ness]” of the “voting restriction.” *Richardson v. Tex. Sec’y of State*, 978 F.3d 220, 241 (5th Cir. 2020). And, as this Court explained, slight burdens can be “justified by relevant and legitimate state interests” that are “sufficiently weighty to justify the limitation.” [Doc. 131 at 38] (quoting *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008)). And here, this Court concluded already, “the magnitude of the alleged injury is not severe.” *Id.*

That conclusion was and remains correct. As the Third Circuit recently recognized when upholding an election law that regulated what a candidate could include next to her name on a ballot, there is no “litmus test for measuring the severity of a burden that a state [election] law imposes.” *Mazo*, 2022 WL 17172673, at *12 (quoting *Crawford*, 553 U.S. at 191). Rather, the Third Circuit explained, the severity of the burden is determined by looking at

whether the election law applies “equally to all,” whether it leaves “open ample and adequate alternatives for expression and association,” and whether it imposes a “specific burden” on the plaintiffs or anyone else. *Id.*

As the record now confirms, each of those characteristics is possessed by the Anti-Duplication Provision and the Pre-Filling Prohibition. They apply equally to all third parties, and they allow many alternative forms of communication. For instance, Plaintiffs may send absentee-ballot applications to any voters who have not yet requested a ballot. Lopach Depo. 162:4–19 (explaining that under SB 202, Plaintiffs were able to send applications to voters in the 2022 midterm elections).⁶ And, as noted earlier, Plaintiffs may send as many letters to Georgia voters as they wish.⁷ Day 2 Tr. 45:19–46:8. Thus, nothing learned in discovery can overcome this Court’s prior conclusion that the magnitude of the injury is not severe.

Additionally, unlike the minimal burden on Plaintiffs’ speech, these provisions serve important and compelling State interests of decreasing voter

⁶ And Plaintiffs already have a mechanism for removing voters from their mailing lists. Lopach Depo. 106:3–10, 166:19–167:9.

⁷ Moreover, as this Court recognized, the General Assembly *could* have followed what “some states have done,” and entirely “prohibit[ed] the distribution of application forms by third parties.” [Doc. 131 at 38–39]. But the General Assembly did not do so, allowing Plaintiffs to express their views on absentee voting widely and repeatedly.

confusion, combatting complaints of fraud, and increasing election integrity. *See Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 2321, 2340 (2021) (combatting fraud is a “strong and entirely legitimate” reason for enacting voting laws); *Am. Party of Tex. v. White*, 415 U.S. 767, 782 n.14 (1974) (“preservation of the integrity of the electoral process” is a “compelling” objective); *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020) (legitimate state interest in “conducting an efficient election”). As noted earlier, the record shows that these provisions further each of these interests. Voters were previously confused by incorrectly pre-filled applications and duplicate applications, which caused voters to submit multiple applications and to complain about potential for fraud. Germany Depo. 199:13–21. This resulted in delay and confusion on Election Day. Day 2 Tr. 29:25–30:4.

Thus, under *Anderson-Burdick*, these provisions impose “reasonable voting restrictions” that have only a slight impact on Plaintiffs and that further compelling State interests. *Richardson*, 978 F.3d at 241. Accordingly, both the Pre-Filling Prohibition and the Anti-Duplication Provision are permissible under the *Anderson-Burdick* framework.

II. The Disclaimer Provision Does Not Unconstitutionally Burden or Compel Plaintiffs’ Speech.

As with their other challenges, Plaintiffs fail to show that the Disclaimer

Provision violates the First Amendment by unconstitutionally compelling their speech or burdening their Free Speech rights. As this Court already recognized, “the state’s burden of proof” is “lower in cases involving compelled disclaimers,” where a less rigorous, “exacting” scrutiny generally applies, [Doc. 131 at 30], and lower still in election cases where, if a regulation is “not a direct regulation of speech,” “the *Anderson-Burdick* framework applies,” *id.* at 36. Because the Disclaimer Provision does not burden Plaintiffs’ speech and only requires an accurate disclaimer, this Court should, once more, apply the *Anderson-Burdick* framework, or, at the most, the exacting-scrutiny standard of *Citizens United*. Under either standard, the Disclaimer Provision is lawful.

A. The Disclaimer Provision Survives *Anderson-Burdick* scrutiny.

The Court’s initial conclusion that the *Anderson-Burdick* framework applies to the Disclaimer Provision was correct because the Disclaimer Provision “is not a direct regulation of speech.” [Doc. 131 at 36]. In applying *Anderson-Burdick*, the Court should grant summary judgment to the State because Plaintiffs have not identified any evidence showing that the Disclaimer Provision causes them harm, but the State has identified significant evidence of the harms that the Provision addresses.

First, there is still no evidence that the Disclaimer Provision imposes any

real harm on Plaintiffs. Earlier, Plaintiffs claimed that the Disclaimer Provision “compels them to disseminate false or, at the very least, misleading information.” *Id.* at 40. But that argument is longer available to Plaintiffs, as their expert, Dr. Donald Green, testified that, as to the required disclaimer, “the statement is true.” *Id.* at 42 n.13; Day 1 Tr. 215:23–216:16.⁸

Further, the Disclaimer Provision is nondiscriminatory and leaves open ample other mechanisms for Plaintiffs to communicate their pro-absentee-voting message. As with the Anti-Duplication Provision and the Pre-Filling Prohibition, the Disclaimer Provision allows Plaintiffs to engage with voters however they wish as long as they do not send an application without identifying themselves. Day 2 Tr. 45:19–46:8. And it applies equally to all third-party groups sending unsolicited absentee-ballot applications.

Moreover, despite months of discovery, Plaintiffs have identified no additional evidence of any harm from including an accurate disclaimer in their mailings. Rather, as this Court recognized, the only evidence—beyond Dr.

⁸ The State is separately filing a motion to exclude certain conclusions Dr. Green made with respect to the Challenged Provisions. As the State explains more thoroughly in that motion, Dr. Green’s adverse opinions regarding the Challenged Provisions are not based on any reliable scientific methodology, are themselves unreliable, and would not assist the trier of fact in evaluating the issues in this case as required by Federal Rule of Evidence 702 and *Daubert v. Merrill Dow Pharms., Inc.*, 509 U.S. 579 (1993).

Green’s *ipse dixit*—is a “cursory survey of only five potential Georgia voters” offered by Dr. Green in his report that Dr. Green himself “conceded ... cannot establish what proportion of absentee ballot applications would not be returned as a result of the Disclaimer.” [Doc. 131 at 42]. The Court correctly found that evidence “regarding the Disclaimer’s impact” to be “unpersuasive.” *Id.* at 47.

In fact, discovery has only underscored the shortcomings of this evidence, showing that mailings such as Plaintiffs’ already have minimal impact on the recipient. For instance, Dr. Green testified that: “[C]ertain get-out-the-vote efforts, including direct mail efforts,” have little to no effect. Depo. of D. Green 46:6–47:5 (Ex. K). The most common result with direct mail—even without the disclaimer—is that “recipients will glance at the piece only momentarily on route to the trashcan.” *Id.* 97:15–98:8. Unsurprisingly, then, Dr. Green’s “cursory survey” showed that a voter would likely do just that with Plaintiffs’ mailing—throw it in the trash. Depo. of A. Hamilton 60:17–19 (Ex. L). Yet Plaintiffs have not developed any other evidence that the Disclaimer Provision harms them.

Second, and by contrast, the record is replete with examples of the harms that the Disclaimer Provision is designed to remedy. In the 2020 election, voters regularly complained about receiving multiple ballot applications from third parties. Day 2 Tr. 32:19–33:5; Mashburn Depo. 84:4–6, 91:2–13; Kidd

Depo. 182:10–184:13. Some of those voters, in turn, believed that their initial ballot requests were insufficient after receiving subsequent applications that they incorrectly concluded came from the Secretary of State. Mashburn Depo. 90:10–23. And these voters frequently contacted the State with questions about these mailings that came from third parties. *See* Exs. G, H, M.

The Disclaimer Provision directly responds to those concerns by ensuring that voters know the mailing is not a ballot. Day 2 Tr. 44:2–45:1. Also, the Disclaimer ensures that the recipient knows who sent the application, and where to direct any questions. *Id.* 43:12–19. And, because a third-party absentee-ballot application says it is not being sent by a government entity, voters are no longer left wondering if they must complete it to vote. *Id.*

Thus, the evidence produced to date shows that the benefits of the Disclaimer Provision to the State’s compelling interests far outweigh any possible harms to Plaintiffs. Accordingly, this Court should find that the Disclaimer Provision survives *Anderson-Burdick* scrutiny.

B. The Disclaimer Provision Survives Exacting Scrutiny.

Although this Court was correct at the preliminary-injunction stage to apply *Anderson-Burdick* scrutiny to the Disclaimer Provision, the Provision would survive even exacting scrutiny. As this Court recognized, [Doc. 131 at 46], a disclaimer subject to “exacting scrutiny” survives if there is: (1) a

“substantial relation” between the disclaimer and a “sufficiently important government interest,” *Citizens United v. FEC*, 558 U.S. 310, 366–67 (2010); and (2) narrow tailoring, “even if [the rule] is not the least restrictive means,” *Ams. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2384 (2021).

As discussed above, and as this Court has already concluded, the Disclaimer Provision is substantially related to the State’s interests in “reducing voter confusion and ensuring the effective and efficient administration of its elections.” [Doc. 131 at 46]. And that is an interest of the “highest order.” *Lubin v. Panish*, 415 U.S. 709, 715 (1974). The Disclaimer Provision responds directly to voter confusion about receiving unsolicited applications that appear to be official forms bearing on their right to vote, and it does so by ensuring the voters will not mistake the application for a ballot. This, in turn, leads to less administrative burdens as fewer complaints and concerns are raised with state election officials. Day 2 Tr. 13:12–15 (describing burdens); Mashburn Depo. 134:5–135:7 (explaining drop in complaints following SB 202).

The Disclaimer Provision is also narrowly tailored to that interest. Again, the State could have prohibited third parties from sending applications altogether but opted instead to require a disclaimer on the application to address voter confusion. Since the Court’s preliminary-injunction Order,

Plaintiffs have not developed any evidence showing otherwise. Rather, it remains true that the disclaimer is unlikely to cause voter confusion. [Doc. 131 at 46–47]. And, in any event, the fit need only be reasonable. *McCutcheon v. FEC*, 572 U.S. 185, 218 (2014). Each statement in the disclaimer meets that standard, and the Court should enter summary judgment in the State’s favor on Plaintiffs’ claims challenging the Disclaimer Provision.

III. The Challenged Provisions do not Implicate Plaintiffs’ Freedom of Association.

In addition to claiming that the Challenged Provisions burden their speech, Plaintiffs claim that the provisions burden their freedom of association. Those claims fail any level of scrutiny for substantially the same reasons as Plaintiffs’ speech claims fail.

The Supreme Court has often explained that the First Amendment protects “join[ing] in a common endeavor” or engaging in “collective effort on behalf of shared goals.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 618, 622 (1984). This Court was thus correct when it concluded that “the cornerstone of associational rights is cooperative advocacy.” [Doc. 131 at 27]. Because of its emphasis on “common” or “cooperative” work, the right to associate cannot be invoked to link people who are legally “strangers” to them because they are “not members of [that] particular organization.” *Id.*

Discovery has confirmed the accuracy of the Court's prior conclusion that: "Plaintiffs send application forms to strangers whose information they obtain from the state's voter roll." [Doc. 131 at 28]. Indeed, that was confirmed repeatedly during discovery, when Plaintiffs' representative testified that Plaintiffs receive contact information from data vendors, not from voters. Lopach Depo. 90:18–20.⁹ Moreover, Plaintiffs do not select their recipients based on any preexisting relationship but based instead on demographics. *Id.* 11:15–19, 12:12–16.

This Court was thus correct to conclude that Plaintiffs' programming lacks any "two-way engagement" between Plaintiffs and the voters they target. [Doc. 131 at 28]. Now, as before, "Plaintiffs have not shown that the [Challenged Provisions] restrict their associational rights." *Id.*

Moreover, even if the Challenged Provisions somehow affected Plaintiffs' associational rights, "regulations adopted to serve compelling state interests, unrelated to the suppression of ideas, that cannot be achieved through means significantly less restrictive of associational freedoms," are constitutional. *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 640–41 (2000). Here again, the Challenged

⁹ In fact, the only evidence of voters interacting with Plaintiffs after receiving their absentee-ballot mailings is when voters contact Plaintiffs to request removal from future mailings. *See* Lopach Depo. 101:20–102:12.

Provisions readily meet that test for the reasons described above. Starting with the narrow tailoring requirement, the Challenged Provisions do not affect Plaintiffs’ ability to send communications to Georgia voters. Now, as before, they remain free to “use their communications to build their political community.” [Doc. 103 at 18]. Plaintiffs may also continue communicating with voters through other mailings. They may even send non-duplicative and non-prefilled ballot applications—as long as they include the disclaimer.

There is simply no evidence that Plaintiffs’ ability to associate with voters turns on pre-filling an absentee-ballot application or on sending duplicate applications after a voter has already requested a ballot. That is because, as the Court already concluded, the Challenged Provisions do not “restrict [Plaintiffs’] associational rights.” [Doc. 131 at 28].

Accordingly, under any standard of scrutiny, the Court should enter summary judgment for the State on Plaintiffs’ freedom-of-association claims.

IV. The Challenged Provisions are not Overbroad.

The Court should also enter summary judgment for the State on Plaintiffs’ claim that the Challenged Provisions are unconstitutionally overbroad. As this Court has already recognized, “the bar for ultimate success is high” in overbreadth claims. [Doc. 57 at 16]. Indeed, the Supreme Court has stated that the overbreadth doctrine should be applied “only as a last resort.”

New York v. Ferber, 458 U.S. 747, 769 (1982) (quotation omitted). Here, Supreme Court doctrine requires Plaintiffs to show that the Challenged Provisions “punish[] a ‘substantial’ amount of protected free speech, judged in relation to the statute’s plainly legitimate sweep.” *Virginia v. Hicks*, 539 U.S. 113, 118–19 (2003) (quotation omitted). And, even then, the “mere fact that one can conceive of some impermissible applications of a statute is not sufficient to render it susceptible to an overbreadth challenge.” *Members of City Council of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 800 (1984).

1. At the outset, the Court has already correctly concluded that the Pre-Filing Prohibition and Anti-Duplication Provision restrict conduct, not speech. [Doc. 131 at 25–26, 38]. As the Supreme Court has explained, that makes the overbreadth scrutiny even “less rigid.” *Broadrick, v. Oklahoma*, 413 U.S. 601, 614 (1973). In fact, the Eleventh Circuit has explained that the “concept of overbreadth will usually *only apply* when a case involves constitutionally protected conduct.” *Hershey v. City of Clearwater*, 834 F.2d 937, 940 n.5 (11th Cir. 1987) (emphasis added). That is likely why this Court, at the motion-to-dismiss stage, stated that the question whether to dismiss Plaintiffs’ overbreadth claim was “a close question” *even assuming* that the provisions “impinge on constitutional rights.” [Doc. 57 at 15].

2. The evidence confirms that neither the Pre-filing Prohibition nor the

Anti-Duplication Provision are unconstitutionally overbroad. Looking first at the Pre-Filling Prohibition, it has a plainly legitimate sweep because it serves the State’s compelling interest in preventing voter confusion and the perception of fraud, and it is narrowly tailored to apply only to unsolicited absentee-ballot applications sent by third parties. Day 2 Tr. 18:5–24.

Plaintiffs have not developed any evidence to the contrary. Rather, in their Complaint, Plaintiffs identified only one possible example of overbreadth where a voter provides Plaintiffs with the information to pre-fill the application. [Doc. 1 ¶ 149]. But the State already showed that the Pre-Filling Prohibition does not apply “where the absentee-ballot application is solicited by the voter[s] and the voter[s] themselves provide[] Plaintiffs with the required prefilled information.” [Doc. 1 ¶ 149]; Day 2 Tr. 38:16–39:8. As the Pre-Filling Prohibition does not even reach the one example of overbreadth Plaintiffs identified, this challenge to the Pre-Filling Prohibition fails.¹⁰

For similar reasons, the Anti-Duplication Provision is not substantially overbroad. As the State already demonstrated, the Anti-Duplication Provision has a clearly legitimate sweep because it responds directly to concerns about

¹⁰ Further, even if that one situation did raise constitutional questions, it does not rise to the level of overbreadth required to invalidate a duly enacted statute. *See Members of City Council*, 466 U.S. at 800.

voter confusion and burdens on election administration. And Plaintiffs have not identified the “substantial amount of protected free speech” that this provision allegedly limits. *Hicks*, 539 U.S. at 118–19. Rather, once again, Plaintiffs point to just one hypothetical, where an individual has already requested an absentee ballot and the Anti-Duplication Provision prevents Plaintiffs from sending another application where the individual “made an error on their prior request, had their prior request rejected, or need[ed] a new application for any other reason.” [Doc. 1 ¶ 150]. But that is precisely what the Supreme Court had in mind when it held that the “mere fact that one can conceive of some impermissible applications of a statute is not sufficient to render it susceptible to an overbreadth challenge.” *Members of City Council*, 466 U.S. at 800. Accordingly, this hypothetical falls far short of showing that the Anti-Duplication Provision limits a “substantial amount of protected free speech.”¹¹ *Hicks*, 539 U.S. at 118–19.

3. Finally, as with the other Challenged Provisions, Plaintiffs’ challenge to the Disclaimer Provision [Doc. 1 ¶ 147] fails for several reasons.

First, like the other provisions, the Disclaimer Provision has a legitimate

¹¹ Of course, such a voter could still obtain an application from the Secretary of State or county election officials, O.C.G.A. § 21-2-381(a)(3)(A), or through VoteAmerica’s online absentee-ballot application tool, [Doc. 1 ¶ 19].

sweep, merely requiring private entities sending applications to voters to note that they, not the government, are the senders, that the document is not a ballot, and that it is not an official government publication. Even Plaintiffs' expert recognized that latter point to be true: although the "application provided by third parties is 'identical' to" the application, it is "not the actual government publication." [Doc. 131 at 42 n.13].

Second, Plaintiffs have not identified how the Disclaimer Provision impinges any protected speech or activities. In fact, Plaintiffs have not even relied on the hypothetical harms like they did for their overbreadth challenges to the other provisions. Here, Plaintiffs claim that the Disclaimer Provision somehow stops "individual Georgians [from] helping each other participate in the political process." [Doc. 1 ¶ 148]. But there is no reason that including an accurate disclaimer prevents Plaintiffs from helping "other[s] participate in the political process." *Id.* If anything, the disclaimer *increases* the ways that Plaintiffs can help voters. Voters will now know from the application that it was provided by Plaintiffs, and thus Plaintiffs can field questions from voters.

But even if Plaintiffs resist sending applications with the disclaimer, that would not stop them from communicating their messages about absentee voting. For instance, Plaintiffs could send a link to the absentee-ballot application on the Secretary of State's website, which would not require

Plaintiffs to include the disclaimer in their mailing. Day 2 Tr. 45:24–46:2. Thus, the Disclaimer Provision is not substantially overbroad because it does not substantially burden conduct and has a plainly legitimate sweep.

V. The Challenged Provisions are not Vague.

Finally, the Court should reject Plaintiffs’ claims that the Challenged Provisions are unconstitutionally vague, as each provision provides sufficient notice about what it requires. As the Supreme Court has often explained, a law is void for vagueness only if it “fails to give ordinary people fair notice of the conduct it punishes” or is “so standardless that it invites arbitrary enforcement.” *Johnson v. United States*, 576 U.S. 591, 595 (2015). In making that determination, moreover, courts applying the vagueness doctrine are “not required to exhibit a naiveté from which ordinary citizens are free.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2575 (2019) (cleaned up).

Under these standards, none of the Challenged Provisions is susceptible to a challenge for vagueness. In fact, these challenges fail for the same reasons that Plaintiffs’ overbreadth claims fail. As the Eleventh Circuit has explained, vagueness claims are governed by nearly the same basic standard as overbreadth claims: “[w]hen an ordinance implicates no constitutionally protected conduct, a challenge as to the vagueness of the enactment on its face should succeed only if the enactment is impermissibly vague in *all* its

applications.” *Hershey*, 834 F.2d at 940 n.5 (emphasis added).

1. Beginning with the Pre-Filling Prohibition, Plaintiffs focus first on the statute’s use of the word “send” to suggest unconstitutional vagueness. [Doc. 1 ¶ 157]. But the meaning of the word “send” is clear, especially in context. See *United Sav. Ass’n. of Tex. v. Timbers of Inwood Forest Assocs.*, 484 U.S. 365, 371 (1988). The ordinary and natural meaning of “sent” (or “send”) in this context is “to cause something to go from one place to another,” Cambridge Dictionary (online ed.),¹² and “to convey or cause to be conveyed,” Merriam-Webster Dictionary (online ed.).¹³ To quote Plaintiffs’ own attorney, the Pre-Filling Prohibition “clearly applies to mailing absentee-ballot applications prefilled.” Germany Depo. 171:10–11. And Ryan Germany also made clear that it applies to “e-mail” for similar reasons. *Id.* 171:8–22. The word “send” thus means in practice what it suggests in the statute—providing a voter with an unsolicited, pre-filled absentee-ballot application.

Nor are Plaintiffs correct that there is anything remotely vague about the prohibition on “prefill[ing]” an absentee-ballot application “with the elector’s required information.” [Doc. 1 ¶ 157]. Plaintiffs fail in their attempt

¹² <https://dictionary.cambridge.org/us/dictionary/english/send>.

¹³ <https://www.merriam-webster.com/dictionary/send>.

to manufacture vagueness here by asking about the provision’s application to pre-filling *all* of a voter’s required information or just *some* of the voter’s information. *Id.* As the General Assembly explained, this provision sought to address groups like Plaintiffs sending applications “with incorrectly filled-in voter information.” SB 202 § 2(8). That issue clearly arises with *any* incorrectly pre-filled information.

Indeed, Plaintiffs clearly understand the reach of this provision, as shown by the fact that they complied with it in their 2022 mailings. Lopach Depo. 162:4–11. Accordingly, this claim falls far short of satisfying Plaintiffs’ obligation to show that the Pre-Filling Prohibition is “impermissibly vague in *all* its applications.” *Hershey*, 834 F.2d at 940 n.5 (emphasis added).

2. The same is true of Plaintiffs’ vagueness challenge to the Anti-Duplication Provision. Here, Plaintiffs challenge the inclusion of the word “mail.” [Doc. 1 ¶ 158]. As already discussed, the Anti-Duplication Provision unambiguously allows only appropriate election officials to “mail [absentee-ballot] applications ... to individuals who have ... already requested, received, or voted an absentee ballot in the primary, election, or runoff”—and even then, only if the voters themselves request them. O.C.G.A. § 21-2-381(a)(3)(A).

Plaintiffs have again failed to develop any evidence of how anyone could be unclear about what it means to “mail” an application. As Plaintiffs’ conduct

shows, they correctly understood that it applies to their pre-SB 202 mailings. *Compare* Lopach Depo. 41:17–42:11, 44:5–7 (multiple waves in 2020), *with* Lopach Depo. 133:19–134:4, 150:11–14 (one wave in 2022). Accordingly, here again, Plaintiffs’ claim fails based, in large part, on their own conduct.

3. Finally, the Disclaimer Provision is not unconstitutionally vague. Here, Plaintiffs’ challenge to this provision (like the others) alleges ambiguity in the word “sent.” But the Disclaimer Provision clearly applies to absentee-ballot applications that third parties cause—by mail, e-mail, or otherwise—to be conveyed to Georgia voters. *Germany Depo.* 100:7–10. Accordingly, like Plaintiffs’ other vagueness challenges, the Court should enter summary judgment for the State on Plaintiffs’ claim that the Disclaimer Provision is unconstitutionally vague.

CONCLUSION

The record confirms that Plaintiffs cannot support their claims that any of the Challenged Provisions violates the First Amendment. Indeed, they remain free to communicate their pro-absentee-voting message to Georgia voters. In contrast, the record is replete with examples of the harms that Plaintiffs’ previous mailings caused the State and Georgia voters. Accordingly, under any standard of review, each of the Challenged Provisions survives and the Court should enter summary judgment in the State’s favor.

Respectfully submitted this 13th day of December, 2022.

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene McGowan
Assistant Attorney General
Georgia Bar No. 697316
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Gene C. Schaerr
Gene C. Schaerr*
Special Assistant Attorney General
Erik Jaffe*
H. Christopher Bartolomucci*
Brian J. Field*
Edward H. Trent*
Joshua J. Prince*
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 787-1060
gschaerr@schaerr-jaffe.com
**Admitted pro hac vice*

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272

bjacoutot@taylorenghish.com

Diane Festin LaRoss

Georgia Bar No. 430830

dlaross@taylorenghish.com

Taylor English Duma LLP

1600 Parkwood Circle

Suite 200

Atlanta, Georgia 30339

(678) 336-7249

Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(C).

/s/ Gene C. Schaerr
Gene C. Schaerr

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

**STATE DEFENDANTS' STATEMENT OF MATERIAL FACTS ABOUT
WHICH THERE IS NO GENUINE DISPUTE**

Pursuant to Local Civil Rule 56.1(B)(1), State Defendants submit the following statement of material facts as to which there is no genuine dispute.

I. Absentee Voting in Georgia

1. Georgia maintains an absentee-ballot application on its website, which is accessible by any voter. *See* Ga. Sec’y of State, *Online Voter Registration, Absentee Ballot Request*.¹

2. Georgia also maintains “A Guide for Registered Voters” on its website, which includes a section titled: “An Overview of Georgia’s Absentee Voting Process.” *See* Elections Div., Ga. Sec’y of State, *A Guide for Registered Voters* (Mar. 30, 2022).²

3. This Guide informs voters how to apply for an absentee ballot, how to complete it, and how to submit it. *See id.*

4. Since 2005, Georgia has had no excuse absentee voting, allowing any qualified voter to apply for an absentee ballot. *Germany Depo.* 179:8–9.

5. The Election Division of Georgia’s Secretary of State’s Office also provides voters with a phone number and an e-mail address for use with questions about absentee-ballot applications. *See* <https://sos.ga.gov/how-to-guide/how-guide-voting>.

¹ <https://securemyabsenteeballot.sos.ga.gov/s/>.

² https://sos.ga.gov/sites/default/files/forms/Absentee_Voting_In_Georgia_Rev_3-30-22.pdf.

6. When an individual submits an absentee-ballot application and that application is processed, the individual's information is updated on the State's absentee voter file to reflect that he or she has requested a ballot. Germany Depo. 47:3–8; Day 2 Tr. 73:3–22.

7. During an election cycle, that file is updated daily and is publicly available. Day 2 Tr. 73:3–22.

II. Absentee-Ballot Applications Sent by Third-Party Organizations

8. For several election cycles, third-party organizations like Plaintiffs Voter Participation Center ("VPC") and the Center for Voter Information ("CVI") sent absentee-ballot applications to voters in many states, including Georgia. Lopach Depo. 42:8–11, 62:4–12.

9. In each such mailing, CVI and VPC send an absentee-ballot application and a cover letter that explains why they believe absentee voting is important and encouraging the recipient to complete and return the application. Lopach Depo. 63:2–7, 64:13–65:4.

10. Plaintiffs' cover letters also include instructions for how to complete and return the application. *See* Ex. B.

11. CVI and VPC have never sent absentee-ballot applications without a cover letter. Lopach Depo. 62:4–63:7.

12. Sending absentee-ballot applications without a cover letter would be cheaper. Lopach Depo. 70:4–11.

13. Plaintiffs’ cover letters have always included the name of the organization sending the package, including contact information. Lopach Depo. 70:20–71:4.

14. That contact information includes both a phone number, an email address, and a URL directing recipients to the website of the group that sent the package. Lopach Depo. 71:10–11, 72:2–3, 73:3–5.

15. VPC sends its mailings to the “New American Majority”—its name for young voters, voters of color, and unmarried women. Lopach Depo. 11:15–19.

16. CVI focuses on engaging voters who “would like to see people of color, young people, and unmarried women turning out in elections ... at rates equal to the general population.” Lopach Depo. 12:12–16.

17. CVI and VPC track responses to their mailings with nearly daily updates. Lopach Depo. 164:11–21.

18. In more recent election cycles, CVI and VPC began pre-filling those applications with what they believed was the voter’s personal information. Lopach Depo. 112:8–13.

19. That information was often incorrect. Lopach Depo. 127:20–128:2, 129:14–19.

20. CVI and VPC use voter information obtained from third-party data vendors. Lopach Depo. 90:18–91:16; 126:15–127:12.

21. In a given election cycle, CVI and VPC will obtain voter data from its vendors “at least once, possibly twice.” Lopach Depo. 133:4–8.

22. These vendors have provided CVI and VPC with incorrect voter information, which resulted in CVI and VPC not pre-filling applications for multiple mailings. Lopach Depo. 127:20–128:17.

23. Additionally, CVI and VPC routinely sent multiple absentee-ballot applications to the same voters in Georgia. Lopach Depo. 109:20–110:15, 111:6–12.

24. Although Plaintiff sent multiple waves of absentee-ballot applications, the largest number of voters respond to the first wave. Lopach Depo. 147:12–19.

25. Recipients of a mailing from either Plaintiff group can opt out of future mailings online, by phone, and possibly by email. Lopach Depo. 101:22–102:5.

26. Opting out of communications from one Plaintiff group (CVI or VPC) also opts a person out of the other group's communications. Lopach Depo. 103:14–21.

27. To ensure that voters who have opted out do not receive subsequent mailings, the two Plaintiff groups review later mailings against the various removal lists. Lopach Depo. 106:3–10.

28. The comparison is made both by contractors and by internal data staff and happens at least twice: “one at the beginning of compiling a list and two, at the end of compiling a list prior to a list being sent to the printer.” Lopach Depo. 106:11–107:3.

III. Voters Complain About Third-Party Absentee-Ballot Applications

29. Some recipients contact CVI and/or VPC to complain about the mailings and to request removal from future mailing lists. Day 1 Tr. 84:13–24; Lopach Depo. 102:19–103:12, 153:15–154:5.

30. Recipients also contacted the Georgia Secretary of State's Office with complaints and questions about absentee-ballot applications received from third-party organizations. *See* Exs. G, H, M (examples of complaints); Germany Depo. 17:21–22.

31. Indeed, CVI and VPC acknowledge that their mailings can “create more work for local election officials.” Day 1 Tr. 119:23–25.

32. Complaints are sent to the Secretary of State’s office in various ways, including by phone, by web forms, and by email sent to voterfraudalerts@sos.ga.gov. Day 2 Tr. 8:11–25.

33. Complaints can also be sent to the State Election Board (“SEB”) in a number of ways, including by phone or email. Mashburn Depo. 85:6–18.

34. Complaints are also submitted to county election offices. Day 2 Tr. 9:14–16.

A. Voters express concern about the source of the absentee-ballot applications.

35. One category of complaints the State received from voters was “a lot of confusion” about whether the applications sent by third-party groups came from the State. Mashburn Depo. 90:10–25; Ex. M.

36. This occurred even when a return address of a third-party group was included, as voters were confused about why the Secretary of State was sending them an absentee-ballot application. Mashburn Depo. 90:10–23.

37. Those complaints included questions about who sent the absentee-ballot applications and whether they were forms that needed to be filled out to vote. Day 2 Tr. 13:12–15.

38. This led to “a lot of calls to counties and to the state.” Day 2 Tr. 13:15.

B. Voters express concern about receiving duplicate absentee-ballot applications.

39. A second category of complaints the State received from voters related to voters having received multiple absentee-ballot applications complained that they were receiving multiple ballots. Mashburn Depo. 84:4–6, 91:2–13; Kidd Depo. 183:7–184:13; Ex. H.

40. The SEB received “so many calls” from voters concerned with fraud after receiving what they believed to be multiple ballots. Mashburn Depo. 83:20–84:4.

41. Some voters who received third-party absentee-ballot applications after they had already requested a ballot were concerned that there was a problem with their initial request. Day 2 Tr. 33:9–17; Mashburn Depo. 91:10–12.

42. One voter, Brian Pollard, expressed concern about fraud after he received 5 absentee-ballot applications from multiple third-party groups for the 2021 Senate runoff. Germany Decl. ¶ 41(a).

43. Another voter, Sheree Muniz, expressed concerns about fraud after she received three absentee-ballot applications from a group called America Votes. Germany Decl. ¶ 41(b).

44. A third voter, Matthew Kirby, expressed concern about fraud after he received multiple absentee-ballot applications during the 2021 Senate runoff. Germany Decl. ¶ 41(c).

45. Another voter, Peggy Johnson, expressed concerns about fraud *and* harassment after receiving multiple unsolicited absentee-ballot applications. Germany Decl. ¶ 41(d).

46. Another member of the General Assembly, Representative Barry Fleming, heard from voters who thought that they had received multiple absentee ballots. Tr. of Hr’g on Ga. SB 202 before Special Comm. on Election Integrity at 16:5–13 (Feb. 22, 2021) (attached as Ex. F to Germany Decl. [ECF No. 113-2]).

47. Representative Rick Williams said during the legislative hearings on SB 202 that he received six absentee-ballot applications. Tr. of Hr’g on Ga. SB 202 before Special Comm. on Election Integrity at 52:12–19 (Feb. 4, 2021) (attached as Ex. F to Germany Decl. [ECF No. 113-2]).

48. In many instances, voters were worried that these multiple applications presented an open invitation for voter fraud—a concern

exacerbated by voters believing that the *applications* were *ballots*, each of which could be cast. Germany Decl. ¶ 42; Day 2 Tr. 20:3–5; Kidd Depo. 183:7–184:13.

49. Moreover, voters who received multiple applications often returned multiple applications. Germany Depo. 51:2–22.

50. In some instances, they did so even though they did not intend to vote by absentee ballot. Germany Decl. ¶ 43; Day 2 Tr. 28:12–16, 42:16–22; Germany Depo. 199:21–25.

51. This required elections officials to divert their finite resources to processing many unnecessary absentee-ballot applications. Day 2 Tr. 28:16–21.

52. Then, on Election Day, officials were required to process many ballot cancellations when voters who had submitted absentee-ballot applications showed up to vote in person, leading to longer lines. Day 2 Tr. 28:12–29:7, 29:25–30:4.

53. For the 2020 general election, for instance, there were 40,694 absentee-ballot applications cancelled by voters, compared with only 5,472 such cancelled applications during the 2018 general election, and 3,170 cancelled applications during the 2016 general election. Germany Decl. ¶ 31.

C. Voters express concern about receiving incorrectly pre-filled absentee-ballot applications.

54. A third category of complaints the State received related to inaccuracies in pre-filled applications since before 2020. Germany Depo. 181:7–12; Ex. G.

55. The Secretary of State's Office has “receive[d] ... complaints from voters complaining that these applications left the door open to fraud and suggesting they may or may not continue participating in the electoral process.” Day 2 Tr. 22:4–14.

56. The SEB also received a “giant wave of complaints” from voters who received applications “for people that used to live” at their home but no longer do, applications that had women’s “maiden name[s],” applications “for [a] dead relative,” and even an application for “some cat.” Mashburn Depo. 88:16–89:15.

57. A complaint was submitted in Georgia after a voter received a pre-filled application with the wrong middle name. Day 2 Tr. 18:19–20; Germany Decl. ¶ 23(a).

58. Another complaint was submitted after a voter received a pre-filled application from someone who did not live at her address, causing her to worry about “rampant fraud.” Germany Decl. ¶ 23(b).

59. One voter expressed concerns that someone was voting for him in Georgia after he received absentee-ballot applications from the Democratic Party of Georgia even though he had been a Florida resident for years. Germany Decl. ¶ 23(c).

60. Another voter reported that she received multiple absentee-ballot applications from, among others, VPC that included “false voter information.” Germany Decl. ¶ 23(d).

61. Another voter received a partially pre-filled absentee-ballot application for her husband who had been dead for seven years. Germany Decl. ¶ 23(e).

62. A complaint was submitted after “at least three pre-filled applications for absentee ballots from the Center for Voter Information” were sent to a voter who, because of those applications, was concerned about fraud. Day 2 Tr. 19:4–13.

63. That complaint came from a Georgia State Patrol officer who was worried about fraud after Georgia State Patrol itself received absentee-ballot applications from CVI that included information for someone with no affiliation with the patrol. Germany Decl. ¶ 23(f).

64. The applications received by the Georgia State Patrol included different variations of the same name. Germany Decl. ¶ 23(f).

65. A complaint was submitted after a voter, concerned about potential fraud, “received mail to my address with someone else’s name ... from the Voter Participation Center.” That voter received “six applications in the mail for absentee ballots that [she] did not request.” Day 2 Tr. 19:25–20:5.

66. Representative Barry Fleming explained during the legislative hearings on SB 202 that “a lot of those [pre-filled absentee-ballot applications] were prefilled out incorrectly, and it caused a lot of problems came into the boards of elections.” Tr. of Hr’g on Ga. SB 202 before Special Comm. on Election Integrity at 17:3-8 (Feb. 22, 2021) (attached as Exhibit H to Germany Decl. [ECF No. 113-2]).

67. One witness, Caroline Garcia, agreed with Representative Fleming at the legislative hearings that pre-filled absentee-ballot applications quite often included the wrong information. Tr. of Hr’g on Ga. SB 202 before Special Comm. on Election Integrity at 23:3-9 (Mar. 18, 2021) (attached as Exhibit H to Germany Decl. [ECF No. 113-2]).

68. The State received many other similar complaints. *See* Ex. G.

IV. The Challenged Provisions of SB 202 Respond to These Concerns.

69. The Pre-Filling Prohibition prohibits all but “a relative authorized to request an absentee ballot for such elector or a person signing as assisting

an illiterate or physically disabled elector” from “send[ing] any elector an absentee ballot application that is prefilled with the elector’s required information.” O.C.G.A. § 21-2-381 (a)(1)(C)(ii).

70. The Pre-Filling Prohibition does not apply to web-based tools and applications that allow voters themselves to input their own personalized information into an absentee-ballot application. Ga. Comp. R. & Regs. 183-1-14-.12(2); Germany Depo. 100:1–5.

71. The Pre-Filling Prohibition does not prevent anyone from pre-filling the election date on absentee-ballot applications. Day 2 Tr. 17:15–23.

72. “[E]ncouraging people to fill out forms by themselves” results in “vanishingly low” “error rates.” Day 1 Tr. 209:25–210:3.

73. The Anti-Duplication Provision prohibits anyone other than the “Secretary of State, election superintendents, boards of registrars, and absentee ballot clerks” from sending absentee-ballot applications “to individuals who have ... already requested, received, or voted an absentee ballot in the primary, election, or runoff.” O.C.G.A. § 21-2-381(a)(3)(A).

74. The Anti-Duplication Provision requires anyone but the exempted groups listed above seeking to send an absentee-ballot application to “compare its mail distribution list with the most recent information available about which electors have requested, been issued, or voted an absentee ballot in the

primary, election, or runoff and shall remove the names of such electors from its mail distribution list.” O.C.G.A. § 21-2-381(a)(3)(A).

75. Anyone who follows the requirement of the preceding paragraph is not liable for violating the Anti-Duplication Provision if they “relied upon information made available by the Secretary of State within five business days prior to the date such applications are mailed.” O.C.G.A. § 21-2-381(a)(3)(A).

76. Some printers can update a data file and mail absentee-ballot applications within a five-business-day window. Day 2 Tr. 137:4–6.

77. That is particularly true if the printer is a “seamless entry firm” that both produces the mail, processes the paperwork, and enters it into the mail system without actually “bring[ing] it to the post office to get it checked in and technically mailed.” Day 2 Tr. 135:18–136:6

78. The Anti-Duplication Provision does not apply to web-based tools and applications that allow voters themselves to initiate the process leading to the receipt of an absentee-ballot application because the Secretary of State does not consider third parties responding to voter requests for an application online to be “sending [a] voter an application.” Germany Depo. 100:11–22.

79. Finally, the Disclaimer Provision requires third parties seeking to send absentee-ballot applications to use the form made available by the

Secretary of State and to “clearly and prominently disclose” the following disclaimer:

This is NOT an official government publication and was NOT provided to you by any governmental entity and this is NOT a ballot. It is being distributed by [insert name and address of person, organization, or other entity distributing such document or material].

O.C.G.A. § 21-2-381(a)(1)(C)(ii).

80. The Secretary of State’s office created “an application form that third parties could use that had all the required disclaimer language.” Germany Depo. 133:11–16.

81. The Disclaimer Provision does not apply to web-based tools and applications that otherwise comply with the law. Germany Depo. 100:7–10.

82. Since SB 202 went into effect, CVI and VPC sent absentee-ballot application mailers to Georgians in the most recent election cycle. Lopach Depo. 65:15–18.

83. Those mailers included the same “contents” as earlier mailers: “a carrier envelope, a cover letter, an application, albeit not prefilled, and a return envelope.” Lopach Depo. 162:4–11.

84. The mailing sent to Georgia this year was sent with enough time “to land in Georgia mailboxes on or as close as possible to the first day of

Georgia’s Vote by Mail application period,” “around August 26th of 2022.”

Lopach Depo. 162:14–19.

85. Nothing in SB 202 prevents Plaintiffs from sending multiple letters to Georgia voters encouraging them to vote by absentee ballot. Day 2 Tr. 45:19–46:8.

86. Nothing in SB 202 prevents Plaintiffs from sending multiple blank absentee-ballot applications to Georgia voters who have not yet applied for a ballot. Day 2 Tr. 45:19–46:8.

December 13, 2022

Respectfully submitted,

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene McGowan
Assistant Attorney General
Georgia Bar No. 697316
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Gene C. Schaerr
Gene C. Schaerr*
Special Assistant Attorney General
Erik Jaffe*
H. Christopher Bartolomucci*

Brian J. Field*
Edward H. Trent*
Joshua J. Prince*
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, DC 20006
(202) 787-1060
gschaerr@schaerr-jaffe.com

**Admitted pro hac vice*

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com
Diane Festin LaRoss
Georgia Bar No. 430830
dlaross@taylorenghish.com
Taylor English Duma LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7249
Counsel for State Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(C).

/s/ Gene C. Schaerr
Gene C. Schaerr

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

VOTEAMERICA, *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:21-CV-1390-JPB

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

**INDEX OF EXHIBITS IN SUPPORT OF STATE DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

EXHIBIT	DESCRIPTION
A	Deposition Transcript of Thomas K. Lopach [excerpted]
B	Plaintiffs' Absentee-Ballot Application Mailings
C	Day 1, Transcript of Preliminary Injunction Proceedings, June 9, 2022 [excerpted]
D	Deposition Transcript of C. Ryan Germany [excerpted]
E	Deposition Transcript of T. Matthew Mashburn [excerpted]

F	Day 2, Transcript of Preliminary Injunction Proceedings, June 10, 2022 [excerpted]
G	Complaints Related to Incorrectly Pre-Filled Absentee-Ballot Applications
H	Complaints Related to Duplicate Absentee-Ballot Applications
I	Plaintiffs' Responses & Objections to Defendants' First Set of Interrogatories, Request for Production of Documents and Requests for Admission [excerpted]
J	Deposition Transcript of Milton D. Kidd [excerpted]
K	Deposition Transcript of Donald P. Green [excerpted]
L	Deposition Transcript of Alisa Hamilton [excerpted]
M	Other Voter Complaints Regarding Source of Absentee-Ballot Application Mailings

EXHIBIT A

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

VOTEAMERICA, et al. :
 :
 Plaintiffs :
 : Case Number:
 vs. :
 : 1:21-cv-1390-JPB

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

REPUBLICAN NATIONAL :
 COMMITTEE, et al. :
 Intervenor-Defendants :

RULE 30(b)(6) DEPOSITION OF THOMAS KEITH LOPACH

DATE: September 19, 2019
 TIME: 9:41 a.m. to 2:57 p.m.
 LOCATION: Campaign Legal Center
 1101 14th Street, Northwest
 Suite 400
 Washington, D.C. 20005

REPORTED BY: Felicia A. Newland, CSR

Veritext Legal Solutions
 1250 Eye Street, N.W., Suite 350
 Washington, D.C. 20005

1 for Voter Information.

2 Q So do you engage in any work that is,
3 to use your words, partisan in your role at CVI?

4 A In my role at CVI, I will approve
5 spending on programs to engage voters that fall
6 outside of the definition of primary purpose.
7 Spending that falls under a definition of political
8 spending.

9 Q Okay. Let's take a moment to try to
10 understand, or at least clarify on the record, the
11 differences between the two organizations and what
12 they -- what their missions are.

13 So let's start with the (c)(3), the
14 Voter Participation Center. What is its mission?

15 A The mission of the Voter
16 Participation Center is to register and turn out
17 voters from something we call the, "New American
18 Majority." This is people of color, young people,
19 and unmarried women. Data demonstrates that these
20 three communities register to vote and turn out to
21 vote at rates much lower than their actual numbers
22 in society and much lower than the general

1 population.

2 So the Voter Participation Center
3 mission and work is to increase their registration
4 and turnout in elections.

5 Q Okay. And can you contrast that or
6 compare it to the mission of CVI?

7 A The Center for Voter Information is
8 not focused as much on the New American Majority,
9 but rather is focused on voters who share the
10 values of wanting to see the New American Majority
11 register and turn out in the full strength.

12 In other words, voters who would like
13 to see people of color, young people, and unmarried
14 women turning out in elections equal to the general
15 population at rates -- at rates equal to the
16 general population.

17 Q So turning back to the Voter
18 Participation Center to help us understand the
19 differences between these organizations. At a
20 broad level, what activities does the Voter
21 Participation Center engage in?

22 A The Voter Participation Center

1 A In 2020, I would estimate about 35 to
2 40 percent of the budget went toward Vote by Mail
3 programs, in large part due to the pandemic.

4 Q And I know this is before your time,
5 but do you have any knowledge of what that same
6 percentage would have been in the 2018 election
7 cycle?

8 A In 2018, I would estimate CVI's Vote
9 by Mail program to be closer to 15 to 20 percent of
10 the budget.

11 Q And you indicated for the 2021 and
12 2022 election cycle, the majority of the budget is
13 being spent on or will be spent on the Get Out the
14 Vote Operations Programs?

15 A That is correct.

16 Q Is that the same for 2018?

17 A In 2018, a greater share of the
18 budget for CVI would have been spent on Get Out the
19 Vote than on voter registration or on Vote by Mail.

20 Q All right. So let's now turn to the
21 Voter Participation Center.

22 A Can we take a break at this point?

1 So I'm beginning on the first page.

2 It looks to me as though we are looking at May and
3 June 2020 Vote by Mail activity. Well, strike
4 that.

5 It looks to me as though we are
6 looking at 2020 Vote by Mail activity in a series
7 of waves. Is that correct?

8 A That is correct.

9 Q And do I understand "wave" correctly
10 to simply mean the rounds of Vote by Mail mailings
11 that are being sent out?

12 A Yes.

13 Q And do I understand it correctly that
14 in 2020, CVI and VPC sent five such waves, A
15 through E?

16 A No.

17 Q Okay. Can you clarify then for me?

18 A In 2020, VPC and CVI sent a test
19 program for Vote by Mail in May/June, largely
20 focused on primaries that were subsequent to
21 May/June. After that test program, there were then
22 up to five waves of Vote by Mail, A through E, in

1 different geographies.

2 Q I see.

3 So the first three lines is an
4 initial wave, a test wave -- I think a test run you
5 said, and then A through E are then five additional
6 waves?

7 A Correct.

8 Q Okay. Where was the test run mailed?

9 A The test run was mailed in a handful
10 of states that had primaries subsequent to May or
11 June. Georgia was one of those states.

12 Q I believe the following spreadsheets
13 only include A through E. So that's helpful to
14 understand. I just wanted to make sure that the
15 test run happened in Georgia as well.

16 MS. HULING: But this is not an
17 excerpt, this is a printing of the entire document.

18 MR. FIELD: This is what I believe to
19 be a printing. I believe that I selected "Print
20 All Sheets."

21 MS. HULING: Okay. Fair enough.

22

1 that helps pay organizational overhead.

2 Q Let's turn to the next page. So we
3 are on Exhibit 3, page 2. And the title of this
4 page is, "VPM Wave A Counts and Budget."

5 And it looks here as though Georgia
6 was not included in Wave A. Am I correct?

7 A You are correct.

8 Q Do you know why that was?

9 A My memory is that Georgia may have
10 had a primary election close to the dates of when
11 Wave A would have dropped. And so it could have
12 created confusion by dropping Vote by Mail
13 applications too close to a primary election in
14 which people wouldn't know if they were signing up
15 to Vote by Mail in the primary, in the general or
16 in the runoff.

17 Q And to the best of your knowledge,
18 without going into any of the specific states, do
19 you know whether or not there were any other states
20 that are listed here that also were not part of
21 Wave A?

22 MS. HULING: Objection to the extent

1 now.

2 Q And to the best of your knowledge,
3 let's -- strike that.

4 Looking first at the 2021/2022
5 election cycle, to the best of your knowledge, are
6 the components that you just described for mailings
7 in Georgia the same components that are used in
8 other states?

9 And for clarity, I mean in mailings
10 that Plaintiff sent to other states.

11 MS. HULING: Objection to form.

12 THE WITNESS: Generally, yes.

13 BY MR. FIELD:

14 Q Are there any exceptions that come to
15 mind in states where Plaintiffs send different
16 components in their absentee ballot application
17 mailers?

18 A Not to my knowledge.

19 Q So, to the best of your knowledge,
20 every state in which Plaintiffs send an absentee
21 ballot application, it is sent along with a cover
22 letter, correct?

1 A Correct.

2 Q And to the best of your knowledge, if
3 I understood your previous testimony, neither CVI
4 nor VPC have ever sent absentee ballot applications
5 directly to voters without a cover letter. Is that
6 correct?

7 A To my knowledge that is correct.

8 Q And looking just at Georgia, let's
9 use the 2020 or 2021/2022 election cycle. And let
10 me know if there's a difference between the two.

11 Does every individual who receives an
12 absentee ballot application mailer from CVI or VPC
13 receive the same contents?

14 MS. HULING: Objection to form.

15 THE WITNESS: What do you mean by
16 "contents"?

17 BY MR. FIELD:

18 Q Cover letter -- strike that.
19 Carrier envelope, cover letter,
20 application, and postage paid envelope.

21 A Generally, yes.

22 Q And then is the information that's

1 included on the cover letter or the explanatory
2 letter different based on the recipient?

3 MS. HULING: Objection. Form.

4 THE WITNESS: The cover letter can be
5 different based on recipient.

6 BY MR. FIELD:

7 Q And can you explain that a bit?

8 And I should have said, putting aside
9 the fact that obviously the names will be
10 different, the person to whom it's being sent, what
11 other information might change in a cover letter
12 depending on the recipient?

13 A Cover letters from VPC will have a
14 VPC logo, cover letters from CVI will have a CVI
15 logo, the signer could be different depending on
16 the organization. And then we often test different
17 creative letters to determine which letters more
18 effectively share our message.

19 Q And can you describe some of those
20 differences?

21 A In 2020, to some people we would send
22 a cover letter discussing how Vote by Mail could

1 help ensure health and safety in a pandemic. In
2 2020, other people would receive a letter
3 discussing the convenience of voting by mail, as
4 one example or two examples.

5 Q Let's say in 2021/2022 election
6 cycle, do Plaintiffs also vary the message or test
7 the message, I believe you said, in the letters
8 that are being sent to recipients in Georgia?

9 MS. HULING: Objection. Form.

10 THE WITNESS: Repeat the year.

11 BY MR. FIELD:

12 Q Sure.

13 So in the current election cycle, do
14 individuals -- well, strike that.

15 Have VPC and CVI sent absentee ballot
16 application mailers to Georgians in the 2021/2022
17 election cycle?

18 A Yes.

19 Q In those mailers, did every
20 individual receive the same cover letter putting
21 aside different logo and different signature?

22 A I do not believe so.

1 volume, yet may create a need for increased
2 customer service to answer questions about
3 applications with no explanatory letter.

4 Q And presumably you also spend money
5 designing your cover letters, determining what's
6 going to go into those letters. If that project
7 were not part of this, wouldn't the entire cost of
8 mailing absentee ballot applications be less?

9 MS. HULING: Objection to form.

10 THE WITNESS: The cost would likely
11 be somewhat less.

12 BY MR. FIELD:

13 Q On the cover letters, to the best of
14 your knowledge since the original (c)(3) and (c)(4)
15 were formed, had -- strike that.

16 Have the cover letters that accompany
17 absentee ballot application mailings always
18 included the name of the organization sending them,
19 either CVI or VPC or their predecessors?

20 A I believe that the cover letters have
21 always included the name of the organization
22 sending the Vote by Mail application.

1 Q And does that include contact
2 information?

3 A I believe it has always included
4 language on how to reach the organization.

5 Q Do you know if that has always
6 included a phone number?

7 A I do not know.

8 Q Do you know if you currently provide
9 one?

10 A I believe we currently provide a
11 phone number.

12 Q And that number is what we talked
13 about earlier that goes to the call center. Is
14 that correct?

15 A I believe that is correct.

16 Q And what about an e-mail address, has
17 VPC or CVI always included an e-mail address in
18 their cover letters that accompanied the absentee
19 ballot application mailings?

20 A I do not know if VPC or CVI have
21 always included an e-mail address or not.

22 Q To the best of your knowledge, do

1 they currently?

2 A To the best of my knowledge, they
3 currently do include an e-mail address.

4 Q And to the best of your knowledge, do
5 they currently include a mailing address -- a
6 physical mailing address?

7 A To the best of my knowledge, our vote
8 by mail applications have a return mailing address
9 on the carrier envelope.

10 Q What about on the cover letter
11 itself?

12 A I cannot speak to that.

13 Q What about social media contact
14 information, do you know if you currently provide
15 any information where a recipient of an absentee
16 ballot application mailer can contact VPC or CVI
17 through social media?

18 MS. HULING: Objection. Form.

19 THE WITNESS: I do not know that.

20 BY MR. FIELD:

21 Q Okay. Other than anything I just
22 asked you about, to the best of your knowledge, is

1 there any other contact information provided to a
2 recipient of an absentee ballot application mailer?

3 A I believe that there is a URL on our
4 letters directing recipients to a website for
5 either organization.

6 Q Now, for each of these -- strike
7 that.

8 For the phone number that's provided
9 in the mailings, you indicated it was a call center
10 that staffs those calls. Is that correct?

11 A Correct.

12 Q Is it only the call center that
13 receives calls to the number provided in the cover
14 letter?

15 A I believe it is only the call center
16 that receives calls to the number provided in the
17 letter.

18 Q What about the physical mail that
19 comes in, is there -- do you have staff that are
20 responsible for handling and reviewing physical
21 mail?

22 MS. HULING: Objection to form.

1 Q Okay. And when you say "at the lower
2 end of the vote propensity scale," would this be
3 somebody who has never voted?

4 A Yes.

5 Q Okay.

6 MR. FIELD: This is a good time to
7 take a break.

8 (Recess from 12:09 p.m. to 12:47 p.m.)

9 BY MR. FIELD:

10 Q All right. So, Mr. Lopach, when we
11 broke we were talking about how you determined who
12 you send absentee ballot application materials to
13 in particular states.

14 And I'd like to step back a bit.
15 Let's talk first just about how you obtained the
16 contact information in the first place for who you
17 send information to.

18 So for Georgia, where do you obtain
19 contact information?

20 A Through data vendors.

21 Q Okay. And we'll get into the vendors
22 specifically in a second. But when you do obtain

1 contact information from a vendor, do you obtain
2 statewide contact information?

3 Let me ask it a different way
4 actually. Strike that.

5 When you obtain contact information
6 from a data vendor for individuals in Georgia, do
7 you obtain addresses and contact information for
8 every registered voter in the state?

9 A For VPC or for CVI?

10 Q For both. And to the extent there's
11 a difference, feel free to explain.

12 A No.

13 Q Okay. So neither VPC nor CVI obtain
14 contact information for every registered voter. Is
15 that correct?

16 A That is correct.

17 Q Okay. When you, either CVI or VPC,
18 receive contact information, does either
19 organization itself further whittle down the
20 addresses and contact information to the subset of
21 people that you are going to send to?

22 MS. HULING: Objection. Form.

1 geography is an input for ideology?

2 BY MR. FIELD:

3 Q Correct.

4 A I don't know.

5 Q And when CVI or VPC obtain contact
6 information, is socioeconomic status a parameter in
7 any way that you apply in identifying what data you
8 want?

9 A I don't believe so.

10 Q The same question with respect to
11 income specifically. Do you request data for
12 individuals at particular income levels?

13 A I don't believe so.

14 Q And I believe you testified at the
15 preliminary injunction hearing, and earlier today
16 as well, that recipients of your absentee ballot
17 application mailings are able to opt out of future
18 mailings. Is that correct?

19 A Yes.

20 Q Generally speaking, how does one opt
21 out of future mailings from CVI or VPC?

22 A One could fill out the form indicated

1 with a website URL in our letters. One could call
2 the 800-number, one could call the telephone number
3 provided and share a code found on the letter to
4 unsubscribe. And I think there is an e-mail option
5 as well, but I am not certain.

6 Q And if an individual follows either
7 of those courses that you just mentioned, what are
8 they unsubscribing from in the future?

9 A They are unsubscribing from any
10 programming that we run, be it voter -- Vote by
11 Mail application or Get Out the Vote mail while
12 their registration is at the address provided.

13 Q So with that final caveat in place
14 about the same registered address, somebody who
15 opts out is opting out of all future mailings on
16 any topic from your organizations, correct?

17 A With the caveat I provided relating
18 to their registration and a current address.

19 Q So just to make sure I'm clear on
20 this, an individual who receives an absentee ballot
21 application mailer and says, "I want out," contacts
22 you and opts out. They are opting out of future

1 absentee ballot application mailers, as well as
2 future voter registration mailers and future Get
3 Out the Vote mailers, provided that their address
4 remains the same -- their registration address?

5 MS. HULING: Object to form.

6 THE WITNESS: Generally, yes. The
7 one caveat I would add is that if an individual
8 calls requesting to be removed from a mailing list
9 while another mailing is in process or already
10 printed or already in the mail, there will be an
11 unavoidable overlap that may result in the
12 recipient receiving another piece of mail.

13 BY MR. FIELD:

14 Q And is it also true that opting out
15 by phone or any of these mechanisms to VPC opts out
16 of communications from CVI or are they two separate
17 options?

18 MS. HULING: Objection. Form.

19 THE WITNESS: I believe they would be
20 interchangeable. I believe that opting out of one
21 will opt you out of both.

22

1 when somebody opted out, so let's now go two months
2 ahead of time. So two months later.

3 What is done to ensure that the
4 addresses of another wave of mailings does not
5 include anyone who has opted out?

6 A The subsequent or secondary mailing
7 is reviewed against various removal lists to remove
8 targets that have requested to be removed from
9 subsequent mailings when there is sufficient time
10 for that removal.

11 Q When in the process of getting a
12 mailer together is that comparison done?

13 A I believe that that comparison is
14 done at least two points in the process; one at the
15 beginning of compiling a list and two, at the end
16 of compiling a list prior to a list being sent to
17 the printer.

18 Q And is that a task that somebody
19 employed by VPC or CVI performs or is that
20 performed by a contractor?

21 MS. HULING: Objection to form.

22 THE WITNESS: I believe the removal

1 of potential targets is done at different points,
2 both by the contractor and by our internal data
3 staff depending on the point in the process.

4 BY MR. FIELD:

5 Q After the list is sent to the
6 printer, is there another comparison run against
7 the opt-out list?

8 MS. HULING: Objection. Form.

9 THE WITNESS: I do not believe -- I
10 do not believe after the list is sent to the
11 printer that another comparison is done.

12 BY MR. FIELD:

13 Q Do you know whether CVI or VPC have
14 ever sent materials to a recipient who had
15 previously opted out of receiving further mailings?

16 A I do not know whether VPC or CVI have
17 ever sent additional mail to someone who has opted
18 out.

19 Q And do you know if the log we were
20 discussing earlier, or the opt-out list -- strike
21 that.

22 The opt-out list, do you know if an

1 MS. HULING: Same objection.

2 THE WITNESS: VPC has a list of
3 addresses to which it sent vote by mail
4 applications since 2018.

5 BY MR. FIELD:

6 Q If VPC sent two absentee ballot
7 application mailings to the same individual in the
8 same election cycle, would that name be listed
9 twice?

10 MS. HULING: Objection. Form.

11 THE WITNESS: In that scenario, the
12 address would be listed once.

13 BY MR. FIELD:

14 Q Is there any way in which VPC could
15 identify for the 2020 election cycle, when there
16 were five mailings sent in Georgia, the addresses
17 to which it sent more than one vote -- absentee
18 ballot application mailing?

19 MS. HULING: Objection to form.

20 THE WITNESS: I believe that there is
21 a way in which VPC could identify the vast majority
22 of addresses to which it sent vote by mail

1 applications on multiple occasions in the 2020
2 election cycle.

3 BY MR. FIELD:

4 Q How would it do that?

5 MS. HULING: Objection to the extent
6 that it calls for speculation.

7 THE WITNESS: VPC would review
8 records of Vote by Mail applications sent to
9 particular addresses in the 2020 election cycle.

10 BY MR. FIELD:

11 Q Now, with respect to CVI, would it
12 also be able to identify the addresses to which CVI
13 sent multiple absentee ballot application mailings
14 for the 2020 election cycle?

15 A I believe so.

16 MS. HULING: Objection.

17 BY MR. FIELD:

18 Q Do you have any knowledge of what
19 percentage of addresses in Georgia received more
20 than one absentee ballot application mailing during
21 the 2020 election cycle?

22 A I do not recall what percentage of

1 Georgia targets received more than one absentee
2 ballot mailing in the 2020 election.

3 Q Do you have any general understanding
4 of what that percentage might be?

5 A It would be speculation.

6 Q Okay. And what about for the 2018
7 election cycle, do you have any general knowledge
8 of the percentage of addresses to which more than
9 one absentee ballot application mailing was sent to
10 Georgia?

11 MS. HULING: Objection. Foundation.

12 THE WITNESS: I do not.

13 BY MR. FIELD:

14 Q Let's talk about the prefilled
15 absentee ballot applications. Do you understand
16 what I mean when I use that term?

17 A Yes.

18 Q So we're on the same page, I'm
19 referring to applications where at least a portion
20 of it is filled in before the mailing is sent out.

21 A (Moving head up and down.)

22 Q Do you know when either Plaintiff

1 organization began sending prefilled absentee
2 ballot applications?

3 A Define when.

4 Q By year. And what I mean is we
5 talked earlier about the activity of the Plaintiff
6 organization sending out absentee ballot
7 applications.

8 Has it -- has either organization
9 always tried to send prefilled applications or did
10 that start at a later year?

11 A I believe that in 2006, VPC or CVI,
12 or their predecessor organizations, sent prefilled
13 Vote by Mail applications.

14 Q Beginning in -- strike that.

15 Let's talk about 2020 specifically.
16 Do you know what states CVI or VPC sent prefilled
17 applications to?

18 A The vast majority of states where VPC
19 and CVI ran Vote by Mail programs. They were
20 largely prefilled Vote by Mail applications. I do
21 not recall exactly which states.

22 Q Do you recall which states did not

1 that it provides you from the state?

2 A Can you ask that question another
3 way?

4 Q You indicated that Catalist -- it's
5 your understanding that Catalist obtains the data
6 that it provides you from the state. Is that
7 correct?

8 A Correct.

9 Q Have you done anything to verify that
10 that is, in fact, correct?

11 MS. HULING: Objection. Form.

12 THE WITNESS: Yes.

13 BY MR. FIELD:

14 Q Okay. What have you done?

15 A At one point in 2020, we received
16 feedback from people who had received our mail that
17 the data was somewhat different than the voter
18 file.

19 Q So this would be feedback from
20 individual recipients?

21 A Yes.

22 Q And what type of things did they tell

1 you?

2 A Someone indicated they had a suffix
3 or middle initial that was not theirs, and I don't
4 recall which.

5 Q Is there more than just this one
6 individual that comes to mind?

7 A I believe -- I directly heard from
8 two individuals, I believe.

9 Q And this was an issue that arose when
10 you were obtaining data from Catalist?

11 A Correct.

12 Q Did you then speak with somebody at
13 Catalist about this?

14 A Yes.

15 Q And what did they say was the cause
16 of that?

17 A I don't remember the exact words, but
18 that they had compared the voter file data to
19 commercial data. And that is how this occurred.

20 Q Meaning they changed voter data based
21 on commercial data and ended up providing you with
22 incorrect information?

1 MS. HULING: Objection. Form.

2 THE WITNESS: Correct.

3 BY MR. FIELD:

4 Q Okay. And do you recall which wave
5 this occurred in during the 2020 election cycle?

6 A I believe that I discovered this in
7 Wave 1A -- Wave A.

8 Q But Wave A didn't go to Georgia,
9 correct?

10 A Correct.

11 Q Okay. Did you then respond by not
12 pre-filling applications for a wave or two based on
13 this issue with data?

14 A Yes.

15 Q And how many waves did you not
16 prefill applications?

17 A Two.

18 Q Okay. Correct.

19 So B and C did not include prefilled
20 applications, correct?

21 A Correct.

22 Q And do you know what the response

1 rate was for either of those waves?

2 A I don't recall.

3 MS. HULING: Interject. You said
4 Waves B and C?

5 MR. FIELD: Correct.

6 MS. HULING: I believe it was C and
7 D.

8 MR. FIELD: Okay. So --

9 THE WITNESS: I apologize.

10 MS. HULING: I just want to make sure
11 our record is clear on that.

12 MR. FIELD: I appreciate that.

13 BY MR. FIELD:

14 Q And I will say for this purpose, just
15 let me know if the following is correct: One of
16 the waves in 2020 had this issue with incorrect
17 data. In response to that, you did not prefill
18 applications for two waves. Is that correct?

19 A That is correct --

20 Q Okay.

21 A -- based on my memory.

22 Q Okay. But it's true that you

1 mail based on that data periodically or do you
2 obtain data periodically?

3 MS. HULING: Objection. Form.

4 THE WITNESS: For the 2021 and 2022
5 election cycle, there were elections in New Jersey
6 and Virginia in 2021, in which we would have
7 received voter file data from either TargetSmart or
8 Catalist, at least once, possibly twice.

9 In 2022, there are elections in
10 many more states, and depending on the timing of
11 our Vote by Mail application programs and which
12 vendor has which up-to-date voter file, we will
13 use either vendor possibly twice to get voter
14 file data.

15 BY MR. FIELD:

16 Q Why do you say possibly?

17 Let me step back. Let me ask you one
18 question first.

19 Am I correct that in this cycle,
20 2022, as a general matter, you would be sending out
21 two waves of absentee ballot applications?

22 A Outside of Georgia, we are sending

1 out two waves of absentee ballot applications, and
2 there is more time between waves than there was in
3 2020. And so there is a greater likelihood of time
4 to get an updated voter file.

5 Q And earlier you indicated that you --
6 I can't remember the word you used. You found my
7 word of "asked" to be a bit of an understatement
8 for your conversation with Catalist. "Demanded," I
9 think, was the word that you used.

10 Why is it important to you that the
11 data you use to prefill applications be accurate?

12 MS. HULING: Objection to the
13 characterization of testimony.

14 THE WITNESS: It is important to me
15 and to VPC and CVI to run accurate programming,
16 with accurate data from the voter file.

17 BY MR. FIELD:

18 Q Why is that? Why is that important?

19 A We want our message to voters to be
20 clear and understood without question.

21 Q I think we touched on this earlier,
22 but just to confirm for me, when you receive the

1 waves is the right number?

2 A I believe in 2018 we had tested
3 various combinations of Vote by Mail application
4 and Vote -- Get Out the Vote in person, and that
5 what we found in 2018, indicated two Vote by Mail
6 application mailings was an efficient amount to
7 send.

8 Q So did you find that five waves -- or
9 I guess actually six waves, with the test in 2020,
10 was inefficient?

11 MS. HULING: Objection. Form.

12 THE WITNESS: In 2020, we found the
13 earlier waves were more efficient, which makes
14 sense.

15 BY MR. FIELD:

16 Q Why were the earlier waves more
17 efficient?

18 A Many people will respond to the first
19 wave they receive.

20 Q Now turning back to the PI hearing,
21 you testified that you worked with, what you
22 called, "Various national, state, and local groups

1 Q And do you do that at their request
2 or at your initiative or something else?

3 A I can't say which.

4 Q Has that type of follow-up activity,
5 text messages, door knocks, phone calls, et cetera,
6 to the best of your understanding, happened yet in
7 the 2022 election cycle?

8 A It would be speculation for me to
9 answer that.

10 Q Okay. Let me step back.
11 You have sent a wave of absentee
12 ballot applications in Georgia in the 2022 election
13 cycle, correct?

14 A Correct.

15 Q Have you provided the results of
16 that -- strike that.

17 Have you provided the contact
18 information from that mailing to any third-party
19 entities in the state of Georgia to use when
20 following up with voters?

21 A I do not know.

22 Q Whether you plan to do so this

1 cycles?

2 A I do not have a sense of that.

3 Q Do you have a sense of whether it has
4 gone up or down?

5 MS. HULING: Objection to the extent
6 it calls for speculation.

7 THE WITNESS: The volume of our
8 program increased in 2020 due to the pandemic. It
9 would follow that comments increased.

10 BY MR. FIELD:

11 Q Okay. Now I'm going to just ask you
12 a slightly different question, which is with
13 respect to duplicate applications or a second
14 application to the same individual.

15 Do you know whether or not CVI or VPC
16 have received feedback from recipients of your Vote
17 by Mail application mailings complaining that they
18 have received multiple from you in the same
19 election cycle?

20 MS. HULING: Objection. Form.

21 Go ahead.

22 THE WITNESS: I do not have specific

1 knowledge of such comments.

2 BY MR. FIELD:

3 Q Do you have general knowledge about
4 such comments?

5 A I have heard those concerns broadly.

6 Q Okay. From who?

7 A They have been covered in the press
8 and in legal proceedings.

9 Q Okay. So other than what I'm
10 guessing you're referring to is the ProPublica
11 article and then from the legal proceedings, have
12 you heard from staff who received these contacts or
13 anything like that that there are individuals
14 complaining about receiving multiple applications?

15 A No.

16 Q Okay. And, again, there would be no
17 log of such complaints, correct?

18 A There's a --

19 MS. HULING: Sorry. Objection.

20 Misstates prior testimony.

21 Go ahead.

22 THE WITNESS: There's a log of people

1 have not contacted Arena Digital to inquire whether
2 or not they could handle your printing for you?

3 A That is fair to say.

4 Q Okay. So since S.B. 202 has been
5 enacted, you sent one wave of applications to
6 Georgia. Is it correct that the contents of those
7 applications are the same as what we talked about
8 before, which is a carrier envelope, a cover
9 letter, an application, albeit not prefilled, and a
10 return envelope. Is that correct?

11 A That is correct.

12 Q Do you recall when that mailing was
13 sent?

14 A The mailing was planned to land in
15 Georgia mailboxes on or as close as possible to the
16 first day of Georgia's Vote by Mail application
17 period, which I believe was August 26th of 2022.
18 So around August 26th of 2022 is when that mailing
19 landed in the mailboxes.

20 Q Since then have you received any
21 questions or feedback from recipients asking
22 whether or not the mailing that you sent was

1 Q Correct.

2 A No.

3 Q Okay. But it went out a few weeks
4 ago, correct?

5 A Yes.

6 Q Okay. So why have you not looked
7 yet?

8 A I have been looking largely at
9 national response rates for all of our programs and
10 raising money. It is a bandwidth question.

11 Q Is the response rate for the Georgia
12 mailing something that is tracked?

13 A Yes.

14 Q And how often is it tracked?

15 A Our response --

16 MS. HULING: Objection. Form.

17 I'm sorry. Go ahead.

18 THE WITNESS: Our response tracking
19 database is updated multiple times a week, if not
20 daily, so that number is adjusted whenever we get
21 updated scans from the postal service.

22

1 envelope, we will get a scan that is specific to
2 Jane Doe indicating her Vote by Mail form is on its
3 way back to the election administration office.

4 Q Has it always been that way, where
5 you've always had response tracked down to the
6 person?

7 A In recent years we have been able to
8 do the individual level tracking of barcodes. I
9 cannot speak to whether or not it has always been
10 this way since the founding of our organizations.

11 Q Since you've been tracking that data
12 down to the individual, do you know whether or not
13 Jane Doe, in your hypothetical, in previous years
14 could have still received a subsequent absentee
15 ballot application from you?

16 A It would depend on the timing of
17 subsequent waves and printing and data work and how
18 many waves we were sending.

19 Q Well, is there a mechanism in place
20 that would have removed Jane Doe from future
21 mailings?

22 A In the 2020 cycle, the mechanism for

1 removal was such that respondents to Wave A were
2 most likely not removed from Wave B, but were
3 removed from Wave C. The timing of the five waves
4 in 2020 was so compacted that the data work met
5 about every other mailing.

6 In 2022, in states outside of
7 Georgia, where we were sending two mailings, we
8 constructed the timeline to allow for removal of
9 respondents based on barcode.

10 Q And so the reference to A and C,
11 would that be the same for B and D and it's just
12 basically one cycle off for -- I'm sorry, one wave
13 off for 2020?

14 A I believe so.

15 MR. FIELD: Okay. Why don't we go
16 off the record for a moment.

17 (Discussion had off the record.)

18 (Recess from 2:47 p.m. to 2:57 p.m.)

19 MR. FIELD: We can go back on the
20 record.

21 Mr. Lopach, I have no other
22 questions.

EXHIBIT B



Center For Voter Information

If you've already submitted a request for a ballot by mail for the 2020 General Election, there is no need to submit another request.

Dear Jane,

The Georgia Secretary of State and county election officials encourage voters to use mail ballots in the upcoming elections. I have sent you the enclosed absentee ballot application to make requesting a ballot easy.

Voting by mail is EASY. Just sign, date, and complete the application. Drop it in the mail and you will receive a ballot from your County Board of Registrar's Office which you can complete and return without ever leaving your home. No waiting in line.

Voting by mail keeps you healthy and safe. The best way to protect yourself, your family, and your whole community during this time is to vote by mail.

You can even research the candidates as you vote.

Your privacy is protected. If you use the enclosed envelope with pre-paid postage, your application will be delivered directly to your County Board of Registrar's Office.

By voting by mail from your home, and not waiting until Election Day, you've already done your part. You simply get to look forward to Election Day and hearing about the results.

You can check your ballot status at: mvp.sos.ga.gov

Sincerely,

Lionel Drripps
Center for Voter Information



P.S. Please take a minute to complete the form, sign and date it, and place the form in the pre-addressed, postage-paid envelope. Thank you.

*Your participation score was calculated by The Center for Voter Information using data from publicly available state voter files.

If you wish to be removed from our mailing list, email this code: GA00591397 to unsubscribe@centerforvoterinformation.org

This mailing has been paid for by the Center for Voter Information (CVI). CVI is a non-government, nonprofit, 501(c)(4) organization. (866)-377-7396 www.centerforvoterinformation.org. CVI is not affiliated with state or local election officials. © 2016-2020 The Center for Voter Information. All Rights Reserved.



Brad Raffensperger
SECRETARY OF STATE

APPLICATION FOR OFFICIAL ABSENTEE BALLOT

PLEASE PRINT (Failure to fill out the form completely could delay your application)

Date of Primary, Election, or Runoff: (MM/DD/YYYY) 11/3/2020

Voter name	1	First: Jane Last: Smith Middle: A Suffix: III
Permanent address on file with county election office <small>This is the address at which you are registered OR the mailing address you have given your county elections office. Your ballot will be sent here unless you provide a valid address in Section 3.</small>	2	Street: 123 Anywhere St City: Anytown County: MUSCOGEE Zip: 12345
Temporary address where you want ballot sent <small>If you wish to receive your absentee ballot at an address other than the one in Section 2, fill it in here. This address must be in a different county than the county listed in Section 2, unless you are physically disabled or detained in jail or other detention facility.</small>	3	Street: _____ City: _____ State: _____ Zip: _____ County: _____
Date of birth	4	Date of birth: (MM/DD/YYYY) _____
Type of ballot Required in a primary or primary runoff.	5	<input type="checkbox"/> Democratic <input type="checkbox"/> Republican <input type="checkbox"/> Non Partisan (will not have ANY party candidates listed)
Contact information	6	To assist your county elections officials in contacting you in a timely manner if your application is incomplete, please provide the following information. Phone number: _____ Email: _____
Signature or mark of voter Required if voter fills out this application.	7	Signature or mark of voter: _____ Today's date: (MM/DD/YYYY) _____
Signature of person providing assistance Required if the voter receives assistance filling out this form. Assistance is only allowed if the voter is illiterate or physically disabled.	8	Name of assistant: _____ Signature of assistant: _____ Today's date: (MM/DD/YYYY) _____
Signature of person requesting ballot if not voter Required only if an eligible relative is making an application on behalf of the voter who is physically disabled or temporarily residing out of the county.	9	Signature of requestor: _____ Relationship to voter: _____ I swear that the facts contained in this application are true and that I am either the mother, father, grandparent, brother, sister, aunt, uncle, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law or sister-in-law of the age of 18 and swear (or affirm) that the above-named voter is (check one) <input type="checkbox"/> physically disabled or <input type="checkbox"/> temporarily residing out of the county
If you meet one of the described conditions in this section and would like to receive a mail ballot for the rest of the elections cycle without another application, indicate by checking the applicable eligibility requirement.	10	<input type="checkbox"/> E - Elderly - I am 65 years of age or older <input type="checkbox"/> D - Disabled - I have a physical disability <input type="checkbox"/> U - UOCAVA Voter - I am a uniformed service member, spouse or dependent of a uniformed service member, or other US citizen residing overseas. My current status is (please mark one): <input type="checkbox"/> MOS - Military Overseas <input type="checkbox"/> OST - Overseas Temporary Resident <input type="checkbox"/> MST - Military Stateside <input type="checkbox"/> OSP - Overseas Permanent Resident (federal offices only) Email: (required for UOCAVA voters requesting electronic transmission) _____

FOR OFFICE USE ONLY

Dist. Combo: _____ Precinct: _____ Ballot #: _____
 Received Date: _____ ISS Date: _____ Certified Date: _____ Rejection Date: _____
 ID SHOWN: GADL _____ Other: _____
 I certify that the above named voter is eligible is not eligible to receive a vote by mail ballot
 Reason for Rejection: _____ Registrar Signature: _____
 Ballot to be: Mailed Electronically Transmitted/delivered to voter in hospital by Registrars/Deputy Voted in office (municipal only)

FORM #ABS-APP-18

Center For Voter Information

If you've already submitted a request for a ballot by mail for the 2020 General Election, there is no need to submit another request.

Dear Jane,

The Center for Disease Control recommends lower risk voting options like mail ballots to minimize potential exposure to COVID19. The Georgia Secretary of State and county election officials encourage voters to use mail ballots in the upcoming elections. I have sent you the enclosed absentee ballot application for Georgia already filled out with your name and address.

Voting by mail is EASY. Just sign, date, and complete the application. Drop it in the mail and you will receive a ballot from your County Board of Registrar's Office which you can complete and return without ever leaving your home. No waiting in line.

Voting by mail keeps you healthy and safe. The best way to protect yourself, your family, and your whole community during this time is to vote by mail.

You can even research the candidates as you vote.

Your privacy is protected. If you use the enclosed envelope with **pre-paid postage**, your application will be delivered directly to your County Board of Registrar's Office.

You can check your ballot status at: mvp.sos.ga.gov.

Sincerely,



Lionel Dripps
Center for Voter Information

HOW DO YOU COMPARE WITH OTHERS?*

NA

Your Participation

Average of All Voters

Your voting score is:
no record

P.S. We have already filled in your name and address on the enclosed form. **Please take a minute to complete the form, sign and date it, and place the form in the pre-addressed, postage-paid envelope.** Thank you.

*Data obtained from publicly available state voter files.

If you wish to be removed from our mailing list, email this code: GAAS2261876 to unsubscribe@centerforvoterinformation.org

This mailing has been paid for by the Center for Voter Information (CVI). CVI is a non-government, nonprofit, 501(c)(4) organization.
(866)-377-7396 www.centerforvoterinformation.org. CVI is not affiliated with state or local election officials.
© 2016-2020 The Center for Voter Information. All Rights Reserved.

EXHIBIT C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

VOTEAMERICA, ET AL,)
)
PLAINTIFFS,)
) DOCKET NO. 1:21-CV-01390-JPB
-VS-) VOLUME 1
)
BRAD RAFFENSPERGER, ET AL,)
)
DEFENDANTS.)

**TRANSCRIPT OF PRELIMINARY INJUNCTION PROCEEDINGS
BEFORE THE HONORABLE J.P. BOULEE
UNITED STATES DISTRICT JUDGE
JUNE 9, 2022**

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF - VOTEAMERICA, VOTER PARTICIPATION CENTER AND CENTER FOR VOTER INFORMATION

KATHERINE LEIGH D'AMBROSIO
SMITH GAMBRELL & RUSSELL, LLP

JONATHAN DIAZ, ESQ.
DANIELLE M. LANG, ESQ.
VALENCIA RICHARDSON, ESQ.
HAYDEN JOHNSON, ESQ.
ALICE CLARE CAMPBELL HULING, ESQ.
CAMPAIGN LEGAL CENTER

ON BEHALF OF THE DEFENDANTS - BRAD RAFFENSPERGER, SARA GHAZAL, JANICE JOHNSTON, EDWARD LINDSEY, MATTHEW MASHBURN

GENE C. SCHAERR, ESQ.
H. CHRISTOPHER BARTOLOMUCCI, ESQ.
BRIAN FIELD, ESQ.
SCHAERR JAFFE, LLP.

BRYAN P. TYSON, ESQ.
TAYLOR ENGLISH DUMA, LLP.

ON BEHALF OF THE INTERVENOR DEFENDANTS - REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN SENATORIAL COMMITTEE, NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE, GEORGIA REPUBLICAN PARTY, INC.,

CAMERON T. NORRIS, ESQ.
CONSOVOY MCCARTHY, PLLC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESS:	PAGE:
1. THOMAS LOPACH	
DIRECT EXAMINATION.....	32
CROSS-EXAMINATION.....	72
REDIRECT EXAMINATION.....	125
RE-CROSS-EXAMINATION.....	130
2. DANIEL MCCARTHY	
DIRECT EXAMINATION.....	132
CROSS-EXAMINATION.....	162
3. DONALD GREEN	
DIRECT EXAMINATION.....	199
CROSS-EXAMINATION.....	242

- - - - -

1 absentee ballot applications that were provided by VPC/CVI
2 submitted over the election cycle, correct?

3 **A.** Over the election cycle to exclude the runoff. The runoff
4 would be possibly additional, possibly duplicative in terms of
5 individuals.

6 **Q.** Certainly. And that's what I was getting to.

7 These 575,000 and the 88,500 individuals, only the 88,500
8 individuals are unique individuals, not counted twice, right?

9 **A.** That sounds right, yes.

10 **Q.** Now, VPC/CVI provides an e-mail address and also provides its
11 phone number in the letter to voters, right?

12 **A.** Correct.

13 **Q.** Does VPC/CVI receive complaints at the phone number in the
14 e-mail address about its mailings?

15 **A.** VPC and CVI receive all sorts of messages both through the
16 phone line answered by an 800 call service and through the e-mail
17 address.

18 **Q.** And some of those messages are complaints about VPC/CVI's
19 mailings, right?

20 **A.** Some messages are complaints.

21 **Q.** Does VPC/CVI track complaints received at its phone number and
22 e-mail address?

23 **A.** When the unique code is provided, VPC and CVI will unsubscribe
24 recipients from our future programs.

25 **Q.** And my question was more specific: Do you track complaints,

1 **A.** I can't speak to how an individual may mistake or receive a
2 mailer that we send.

3 **Q.** Can VPC/CVI mailers create more work for local election
4 officials after they're sent?

5 **A.** I cannot speak to the results of our work for election
6 officials.

7 **Q.** I'm going to hand you what we'll mark as Exhibit 52. And this
8 is a ProPublica article entitled "A Nonprofit With Ties to
9 Democrats is Sending Out Millions of Ballot Applications.
10 Election Officials Wish It Would Stop." Do you see that?

11 **A.** I am familiar with this article.

12 **MR. TYSON:** Your Honor, we move Exhibit 52 in for
13 impeachment purposes on a couple questions starting on page four.

14 **THE COURT:** Hearing no objection, it's admitted.

15 **Q.** So, Mr. Lopach, if you could turn with me to page 4 of 11 at
16 the bottom.

17 **A.** Yes.

18 **Q.** The first full paragraph, the last sentence appears to be
19 quoting you: He added that some errors are inevitable and that
20 the group also encounters mistakes in official voter files. Do
21 you see that?

22 **A.** Yes.

23 **Q.** And then the next statement is: He acknowledged that CVI can
24 create more work for local election officials. Do you see that?

25 **A.** I do.

1 that extra step in the process is precisely the kind of
2 transaction costs that can be decisive.

3 And groups know that, so what they're trying to do is grease
4 the voter's path, especially a voter who might otherwise be
5 apprehensive about doing something online or filling out a form or
6 knowing how to sign the back of the form, not forgetting to do
7 those kinds of little details.

8 **Q.** So when you say "behavioral threshold," can you just give us a
9 definition of what that is.

10 **A.** Oh, I think, you know, you're often just at the cusp of, for
11 example, making an online purchase, but maybe you're thinking, do
12 I really need that? Nah, I don't know. And, of course, there's
13 sort of lots of, you know, intuition and lore in online purchasing
14 that the longer somebody carries, the more they're likely to slip
15 away and have second thoughts.

16 And so in much of the same way, sending someone a form where
17 they actually have the form and very often pre-populated the form,
18 it allows them to feel more confident that they'll get through the
19 process quickly.

20 **Q.** So what effects does reducing transaction costs have on the
21 rate at which absentee ballot -- absentee voting applications or
22 ballots are rejected?

23 **A.** Well, I would say that from a study that we're going to talk
24 about in a bit, the Mann and Mayhew 2015 study, there does not
25 appear to be much of an effect. You know, perhaps encouraging

1 people to fill out forms by themselves elevates the number of
2 errors they will make, but the kinds of error rates are
3 vanishingly low. In that study it was less than a 10th of a
4 percent. And the only -- and the gains -- or it was a 10th of a
5 percent, but the gain over the control group or the generic --
6 sorry, the appeal to go online was only six-tenths of a percent.
7 So we're really talking about a relatively trivial kind of
8 nuisance in terms of inflicting extra time commitments on election
9 officials.

10 **Q.** So you just mentioned Mann and Mayhew 2015 and that's
11 contained in your report. Can you give us just a brief one- or
12 two-sentence summary of what that report says.

13 **A.** A brief cut-to-the-chase summary of Mann and Mayhew is this
14 was a randomized trial in which there were three randomized arms:
15 A controlled group that received nothing, a treatment group that
16 received encouragement by mail to go to an online e-government
17 site where they could request a vote-by-mail ballot, or a mailed
18 ballot right then and there so they could fill -- I'm sorry, the
19 mail request right then and there so they could fill that out
20 directly or they could go to the e-government site.

21 So the question is what were the results for the absentee
22 voting rate and the voting rate in general. And the effect is,
23 you know, a surge in absentee voting rate among the people who
24 received the mailed form, and an increase in the voter turnout
25 rate, pretty much as you would expect in a world governed by

1 MR. JOHNSON: And, your Honor, I'll give you a heads-up
2 that we'll play a video at some point here, one of my colleagues
3 will pull that up.

4 **A.** Which tab are you on?

5 **Q.** I haven't turned to a tab yet, but we'll eventually be pulling
6 up your Plaintiffs' Exhibit 26, which is your initial report. So
7 you can go ahead and pull that up and turn to page six, please,
8 Dr. Green.

9 **A.** I'm there.

10 **Q.** So just what in your general understanding does this
11 disclaimer requirement do?

12 **A.** The basic requirements of law are to present the disclaimer in
13 a way that is prominently displayed. So it can't be in small
14 font, it can't be in some recessive part of the form, it has to be
15 prominently displayed. And it has to have language that I think
16 will cause puzzlement, consternation, confusion, reluctance on the
17 part of people who are encountering it.

18 Why? Because unlike regular language, it's almost like a kind
19 of -- it's almost like the kind of thing you would see in like a
20 troll's e-mail or troll's social media post with repeated
21 capitalized letters that are designed in some ways to put off
22 voters for no apparent reason.

23 The reading of this thing is especially odd because when you
24 say what is -- what does the disclosure actually require, it says
25 this is not, capital not, an official government publication. All

1 right. True. But it's identical, it's required to be identical
2 to an official publication. And was not provided to you by any
3 governmental entity. Okay. True. And this is not a ballot,
4 which is -- it's a very strange thing to include, especially again
5 with a capital not. Yes, it's not a ballot, it's not a fishing
6 license, it's not a death certificate, it's not a lot of things,
7 but no one ever would think this is a ballot because there's
8 nobody to vote for. A ballot has something else going on. So it
9 seems as though this is a disclaimer that is meant to discredit
10 the form more than it is likely to disclose information.

11 It also requires that you disclose information. And as we've
12 already seen from some of the other forms that these groups
13 routinely send, they're already disclosing information. I'm happy
14 to have them to be required to disclose information, but this
15 particular disclosure in my assessment of public opinion, you
16 know, would put off voters.

17 **Q.** Let's turn to the actual form that the state has recently
18 posted at its website, and that's Plaintiffs' Exhibit 2.

19 **A.** Good. Okay, I'm there.

20 **Q.** So do you see the title at the top of the first page of that
21 document?

22 **A.** Yes. It's Application For Georgia Official Absentee Ballot.

23 **Q.** And do you see the gray box at the bottom of the first and
24 second page?

25 **A.** Yes. In fact, I'm going to go to the -- yeah, for the heck of

EXHIBIT D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

VOTEAMERICA; VOTER PARTICIPATION
CENTER; and CENTER FOR VOTER
INFORMATION
Plaintiffs,

V. Case No. 1:21-CV-01390-JPB

BRAD RAFFENSPERGER, in his Judge J.P. Boulee
Official capacity as Secretary
Of State of the State of Georgia;
SARA GHAZAL, JANICE JOHNSTON,
EDWARD LINDSEY, and MATTHEW MASHBURN,
In their official capacities as members
Of the STATE ELECTION BOARD,
Defendants,

And

REPUBLICAN NATIONAL COMMITTEE;
NATIONAL REPUBLICAN SENATORIAL
COMMITTEE; NATIONAL REPUBLICAN
CONGRESSIONAL COMMITTEE; and
GEORGIA REPUBLICAN PARTY, INC.,
Intervenor-Defendants.

/

DEPOSITION OF THE SECRETARY OF STATE

Charles Ryan Germany, Designated Representative

DATE: Tuesday, September 13, 2022

TIME: 9:30 a.m. - 4:24 p.m.

LOCATION: 1600 Parkwood Circle, Suite
200, Atlanta, Georgia

REPORTED BY: Tamika Burnette, RPR, CSR

No. 2870

1 inspectors as well?

2 A. It's 25 investigators --

3 Q. Okay.

4 A. -- then inspectors would be in addition to
5 that.

6 Q. Okay. And there are how many inspectors?

7 A. I want to say, kind of, between 12 and 15.

8 Q. Can you describe a little bit how the working
9 relationship works between the Elections Division and
10 yourself in the Investigations Division?

11 A. Can you clarify? The Elections Division,
12 myself, Investigations Division?

13 Q. Yes. So I'm trying to understand how do those
14 pieces, yourself as general counsel, the Elections
15 Division, and the Investigations Division work together
16 when it comes to investigations.

17 A. Yes. So my role is I kind of provide legal
18 support to all the divisions. So I'm really there to
19 support them. You know, I'm not overseeing either of
20 those divisions, but my job is to support both of them.
21 I would say that most of the complaints that we get
22 regarding elections will come in by e-mail. And I think
23 both our people in the Elections Division, I think it's
24 Michelle, has kind of the access to that. And some
25 complaints are going to be more of like, hey, I'm having

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

45

1 like it's not a signature match verification of identify
2 like it was pre-SB 202, but voters still have to sign
3 the form and that -- and you know, the counties, they
4 are the registrars; they're making these determinations.
5 And I think that's, generally, how they're going about
6 it.

7 Q. That makes sense to me. So to summarize,
8 signature matching is no longer the primary
9 identification system for absentee ballot application.
10 However, if a signature is suspicious in some way, just
11 as if any part of the application is suspicious, the
12 election officials can further investigate; is that
13 fair?

14 A. Right. Yes, do a little due diligence. I
15 think that's -- you know, I would only say -- the only
16 thing I would say is instead of identification, I'll say
17 verification. Right? I'll say signature is not the
18 primary kind of verification of a voter's identity.

19 Q. Okay. And then you mentioned the eligibility
20 for the rollover list. Is there a means by which
21 election officials verify eligibility for the rollover
22 list beyond the checking if they were eligible?

23 A. The only one would be really elderly. If you
24 put you're elderly but -- and they know your birthday --
25 but you're not, and then it would not allow that. But

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

1 --

2 Q. Okay.

3 A. -- if you're, like, disabled, that's going to
4 be essentially a -- they're going to take the voter's
5 word for it, and then same with overseas. Now,
6 overseas, you do have to kind of check a box as to which
7 one you apply, which one -- if you're overseas military,
8 military state assigned, overseas temporary, overseas
9 permanent -- you have to check a box. And so I can see
10 a situation where, hey, you say you're this, but it
11 doesn't really make sense, and so they might reach out
12 to the voter. But other than elderly, it's going to be
13 pretty much the voter's -- take the voter's word for it.

14 Q. Okay. Great.

15 A. And the form the voter is filling out is pretty
16 clear on it. One, it's pretty clear that you have to be
17 truthful on this form.

18 Q. Of course.

19 A. And so I think that works.

20 Q. Yes. And so I think we've talked through the
21 various ways in which election officials make sure that
22 the absentee ballot application matches the voter
23 registration data and reflects an actual voter in
24 Georgia.

25 Can you talk through how the system is set

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

47

1 up to avoid the issuance of duplicate -- duplicate
2 ballots, if duplicate applications are received?

3 A. Sure. So, you know, it's all tied to the
4 voter's voter registration record. So if you get a
5 duplicate application and the voter is already listed
6 as, kind of, being set up to receive an absentee ballot,
7 then you would see that, you know, when you go to
8 process that duplicate. And so you wouldn't send them
9 another ballot. The voter is already flagged to receive
10 a ballot. And so if you -- if they get another
11 application, they're not going to get another ballot for
12 the most part, but it would -- it would be processed as
13 a duplicate.

14 I mean, the risk would come if there's
15 someone with, like, a very similar name or, you know, we
16 have some counties that do a better job keeping up with
17 their duplicate voter registration records than others.
18 So if there's, you know, potentially a duplicate
19 registration, that could cause an issue. But generally,
20 as long as it's going to be matched with the actual
21 voter that the previous application was matched to, then
22 the system is not going to send another absentee ballot
23 to that voter.

24 Q. And that --

25 A. I shouldn't say it like that. The system is

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

51

1 ballot applications are received?

2 A. There's a field -- so if they receive a
3 duplicate and they go in and they see, okay, you've
4 already received an -- we've already processed an
5 application, they're going to kind of mark this one,
6 this new one, as a duplicate.

7 Q. Okay.

8 A. The system will just kind of file it away, but
9 won't do away with it.

10 Q. And now there will be records of duplicate
11 applications in the system?

12 A. Yes.

13 Q. Okay.

14 A. But, then, it won't be the duplicate
15 application itself, it will be kind of what -- kind of
16 you'll enter information from the duplicate application.

17 Q. There will be a record that there was one?

18 A. Correct. And then they'll -- they should keep
19 the actual applications themselves. I mean, that's a --
20 sort of a -- more of a paper file system that the
21 counties utilize.

22 Q. Okay. One thing that I noticed in the
23 documents that I was hoping you could talk me through is
24 the -- what, I think, is, maybe, some back end reporting
25 and analysis about potential duplicates that your office

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

100

1 Q. Okay. And for tools and applications that meet
2 the rule, this regulation says that the pre-filling
3 prohibit would not apply to these kinds of tools and
4 applications, correct?

5 A. Yes. I think it's saying that that practice
6 would not fall under that prohibition.

7 Q. Exactly. And also, tools or applications that
8 fall under this rule do not have to include the
9 disclaimer that is discussed in SB 202, correct?

10 A. Correct.

11 Q. And tools or applications that fall under this
12 rule do not have to check the list of current absentee
13 voters to de-duplicate their communications, correct?

14 A. Correct. I mean, because I think the, you
15 know, web tool, if you're just kind of saying, hey, you
16 can go fill this out here, I think this regulation is
17 saying that's -- that's not viewed as, you know,
18 basically, you kind of sending that voter an
19 application; it's more kind of making them -- making
20 them -- making the voter aware of kind of the fact that
21 an application exists and you can go here and fill it
22 out. I think the real distinction was, like, this is
23 the web-based tool where the voter goes and puts in
24 their own information. It really seems kind of a
25 voter-initiated process. Even if they're nudged by,

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

133

1 your office did in response to SB 202 is draft a new
2 absentee ballot application form; is that correct?

3 A. Correct.

4 Q. Okay. And as I understand it, there are a
5 number of things you needed to change about the absentee
6 ballot application form in response to SB 202, correct?

7 A. Correct.

8 Q. You needed to add space for the identification,
9 for example; is that correct?

10 A. Right.

11 Q. Okay. And one of the things you had to do
12 was -- well, actually scratch that. One thing you
13 ultimately did do is create an application form that
14 third parties could use that had all the required
15 disclaimer language?

16 A. Yes.

17 Q. Okay. And can you talk me through kind of the
18 timeline and who was involved in the drafting process
19 with the new absentee ballot application?

20 A. Yes. So drafting the new application was, I
21 think, one of the first things we really started to do
22 even before we did any regulations. I think we wanted
23 to have the absentee ballot application drafted. Sarah
24 Beck was our election attorney at the time, and I think
25 she sort of, you know, spearheaded the project. Again,

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

171

1 A. And for our purpose, I mean, I know, like, the
2 main thing is the -- so that is a matter from the
3 processing of the application.

4 Q. Right.

5 A. I get how it could be difficult for a
6 third-party group, and they have to kind of consult with
7 their lawyers on it.

8 Q. Sticking with this kind of distinction between
9 mail, e-mail, in person, I'd like to move to the
10 pre-filling prohibition. It clearly applies to mailing
11 absentee ballot applications prefilled.

12 Is it your understanding that the
13 pre-filling prohibition would also apply to your e-mail?

14 A. Yes.

15 Q. Okay. It's kind of hard to imagine this, but
16 let's imagine a world where I was holding a conference,
17 so I knew who all the attendees were, and so I kind of
18 prefilled absentee ballot applications for all the
19 individuals because I have them, you know, at
20 registration and I was going to give them out
21 personally. Would that also be prohibited?

22 A. I think so.

23 Q. Okay.

24 A. Yes.

25 Q. And moving on to the mailing restriction.

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

179

1 out, you know, prefilled applications to every voter,
2 every active voter. And, you know, and we did that, of
3 course, because like I said, we -- some counties were
4 going to do it and we wanted everyone to be treated
5 equally. And then I think with COVID a lot of groups
6 focused on absentee that may be normally that wouldn't
7 be their -- their focus. It does seem like this year it
8 is going back to a more -- I mean, Georgia has had no
9 excused absentee voting since 2005, but, you know,
10 predominantly, people have preferred to vote in person
11 whether on election day or early. And then in 2020 it
12 went up tremendously, absentee did. But I think -- but
13 -- and the thinking has been that it would go down to
14 closer to where it's historically been in Georgia than
15 2020.

16 Q. Prior to SB 202, did the SOS or county
17 officials track inaccuracies on applications that were
18 the result of pre-filling by third-parties?

19 MR. FIELD: I'll just note that he's not
20 here or able to testify on what counties did
21 necessarily.

22 MS. LANG: To your knowledge?

23 MR. FIELD: With that caveat.

24 THE WITNESS: No. I'm not really aware
25 of -- there was prefilled voter registration forms and

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

181

1 MR. KAUFMAN: Ask your question again.

2 MR. FIELD: Can you ask your question
3 again, 2020, because I think he was talking about 2020?

4 THE WITNESS: My answer was I meant, like,
5 prior to the 2020 election cycle. Sorry.

6 BY MS. LANG:

7 Q. Okay. Prior to SB 202, did the Secretary of
8 State, including the 2020 election cycle, did the
9 Secretary of State or county officials, to your
10 knowledge, track inaccuracies and applications that were
11 due to prefilled absentee ballot applications?

12 A. We received complaints about that. We didn't
13 track the specific sort of complaints, inaccuracy
14 complaint of -- some of them might have been -- like,
15 some of them are due to the fact that there's a lag in
16 removing the voter rolls, like, kind of federally
17 required flag if someone is moved. So if you get an
18 application mailed to your address, but it's addressed
19 to someone who used to live there, I think it's filled
20 inaccurately to the person who receives it, but it's not
21 necessarily an inaccuracy, you know, on the rolls.

22 Q. Right. I understand that. My question was a
23 little bit different, which is, was there any tracking
24 of inaccuracies on an absentee ballot applications that
25 were received by officials that could be attributed to

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

199

1 people vote or 5 million people vote, you're going to
2 have people who have an issue when they show up. You
3 know, of course, we want that to be as few people as
4 possible, but the 2020 or 2018 -- we didn't see any
5 issues that went to the overall confidence on the
6 accuracy of the results of the election.

7 Q. And do you believe the -- that SB 202 that you
8 helped draft, in part addressed some of those concerns
9 or those issues that you described in 2018 and 2020?

10 A. Yes.

11 Q. All right. And what kind of issues do you
12 believe it addressed just in general terms?

13 A. Well, it addressed -- you know, we did receive
14 a lot of complaints about kind of absentee ballots-type
15 issues because there was a big increase of absentee
16 ballots in 2020. So we talk about some of the
17 complaints here, but then some of the things that it led
18 to were voters who didn't show up to vote being told
19 they've requested an absentee ballot, and then those
20 voters would say that must mean someone had voted for
21 me, and that's fraud. Whereas in reality what we saw a
22 lot was they filled out an absentee application, maybe
23 they kind of forgot about it, maybe they were on the
24 rollover list and didn't understand what that -- what
25 that meant. And so when they had to clear that issue

Transcript of Charles Ryan Germany, Designated Representative
September 13, 2022

200

1 up, you know, it led to sort of -- and again, Stacey
2 Abrams, like, that's what happened when they went to
3 vote in 2018 too. So we want to avoid that happening,
4 you know, for anybody, basically. So I think it helps
5 with that. There's a lot of things that speak to that
6 that we didn't talk about today, like, kind of some of
7 the line tracking things, you know, of the -- other
8 aspects of it as well, but I can't really recall off the
9 top of my head.

10 Q. Sure. Obviously, you've had a long day. Is
11 there anything else that you think you need to clarify
12 or that could have left anyone with the wrong
13 understanding of what you meant?

14 A. I hope not. I don't think so.

15 Q. Well, I assume we all have an opportunity to
16 read and sign; so I don't have any other questions for
17 you. Thank you.

18 MS. LANG: No further questions
19 (Whereupon, proceedings were concluded at 4:24 p.m.)

20
21
22
23
24
25

EXHIBIT E

1
2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF GEORGIA
4 ATLANTA DIVISION

4 VOTEAMERICA; VOTER)
PARTICIPATION CENTER;)
5 AND CENTER FOR VOTER)
INFORMATION,)

6 Plaintiffs,)

7 vs.)

CASE NO. 1:21-CV-1390-JPB

8 BRAD RAFFENSPERGER, IN)
9 HIS OFFICIAL CAPACITY AS)
SECRETARY OF THE STATE)
10 OF GEORGIA; SARA GHAZAL,)
JANICE JOHNSTON, EDWARD)
11 LINDSEY, AND MATTHEW)
MASHBURN IN THEIR)
12 OFFICIAL CAPACITIES AS)
MEMBERS OF THE STATE)
13 ELECTION BOARD,)

14 Defendants,)

15 AND)

16 REPUBLICAN NATIONAL)
COMMITTEE; NATIONAL)
17 REPUBLICAN SENATORIAL)
COMMITTEE; NATIONAL)
18 REPUBLICAN CONGRESSIONAL)
COMMITTEE; AND GEORGIA)
19 REPUBLICAN PARTY, INC.,)
ELECTION BOARD,)

20 Intervenor-Defendants.)

21 DEPOSITION OF T. MATTHEW MASHBURN
22 IN A 30(b)(6) CAPACITY FOR GEORGIA STATE ELECTION BOARD
ATLANTA, GEORGIA
23 MONDAY, SEPTEMBER 12, 2022

24 REPORTED BY: TANYA L. VERHOVEN-PAGE,
CCR-B-1790
25 JOB NO. 216946

1 T. MASHBURN

2 sending an absentee ballot application to a voter who
3 had already requested, received or cast one; is that
4 right?

5 A None that I recall.

6 Q Prior to the enactment of SB 202, did the
7 Board have any communications with nongovernment
8 entities or individuals about the distribution of
9 absentee ballot applications generally?

10 A Outgoing from the Board, no.

11 Q Did the Board receive communications on
12 that subject?

13 A From the nongovernmental entities?

14 Q Yes.

15 A None that I specifically recall.

16 Q Did the Board receive communications from
17 the public about the distribution of absentee ballot
18 applications generally?

19 A Oh, my goodness, yes.

20 Q What were the substance of those
21 communications, generally speaking?

22 A We had so many calls. People would stop
23 you in the grocery store, they would stop you in a
24 restaurant, and they would go, I've got ten ballots.
25 How in the world did I get ten ballots. Or, you

1 T. MASHBURN

2 know, the people that lived in my house ten years ago
3 just got a ballot, and how is this possible, and what
4 kind of fraud is going on. And who -- you know,
5 what -- you know, what's going on here, why are
6 multiple ballots getting sent to me.

7 And so we're -- you know, we would -- as
8 best you could, with those voters, you would say,
9 well, I'm pretty sure that what you got is an
10 application. And then they'd say, no, no, I'm
11 positive, it's a ballot. And you're like, well, oh,
12 okay, let's -- you know, let's look at this further,
13 what does it say on the envelope and things like
14 that.

15 And so then they're like, well, somebody
16 needs to do something about this. And you're like,
17 well, call your legislature, they passed the laws.

18 But that happened -- that happened, 2020,
19 in the level that I've never seen before.

20 Q But is it your understanding that even if
21 people were concerned about receiving multiple
22 ballots, in most instances they were receiving
23 multiple applications; is that right?

24 A Yeah, correct. I've only heard of a
25 couple of people that actually had more than one

1 T. MASHBURN

2 ballot, and it was due to an administrative error.

3 Q Got it.

4 A But they were -- I mean, people were
5 really upset about it.

6 Q So you mentioned a couple of ways that
7 those communications get to the Board. How else
8 might people send a complaint or a concern to the
9 Board?

10 A They would have -- they could have sent
11 an e-mail, they could have called them on the phone.
12 And the ones I remember, they always were like, this
13 is fraud, this is fraud, this election is out of
14 control.

15 So it was always -- but it would come to
16 the Secretary of State's office through phone calls,
17 e-mails. People would -- people -- people would
18 literally stop me in the grocery store.

19 Q Is there a public e-mail address that
20 folks can send comments to the Board through?

21 A Yeah, I think there's -- I think it's
22 published in our rule making that they can.

23 Q And did individual Board members get
24 e-mails sent to them directly, as well?

25 A I would imagine -- I would imagine so. I

1 T. MASHBURN

2 applications having been rejected, prior to the
3 enactment of SB 202, based on inaccurate or
4 incomplete information pre-filled on those
5 applications?

6 A I know that it -- I'm aware that it
7 happened as the representative of the Board, but
8 mostly that was before my time as an individual.

9 Q Because you joined the Board in 2020?

10 A Correct.

11 Q Prior to the enactment of Senate Bill
12 202, did the Board receive complaints or reports from
13 voters about receiving applications pre-filled with
14 incorrect information?

15 A Oh, yes.

16 Q What were the substance of those
17 complaints?

18 A I've got it -- I've got this mailing here
19 for people that used to live here that haven't lived
20 here. I've got official -- official ballots -- that
21 were applications -- with my; maiden name that I
22 haven't used in 20 years. You know, I got this
23 mailing for my dead relative who's been dead for six
24 years. There was some cat that was getting an
25 application to register.

1 T. MASHBURN

2 Q Okay. So it sounds like there were maybe
3 two large categories of issues; one, applications
4 addressed to a person who doesn't live there or a
5 deceased person or an ineligible voter and, two, an
6 application addressed to the right person but with
7 some of the information incorrect?

8 A I agree with that.

9 Q Do you have a sense of which of those two
10 issues was more prevalent in the 2020 and 2021
11 elections?

12 A It's like -- it's like a fire hose and
13 trying to decide which -- which water is coming out
14 of the fire hose the fastest. No. It was all this
15 giant wave of complaints.

16 Q So I know we talked about voters having
17 received multiple applications.

18 A Oh --

19 Q Sorry.

20 A Go ahead. Go ahead.

21 Q We discussed reports that voters had
22 received multiple applications in past election
23 cycles. Are you aware of applications being rejected
24 because voters submitted multiple or duplicate
25 applications?

1 T. MASHBURN

2 A I'm not aware of any. It might have
3 happened, but I'm not aware of it.

4 Q Did the Board receive any complaints or
5 reports from the counties about receiving multiple
6 applications from the same voter?

7 A Not -- not that I recall, but it may have
8 been. Not that recall. We did have -- we did
9 have -- let me see.

10 Yeah. None, not that I recall.

11 Q In these complaints that the Board
12 received from voters, was there any indication that
13 the voters didn't understand who the applications
14 were coming from?

15 A Oh, yes. There was very -- there was a
16 lot of confusion about that. Why is the county
17 sending this to me? Why am I getting this? Why did
18 the Secretary of State send this. And you're like,
19 well, I'm not sure that came from the Secretary of
20 State. Tell me -- read to me who -- read to me who
21 is on the return address, and it's a group. Okay.
22 That's not from the Secretary of State. That's not
23 an official document.

24 So there was a lot of confusion about
25 that.

1 T. MASHBURN

2 Q Okay. And you previously testified that
3 some voters were also confused about whether ballot
4 applications were absentee ballots themselves; is
5 that right?

6 A Yes. Correct, and they also were very
7 upset and confused. They would get these cards in
8 the mail that said, we've reviewed the voting records
9 and you haven't voted, and they knew they had voted.
10 And so they were like, what kind of fraud is this.
11 My vote's not counting. I've just been told that my
12 vote didn't count. So that was causing great
13 problems.

14 Q If a registrar or a county Board of
15 Elections receives an application from a voter -- an
16 absentee ballot application from a voter who has
17 already submitted one, do you know what they're
18 supposed to do with that?

19 A I would look it up, but I don't recall
20 off the top of my head.

21 Q That's fine.

22 Do you know if it's against Georgia law
23 for a voter to submit multiple applications for an
24 absentee ballot?

25 A I would look it up. I don't recall.

1 T. MASHBURN

2 about hearing complaints. I mean, they really want
3 to know where -- where the pressure points are for
4 the public, so they're really in tune to that.

5 Q You testified that you, and I think other
6 members of the Board, have gotten significantly less
7 complaints or calls about people receiving multiple
8 applications or multiple ballots since the enactment
9 of SB 202; is that right?

10 A That's true.

11 Q Has there been a general election since
12 SB 202 was enacted?

13 A Not that I recall.

14 Q Have there been any elections since SB
15 202 was enacted?

16 A I think a couple. I think there's been a
17 couple.

18 Q There was a primary this year?

19 A A primary, yes.

20 Q Do you know what the turnout in this
21 year's primary election was like relative to the 2020
22 general election?

23 A I don't know the exact numbers but,
24 generally speaking, primaries are well less attended
25 than generals.

1 T. MASHBURN

2 Q Okay. So there could be other reasons
3 that the Board is getting less complaints at this
4 time than it did in 2020?

5 A It's conceivable, but just -- it was so
6 many and it was just so bad. I mean, it was just
7 so -- just overwhelming. I mean --

8 Q I understand. I think you testified
9 earlier that the 2020 election in Georgia was the
10 most watched election in the history of the state; is
11 that right?

12 A That is absolutely my opinion.

13 Q Would you characterize the 2022 primary
14 that way?

15 A In Georgia's history. It was probably
16 the most watched primary in Georgia's history, I
17 would probably agree with that.

18 Q Do you -- I believe you testified in
19 response to some questions from Mr. Schaerr about
20 some of the reasons why the legislature might pass
21 Senate Bill 202?

22 A Ask me that again.

23 Q You testified as to some of the issues
24 that the legislature was aiming to address when it
25 passed Senate Bill 202?

EXHIBIT F

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

VOTEAMERICA, ET AL,)
)
PLAINTIFFS,)
) DOCKET NO. 1:21-CV-01390-JPB
-VS-) VOLUME 2
)
BRAD RAFFENSPERGER, ET AL,)
)
DEFENDANTS.)

**TRANSCRIPT OF PRELIMINARY INJUNCTION PROCEEDINGS
BEFORE THE HONORABLE J.P. BOULEE
UNITED STATES DISTRICT JUDGE
JUNE 10, 2022**

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF - VOTEAMERICA, VOTER PARTICIPATION CENTER AND CENTER FOR VOTER INFORMATION

KATHERINE LEIGH D'AMBROSIO
SMITH GAMBRELL & RUSSELL, LLP

JONATHAN DIAZ, ESQ.
DANIELLE M. LANG, ESQ.
VALENCIA RICHARDSON, ESQ.
HAYDEN JOHNSON, ESQ.
ALICE CLARE CAMPBELL HULING, ESQ.
CAMPAIGN LEGAL CENTER

ON BEHALF OF THE DEFENDANTS - BRAD RAFFENSPERGER, SARA GHAZAL, JANICE JOHNSTON, EDWARD LINDSEY, MATTHEW MASHBURN

GENE C. SCHAERR, ESQ.
H. CHRISTOPHER BARTOLOMUCCI, ESQ.
BRIAN FIELD, ESQ.
SCHAERR JAFFE, LLP.

BRYAN P. TYSON, ESQ.
TAYLOR ENGLISH DUMA, LLP.

ON BEHALF OF THE INTERVENOR DEFENDANTS - REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN SENATORIAL COMMITTEE, NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE, GEORGIA REPUBLICAN PARTY, INC.,

CAMERON T. NORRIS, ESQ.
CONSOVOY MCCARTHY, PLLC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESS:	PAGE:
1. RYAN GERMANY	
DIRECT EXAMINATION.....	5
CROSS-EXAMINATION.....	52
REDIRECT EXAMINATION.....	115
RE-CROSS-EXAMINATION.....	121
2. BRANDON WATERS	
DIRECT EXAMINATION.....	134
CROSS-EXAMINATION.....	138
3. JUSTIN GRIMMER	
DIRECT EXAMINATION.....	146
CROSS-EXAMINATION.....	186
REDIRECT EXAMINATION.....	211
RE-CROSS-EXAMINATION.....	215

- - - - -

1 Do they investigate more than just election-related issues?

2 **A.** Yes. We have an investigations division. It consists of
3 about a little more than 20, I think, POST-certified law
4 enforcement officers, law enforcement investigators. We also have
5 an inspections division that's not -- that they more deal with
6 kind of the inspections part of it, so it's not a POST-certified
7 law enforcement position. But from the POST-certified side,
8 that's about 20 people, and they investigate election complaints,
9 professional licensing complaints, corporations issues, and
10 securities as well.

11 **Q.** Generally, how does a voter submit an election-related
12 complaint to the Secretary of State's Office?

13 **A.** Generally we get them through e-mail. We have kind of web
14 forms that so if you go to our website and you can click, you
15 know, contact the elections division or contact the Secretary of
16 State's Office, it will take you to a web form, but then that
17 comes to our office like an e-mail and then goes to certain people
18 monitoring each inbox; whether it's the elections, we have kind of
19 a voter fraud e-mail, we have an investigations e-mail, and we
20 have kind of SOS contact is sort of the broad one that a lot of
21 them might end up falling into.

22 **Q.** Do folks also call the office?

23 **A.** Yes, phone calls as well.

24 **Q.** And I see in your declaration a lot of complaints at a
25 voterfraudmailalerts@sos.ga.gov. Is that one of those e-mail

1 addresses.

2 **A.** Yes.

3 **Q.** When was that created and why?

4 **A.** I'm not sure. We've had kind of those general e-mails for as
5 long as I've been at the office, including a kind of voter fraud
6 one, election division, SOS contact, those general e-mails have
7 been around for as long as I've been in the office.

8 **Q.** Why do you have those e-mail addresses?

9 **A.** It's because we want to hear from constituents. We want to
10 hopefully resolve their issue. We do have a call center, so the
11 call center is busy as well, but sometimes it's helpful to have
12 another way to get in touch. And so we want to hear from our
13 constituents and hopefully resolve as many issues as we can.

14 **Q.** What about county election offices, do voters also submit
15 complaints there?

16 **A.** Yes. Generally the county elections office will have a
17 general e-mail address as well, if not more than one depending on
18 the size of the county.

19 **Q.** And just very briefly, can you talk me through the lifecycle
20 of a complaint. We see the complaints in your declaration, what
21 happens to them after that point?

22 **A.** You're talking about elections complaints?

23 **Q.** I'm sorry, yes, with election-related complaints.

24 **A.** Sure. It kind of depends because sometimes it might be a
25 voter just reaching out and saying, here's the issue, I'm having a

1 **A.** So I started in 2014, and before that I did not have really
2 election administration experience, so my knowledge really starts
3 there.

4 And I think it's pretty typical for campaigns to send out
5 absentee ballot applications. My sense is it wasn't something
6 that was really kind of blanketed across the electorate. My -- we
7 really started seeing that I think more so in 2018.

8 And backing up a little bit, I think when it's a campaign or a
9 party sending it out, the voter was a little more aware of, okay,
10 this is who this is coming from, this is, you know, this guy who
11 is running for state senate or whatever.

12 And then I think in -- it really was 2018 when we started
13 seeing more blanket applications that led to questions about who
14 is this? What is this? Is this something I have to fill out?
15 Generated a lot of calls to counties and to the state.

16 We also saw in 2018 people utilizing really, really
17 paired-down application forms that I think also -- that was really
18 the first time that we saw that. So that generated some
19 complaints and confusion as well.

20 **Q.** Just to make sure that's clear, so before 2018 there was no
21 requirement for what needed to be included in the form of a ballot
22 application that a third party sends out, right?

23 **A.** Well, there was -- there was -- you had to have certain
24 information, a voter had to include certain information to request
25 an absentee ballot, but there wasn't a law or regulation that said

1 voters?

2 **A.** Yes. I should say they did, in 2020 was really the first
3 time. I think 2018 and 2020 was really the first time we started
4 seeing that to my knowledge.

5 **Q.** How would Mr. Harvey's job be affected if all those
6 organizations e-mailed him to ask him for his views on the forms
7 of the applications or information?

8 **A.** Well, that would be almost a full-time job basically. And
9 he's got, you know, a job of running our elections division and,
10 you know, that includes working with our staff. He also has spent
11 a lot of time working with counties, and so, you know, that would
12 basically pull him off of what I think his like real duties of
13 here's what he needs to accomplish for -- in terms of the duties
14 we have to accomplish.

15 **Q.** One other point on those discussions from yesterday, do you
16 recall as part of that line of questioning testimony that Director
17 Harvey suggested, including the election date on the application?

18 **A.** In terms of pre-filling the election date?

19 **Q.** That's correct.

20 **A.** Yes.

21 **Q.** Under SB 202 is there anything that would prevent plaintiffs
22 from continuing to include the date on applications in the future?

23 **A.** No.

24 **Q.** I would like to talk with you about some of the complaints
25 that you appended to your declaration. Do you recall those?

1 **A.** Yes, generally.

2 **Q.** And do you recall there being three categories of complaints
3 that were attached?

4 **A.** I --

5 **Q.** Let's do it this way: I would like to talk to you about your
6 first category of complaints that you attached, which is -- do you
7 recall attaching complaints where voters reference incorrect
8 information on applications?

9 **A.** Voters referencing what?

10 **Q.** Incorrect information --

11 **A.** Yes.

12 **Q.** -- on applications?

13 **A.** Yes. You're talking about if they would get a pre-filled
14 application but it was either sent to somebody -- or sent to their
15 address to someone who either didn't live there anymore or never
16 lived there to their knowledge; or we also had, I think,
17 complaints of, okay, this is addressed to me, but I don't live at
18 this address anymore in Georgia, I live somewhere else; or this is
19 not my -- one I remember was this is not my middle name, this is
20 somebody else, and this person doesn't live here.

21 **Q.** And the examples that were attached to your declaration, is
22 that the entirety of the complaints that the Secretary of State's
23 Office received about incorrectly pre-filled applications?

24 **A.** No.

25 **MR. FIELD:** If we can pull up the demonstrative

1 exhibits, slide five.

2 **Q.** Can you see that on your screen, Mr. Germany?

3 **A.** Yes.

4 **Q.** This is just the selection of the complaints that were
5 attached to your declaration. I would like to draw your attention
6 first to the second bullet point, it begins "to date." Could you
7 read that to us.

8 **A.** To date there have been at least three pre-filled applications
9 for absentee ballots from the Center for Voter Information in
10 Atlanta. Each is addressed to a subject who has absolutely no
11 affiliation with this address. My concern is that someone has
12 fraudulently registered to vote under two different names using
13 this address.

14 **Q.** And as you've likely seen in the papers filed in this case,
15 plaintiffs call it conspiratorial. Do you recall that to be a
16 conspiratorial complaint?

17 **A.** What's on the bullet point right here, it just looks very sort
18 of factual here's what happened to me, here was the experience
19 that I had.

20 **Q.** And looking at the date, that was submitted before the 2020
21 election, is that right?

22 **A.** That's what it says on here.

23 **Q.** If we jump down to the fourth bullet point, could you read
24 that one.

25 **A.** After receiving multiple applications, I received mail to my

1 address with someone else's name. This was from the Voter
2 Participation Center and says it's a vote-at-home ballot request.
3 It seems to me if I were willing to commit fraud, which I'm not,
4 receiving six applications in the mail for absentee ballots that I
5 did not request is troublesome to say the least.

6 **Q.** Here again, does it strike you as conspiratorial, to borrow
7 plaintiffs' word, to be troubled about receiving multiple
8 applications --

9 MS. LANG: Objection. This misrepresents plaintiffs'
10 allegations. And I also want to lodge a complaint to the extent
11 that these are being sought to be submitted for the truth of the
12 matter asserted. We have not objected to their entry into the
13 record because they could be used for the effect that they had on
14 the Secretary of State, but to the extent that Mr. Germany is
15 testifying that these are factual and truthful complaints, we do
16 object to their entry into the record for the truth of the matter
17 asserted.

18 THE COURT: Counsel.

19 MR. FIELD: Your Honor, we are -- at the -- at this
20 stage we are talking with Mr. Germany about the effect they had on
21 the Secretary of State's Office, which, as I understand the
22 objection, that their objection does not apply to these complaints
23 used for that purpose. And I would submit also that the lower
24 standard of evidentiary rules during a preliminary injunction
25 hearing would suggest that this Court can, in fact, rely on

1 understand how it's all going to work, but we do want to see
2 what's the factual allegation and, okay, what's the sort of effect
3 that it seems to be having on the voter.

4 **Q.** And did the Secretary of State's Office receive any complaints
5 from voters complaining that these applications left the door open
6 to fraud and suggesting they may or may not continue participating
7 in the electoral process?

8 **A.** Yes, we did get complaints like that.

9 **Q.** Did those complaints say that the voters would or would not
10 continue participating in the electoral process?

11 **A.** Yes. Yes, we got complaints that said, look, this is -- we
12 got complaints that basically said this looks like rampant fraud
13 to me, I don't see any reason to participate in the process if
14 this is what the process is.

15 **Q.** The other thing we heard yesterday was about mismanaged voter
16 files. Do you remember hearing that testimony?

17 **A.** Are you talking about sort of the fact that --

18 **Q.** I'm sorry, let me ask that again.

19 Do you recall testimony yesterday from plaintiffs'
20 representatives discussing the accuracy of the state's data?

21 MS. LANG: Objection. Lack of foundation. I don't
22 recall such testimony.

23 **Q.** Well, do you recall any testimony yesterday about where VPC
24 and CVI get their data?

25 **A.** Yes.

1 say, well, I didn't request an absentee ballot. So we got a lot
2 of complaints like that. And what we saw is people I think had
3 kind of forgotten they had or maybe not realized that the form
4 they filled out was for that.

5 **Q.** On that point, if I could just interject, can you talk -- just
6 explain to the Court briefly what the process is in a polling
7 location when a voter needs to have his or her absentee ballot
8 canceled.

9 **A.** Sure. There's two different kinds of ways that can happen.
10 One is you can show up with your blank -- I'll back up a little
11 bit.

12 A voter's requested an absentee ballot. If they've received
13 it and they basically just say, oh, I don't want to vote it, I
14 want to vote in person, they can bring that blank ballot to the
15 polling place, surrender it to the poll workers or to the poll
16 manager. At that point they still -- the poll manager still has
17 to contact the kind of county headquarters and ensure that that
18 absentee ballot is canceled in the system. And the -- that
19 basically means it can't be voted. If a -- if a ballot shows up
20 for that voter, the county would know, well, there was no actual
21 existing request, so this is not a good ballot.

22 Or a voter can show up without a ballot, and then when they're
23 checked in, the poll worker will see, oh, they've requested an
24 absentee ballot. And the voter will say, oh, maybe I lost it or
25 it hasn't gotten here yet, I would like to vote in person. So

1 then the county has to contact the deputy registrar. Some of the
2 larger counties will have the deputy registrars at the actual
3 polling place, but some of the smaller ones will not. And they
4 have to contact the deputy registrar, get the absentee ballot
5 request canceled, and then the voter's allowed to vote in person.

6 So that call to -- usually a lot of times it's a call that can
7 take a little bit of time. And also it can lead to what I was
8 talking about earlier where the voter said, well, I didn't request
9 an absentee ballot, you're saying someone's voted an absentee
10 ballot for me? That's the other problem, too, is sometimes --
11 remember, poll workers are not -- these are not people that do
12 this job every day, they do this a few times a year and they're
13 trained. But I think sometimes there were some things lost in
14 translation where the system, when they were checking in, was
15 showing the voter had requested an absentee ballot, but it might
16 have either kind of been relayed to the voter or sounded to the
17 voter like you voted an absentee ballot. And they said, I didn't
18 vote, someone must have voted for me and that sounds like voter
19 fraud.

20 And the other thing that we heard was if people were kind of
21 maybe three or four people behind that voter in line and hearing
22 this conversation, they would -- it could be relayed back to, hey,
23 they say this voter had already voted and then they let them vote
24 again, and we got a lot of complaints about that also.

25 I think overall the cancelation process -- and we saw a big

1 increase in canceled absentee ballots in 2020, but that can
2 definitely lead to issues at the polls, lines at the poll, which
3 we very much want to avoid because we want to have a smooth voting
4 experience for everybody.

5 MR. FIELD: We can move to one slide earlier.

6 **Q.** Take a look at what's before you. Can you explain what has
7 happened with the number of canceled ballots in the last three
8 primary elections?

9 **A.** Sure. So this is the number of absentee ballots that have
10 been canceled in the last three primary elections. The most --
11 like by far the biggest reason why an absentee ballot is canceled
12 is because someone has shown up to vote in person, either in early
13 voting or on Election Day. There's other reasons, so it's not
14 that all of these are going to be that, but I think the vast, vast
15 majority, probably into the 90 percents, are going to be people
16 who showed up to vote in person.

17 In 2018 we saw 1,157 ballots canceled in the primary. And
18 then in 2018 (sic) it went way up in the primary. And that was in
19 the middle of COVID obviously. And so, you know, the state had
20 actually sent out absentee ballot applications to everybody, so,
21 you know, we understand that's going to be higher.

22 And then for the 2022 when we see it going back down to a
23 higher number just because of the -- there's actually more
24 absentee ballots in 2022 than in 2018 but a lower percent
25 canceled, which is good.

1 from the complaints we were getting.

2 **Q.** Since SB 202 has been enacted, has the state received greater
3 or fewer complaints about incorrectly pre-filled applications?

4 **A.** Fewer.

5 **Q.** I would like to turn then to the duplicate ballot
6 applications.

7 MR. FIELD: You can take down the slide.

8 **Q.** So in your declaration do you recall attaching examples of
9 people receiving multiple applications?

10 **A.** Yes.

11 **Q.** And do you recall hearing any -- well, let me try it this way:
12 Can you describe generally what type of complaints you received
13 about duplicate applications.

14 **A.** We received a few complaints. One of them -- a big one was, I
15 already requested an absentee ballot, why am I getting this? Was
16 there a problem with my first request? What happened? What do I
17 need to do? And, of course, that's going to generate calls to the
18 county and to the state.

19 And the other one I think was basically -- a lot of them were
20 I've received six ballots here and that looks like voter fraud.
21 And oftentimes we would call that voter and say, can you describe
22 what the ballots looked like. And they were -- and I think we --
23 that's a thing that often happens with voters and, frankly,
24 everybody. Sometimes I say absentee ballot when I mean absentee
25 ballot application, but I think with voters it's real -- it really

1 is -- can be confusing.

2 And so they would say, I've received six absentee ballots, and
3 what we suspected and what turned out to be the case generally was
4 they received six absentee ballot applications, but to the voter
5 it was concerning.

6 **Q.** I would like to talk about two aspects of this. So looking
7 first at a voter receiving multiple applications, why is it
8 problematic for a voter to receive multiple applications?

9 **A.** Well, one, the effect on the voter can be, I -- I've already
10 requested an absentee ballot, if they have; or basically they want
11 to vote in person and they're not sure why they're receiving them.

12 So if they have requested an absentee ballot, it's more like
13 is there a problem with my first request? If they aren't planning
14 to request one, then I think they just see it more as what is
15 this? The fact that I keep getting this, is this something that I
16 need to do? Am I supposed to do this? So it can lead to that
17 type of confusion.

18 And then the other thing is it basically leads to they can --
19 they might just send in all of them that they get. You know, some
20 of these forms are designed to look -- are designed to look like
21 they're coming from the government. And we see that not just in
22 elections, you know, we do corporations as well, and when you
23 start -- if you start a new LLC, it generates a lot of mail that
24 then you get that's kind of designed to look like official
25 government stuff that you have to do. And a lot of it is

1 Q. And, if you could, could you look at Volume I of plaintiff's
2 exhibits, that's the white binder that says Volume I. It should
3 be on your left. And if you would look at tab 3, please. Let me
4 know when you're there.

5 A. I'm at tab three.

6 Q. And if you flip past, there's a page that says Exhibit B. Do
7 you see a State Election Board regulation there?

8 A. Yes.

9 Q. Are you familiar with this regulation?

10 A. Yes.

11 Q. I would like to draw your attention specifically to part two
12 right in the middle of the page. Are you familiar with that
13 provision of this regulation?

14 A. Yes.

15 Q. And what is the purpose of that provision?

16 A. This was a provision that was enacted by the State Election
17 Board subsequent to SB 202 I think to clarify that web-based tools
18 or applications -- I'm reading from it now -- web-based tools or
19 applications that allow people who are otherwise eligible to
20 request absentee ballots in Georgia, i.e., voters or eligible
21 family members, by entering personal information into the
22 web-based application by the voter or eligible family member, to
23 partially complete the absentee ballot application described in
24 Section 1 of this rule are permitted. That's the first sentence.

25 Q. Can you put it in your own words, what does that mean?

1 **A.** That basically means what -- the type of thing -- I think it
2 was really aimed at exactly the type of thing that VoteAmerica
3 does, where -- to help someone kind of fill out the application
4 that way or to -- really to allow them to fill out their own
5 application that way is perfectly fine.

6 **Q.** Do you read this to mean that VoteAmerica's print-and-mail
7 tool would be permitted under SB 202?

8 **A.** Yes.

9 **Q.** And that's with respect to the pre-filing prohibition?

10 **A.** Pre-filling?

11 **Q.** I'm sorry. Pre-filling prohibition and the anti-duplication
12 provision?

13 **A.** Yes. I read permitted to mean permitted -- this was enacted
14 subsequent to SB 202, so I think it was in direct response to try
15 to clarify that.

16 **Q.** Are there any other limitations or caveats to that in this
17 particular provision?

18 **A.** Yes. The next sentence deals with how the groups that I guess
19 run the web-based application, how they store -- I'm sorry, it
20 deals with how those groups store voter information and it puts
21 restrictions on that.

22 **Q.** So I would like to now discuss the disclaimer provision. Are
23 you familiar with that term when I use that?

24 **A.** Yes.

25 **Q.** Can you explain -- actually, strike that, we've already

1 So I would like to begin first with discussing the following:
2 This is not an official government publication. Do you see that?

3 **A.** Yes.

4 **Q.** Do you recall hearing yesterday testimony from Dr. Green that
5 that sentence was true?

6 **A.** Yes.

7 **Q.** Why is this document not an official government publication?

8 **A.** I think the point that that's trying to get across is this is
9 not something that you have to interact with. This is not
10 something that you have to fill out and return.

11 You know, I know in the legislative process of SB 202 one of
12 the big concerns was space. I mean, I don't think -- you can't
13 really put everything in a disclaimer that you might want to
14 because, you know, there is concern about space. But I think the
15 real point to get across was this is not something that you have
16 to fill out and return because voters would think that -- some
17 voters would call and we can explain you don't have to do this,
18 but some voters would just fill it out, which, you know, if they
19 want to then -- if they want to then vote absentee, that's fine,
20 but if they don't realize that's what this is -- and we did try to
21 improve this form post-SB 202 to make clearer this isn't a -- your
22 requesting an official absentee ballot.

23 And that was also I think one of the purposes of the
24 pre-filling prohibition, is that if you have to actually fill out
25 the form, it really requires a voter to engage more with the form

1 and really see what it is, what they're writing down, what they're
2 essentially swearing to because they can get -- they could get in
3 trouble if there's something incorrect on here.

4 I think that's really the purpose of that, is to say this is
5 not -- they didn't go and get this from the government, you know,
6 that's why it's only required when they're getting it from a third
7 party.

8 **Q.** So, then, let's go to the next clause. And some of this will
9 dovetail likely with what you've already testified, but let's talk
10 about the clause that reads: And was not provided to you by any
11 government entity.

12 **A.** Right. I think that's going to -- that was one of the main
13 questions that the counties and us would get, is why are you
14 sending me this? And so this tries to answer that question of,
15 okay, it's not sent to you by the government, and trying to kind
16 of hammer home, you don't have to do something with this. You
17 know, it's two separate things, right, like who is sending me this
18 and what do I have to do with it? So I think both of those things
19 are trying to kind of hammer that point home.

20 **Q.** Did you testify earlier about who voters call when the VPC and
21 CVI applications land in folks mailboxes?

22 **A.** I know they call the county and the state a lot. A lot of
23 times they'll call counties and then we'll hear from counties as
24 well. And I know they call the state or e-mail the state. I
25 mean, I heard yesterday they might also reach out to VPC and CVI,

1 but I don't have really insight into that.

2 **Q.** And the last clause that I want to talk with you about is:

3 This is not a ballot. Do you see that language?

4 **A.** Yes.

5 **Q.** Do you recall testimony yesterday from Dr. Green stating that
6 nobody would think this is a ballot because there's nobody to vote
7 for?

8 **A.** We get a lot of complaints about thinking it's a ballot.
9 Whether it's, you know, I just received six ballots. There was a
10 story in 2018 where somebody using one of those pared-down forms
11 thought it was a ballot and wrote on there "Stacey Abrams" because
12 that's who she wanted to vote for in terms of where she was
13 supposed to write her own name. And then that -- again, that was
14 in DeKalb County. The voter -- or, sorry, the election worker
15 then issued a ballot to Stacey Abrams. Now, she shouldn't have,
16 it was a mistake basically, it should have been kind of caught,
17 this was not what that was meant to be.

18 But go back to what I said earlier, these are -- DeKalb
19 County's one that has to kind of do some surge hiring during
20 election time and you train people. And that's why the form was
21 changed in 2018 to say, okay, you can't -- that's too confusing
22 for counties.

23 But so, yeah, people -- there are certain instances --
24 there are definitely instances of people thinking -- it's one of
25 the most common things we get thinking the application is a

1 ballot.

2 **Q.** And before we conclude, just moving past the disclaimer
3 provision, I would like to discuss with you what third-party
4 organizations may or may not be able to do now that SB 202 is
5 enacted.

6 So under SB 202 may an organization like plaintiffs send blank
7 absentee ballot applications to Georgia voters?

8 **A.** Yes.

9 **Q.** How often?

10 **A.** As often as they want until the voter requests an absentee
11 ballot.

12 **Q.** And may the plaintiffs include -- and other third-party
13 organizations include cover letters with those absentee ballot
14 applications?

15 **A.** Yes.

16 **Q.** And could those cover letters include a statement explaining
17 what this disclaimer means?

18 **A.** Yes.

19 **Q.** And then after plaintiffs or other third-party organizations
20 send an initial wave of applications, may they send follow-up
21 letters reminding voters that they sent an application to them
22 previously?

23 **A.** Yes.

24 **Q.** And may organizations like plaintiffs also include a link in
25 that cover letter to where they can obtain another copy of the

1 application?

2 **A.** Yes.

3 **Q.** Just more generally, under SB 202 may plaintiffs continue
4 sending letters to Georgians expressing their support for absentee
5 voting?

6 **A.** Yes.

7 **Q.** How often can they send those letters?

8 **A.** As often as they would like.

9 **Q.** The last thing I would like to discuss with you, let's say
10 that this Court were to enter a preliminary injunction on the
11 three provisions that we've talked about, how would that affect
12 the operations of the Secretary of State's Office?

13 **A.** Well, I think it could affect the operations substantially of
14 our office and of county election officials. What I've learned in
15 elections is it is a big logistical thing that's done by a lot of
16 different people, and so you move one piece, it kind of requires
17 moving another piece, requires moving another piece. And even if
18 they're small moves, at the end of this chain that, frankly, I am
19 usually not smart enough to see the very end of it, it can affect
20 something that we really didn't think we would have an effect on.

21 That's exactly what happened in DeKalb County in the last
22 primary where we found a -- there were all these things that
23 happened, some outside of the control of the state and the
24 counties and some not, but there was a redistricting change that
25 was missed, so that had to be kind of fixed late, which that made

1 able to deal with every complaint, but these were the kinds of
2 complaints we were getting.

3 **Q.** In order to take advantage of the five-day safe harbor that
4 you mentioned, third parties are supposed to rely on the absentee
5 voter file that you maintain on a daily basis on the website, is
6 that right?

7 **A.** That our office maintains, yes. I don't maintain it.

8 **Q.** And the absentee voter file is available by county and then
9 also statewide, is that right?

10 **A.** Yes.

11 **Q.** It's my understanding that the -- the data that's in that file
12 is collected by the counties and inputted by the counties, is that
13 right?

14 **A.** Yes.

15 **Q.** Is it your understanding that 100 percent of the counties
16 update this list on a daily base in realtime as they process
17 applications?

18 **A.** They -- they process an application in E-Net, that's how you
19 process an application. That automatically updates that file.
20 That's where that comes from. They don't have to do anything
21 separate other than once they process the application, that list
22 is updated. When I say -- sorry.

23 THE COURT: Go ahead.

24 **A.** I was going to say then if they process it on a Wednesday, for
25 instance, it will be on -- it will be in E-Net that same day and

1 and such.

2 **Q.** How many pieces of mail did Arena send for its clients in the
3 2020 election cycle?

4 **A.** We sent about 112 Million individual pieces of mail in 2020.

5 **Q.** Did Arena mail absentee ballot applications to Georgia voters
6 in 2020?

7 **A.** We did, we did three mailings to Georgia for absentee
8 applications.

9 **Q.** Mr. Waters, do you -- are you familiar with union versus
10 non-union printers?

11 **A.** Yes.

12 **Q.** And does Arena use union or non-union printers?

13 **A.** We primarily use non-union printers, but we do on occasion use
14 union printers.

15 **Q.** And if an Arena client insisted on you only using union
16 printers, would that limit your ability to assist that client?

17 **A.** It would.

18 **Q.** Is Arena a seamless entry firm?

19 **A.** We are, yes.

20 **Q.** Can you explain to the Court what a seamless entry firm is?

21 **A.** Sure. A few years ago in order to streamline some processes
22 with the post office, the US Postal Service instituted a seamless
23 entry process which allows certain mail houses and printers within
24 the country to do what's called seamless entry, where they
25 essentially function as the post office. So we will -- we produce

1 a mail piece, we will process the paperwork, we will enter it into
2 the US Postal Services systems. And then at that point when we
3 enter it into their system, it will be calculated as mailed, and
4 then we are responsible for delivering it to the local sorting
5 facility where we're going to drop it, but we don't actually bring
6 it to the post office to get it checked in and technically mailed.

7 **Q.** Do existing Arena clients update the list that they use for
8 voters based on information from states and counties of who has
9 already voted absentee in an election?

10 **A.** Yes, they do.

11 **Q.** And why do they do that?

12 **A.** Primarily to save money. And once you've mailed somebody an
13 application, for example, you know, there's no point in sending
14 another one if they've already sent in their application; or if
15 they've already voted, there's no point in continuing to send
16 out messages or applications --

17 **Q.** Could you repeat from "send out messages," we lost the last
18 part of that, I'm sorry.

19 **A.** There's no point in sending advocacy messages -- where we're
20 advocating on behalf of a campaign, there's no point in sending an
21 advocacy message to a voter after they have voted.

22 **Q.** Are you familiar with the provisions of Georgia law related to
23 entities mailing absentee ballot applications to voters and when
24 they have to update their mailing lists?

25 **A.** I am.

1 Q. And is it your understanding that is a five business day
2 window to update the data?

3 A. Yes.

4 Q. Can Arena update a data file and mail absentee ballot
5 applications within a five business day window?

6 A. Yes, we can.

7 Q. And in 2020 did Arena make mailings of absentee ballot
8 applications to Georgia within a five business day window?

9 A. We did three different mailings, two of them we did in -- I'm
10 sorry, in three business days. One mailing we did within six
11 business days, and it was actually more about five-and-a-half days
12 but technically it had gone over to the sixth day, and that was
13 primarily because that was when our drop date was scheduled.

14 Q. Can you describe for the Court what the difference in
15 scrubbing a list and building a list is.

16 A. Sure. When you're building a list, you're compiling all of
17 the names of the voters, so you would take the voter file and you
18 would go through a process of choosing and selecting which voters
19 you were going to be mailing a particular mail piece. You would
20 then have to eliminate households and remove duplicates and such.
21 That process can, you know, take a little while to do just because
22 you're often going back and forth with a client.

23 When you're scrubbing a list, you are literally taking a list,
24 you know, and in the case of an absentee ballot application you
25 would take the list of people who requested an absentee ballot and

EXHIBIT G

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 10/11/2018 9:07:06 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From michelle smith

Name: michelle smith
Phone: [REDACTED]
Address: [REDACTED]
City: alpharetta
State: ga
Zip Code: [REDACTED]
County: Fulton
E-mail: [REDACTED]

Location of Violation: through the usps.

Description of Violation: I received a pre-filled in application for absentee ballot from Page S. Gardner The Voter Participation Center with my first and last name but a different middle name. This was addressed directly to my po box, I am registered to vote from my home address. The name on the ballot is Michelle Zenobia Smith at [REDACTED] Alpharetta, Ga [REDACTED]. My name is Michelle Denise Smith registered at [REDACTED] Alpharetta, Ga [REDACTED]. I suspect this to be a fraudulent voter registration.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 11/2/2018 5:12:35 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Mari Wall

Name: Mari Wall
Phone: [REDACTED]
Address: [REDACTED]
City: Peachtree Corners
State: GA
Zip Code: [REDACTED]
County: Gwinnett
E-mail: [REDACTED]

Location of Violation: Mail

Description of Violation: I keep receiving mail from the center for voter information which is clearly run by democrats with the name of Charles G Wall Jr. There is no such person living or dead. This is the first year that we have ever recieved mail for this person. My husband in Charles Gordon wall but there is no Jr Never was and never will be

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 11/2/2018 7:03:58 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Jeffrey Miller

Name: Jeffry Miller

Phone: [REDACTED]

Address: [REDACTED]

City: Savannah

State: GA

Zip Code: [REDACTED]

County: chatham

E-mail: [REDACTED]

Location of Violation: [REDACTED]

Savannah, GA
[REDACTED]

Description of Violation: We are receiving mail from 'The Voter Participation Center', 'ProGeorgia State Table, LLC', and 'BlackPAC-GA' to a Sheba Nicola Smalls. Sheba Nicola Smalls does not live at this residence. We have lived here 5 years, and one of these flyers implies she has voted successfully from this address in 2010, 2012, 2014, and 2016. We purchased this home in 2013, and it had been an abandoned building for 10 years prior to then.

How many other people have been registered at this address when my wife and I are the only people who have lived here in fifteen years?

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 11/30/2018 4:18:41 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Jill Smith

Verified no such person is registered at the listed address and emailed Ms. Smith. 11/30 (FW)

Name: Jill Smith

Phone: [REDACTED]

Address: [REDACTED]

City: Atlanta

State: GA

Zip Code: [REDACTED]

County: DeKalb

E-mail: [REDACTED]

Location of Violation: US Mail

Description of Violation: Today I received mail at my home address from the Center for Voter Information addressed to Jeremy Stephen Smith. I have lived in this house for 13 years, and can verify that this person has never lived at this address for the 13 years I have, nor for the previous 4 years. Assuming this organization got this person's name and address from the registered voters, I wanted to call it to your attention as possible voter fraud. I Googled this person by name, and there is such a person living in the Atlanta area. White pages has his address at Alpharetta, which is not in DeKalb county. I hope you will look into this. Thanks!

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 12/4/2018 12:43:19 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Richard Braun

Name: Richard Braun
Phone: [REDACTED]
Address: [REDACTED]
City: Athens
State: GA
Zip Code: [REDACTED]
County: Clarke
E-mail: [REDACTED]

Location of Violation: Home address

Description of Violation: I received a piece of mail addressed to Mary Abney Rathbone from the Center for Voter Information at my address. This person does not live at [REDACTED] and to my knowledge she never has. My wife and I have lived at this address since September 2012. I am concerned that this person may fraudulently use this address for her voter registration.

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/1/2020 3:20:16 PM
To: NBOREN@COLUMBUSGA.ORG

Just a FYI- Looks like a type resulted in a duplicate entry for the same individual

Frances

Name: Joshua Allen

Phone: [REDACTED]

Address: [REDACTED]

City: Columbus

State: GA

Zip Code: [REDACTED]

County: Muscogee

E-mail: [REDACTED]

Location of Violation: not entered

Description of Violation: Hello,

We have received several political brochures and cards in the mail over the past year addressed to "Meray Allen." My wife's name is Mercy Allen and she is registered under that name. Due to the concerns of voter fraud in this past presidential election, I decided to see if there may be anything suspicious related to our address. I searched under the MVP site several weeks ago and noticed that there were in fact two people under "M Allen" on the site. After searching again today, only one "M Allen" is registered after providing the information required. We have not received any absentee ballots for "Meray Allen", but I thought I might as well report this. Please let me know if you have any questions.

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226



Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/12/2020 6:18:36 PM
To: Hall, Adrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8244186feb9408681b44f7f614eeb31-Hall, Adric]
Subject: FW: Web E-Mail [Stop Voter Fraud] From ashley cline

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Friday, December 11, 2020 2:03 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From ashley cline

Name: ashley cline
Phone: [REDACTED]
Address: [REDACTED]
City: canton
State: ga
Zip Code: [REDACTED]
County: Cherokee
E-mail: [REDACTED]

Location of Violation: not entered

Description of Violation: I have been receiving absentee ballots or applications from third party organizations like VPC and the NAACP with false voter information

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/20/2020 4:09:20 PM
To: Gerron Levi [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From G Levi

That is not a Absentee ballot envelope.

Thank you for checking

Frances

Frances Watson

*Chief Investigator
Investigations Division
Georgia Secretary of State*
Main: 470-312-2774
Cell: 404-683-3226



From: Gerron Levi [REDACTED]
Sent: Sunday, December 20, 2020 1:11 AM
To: Watson, Frances <fwatson@sos.ga.gov>
Subject: Re: Web E-Mail [Stop Voter Fraud] From G Levi

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

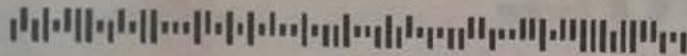
No part of this shipment may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photo-copying, recorded, or otherwise, without prior written permission from the publisher. Protected by U.S. Copyright Law (Title 17 U.S.C. Section 101 et seq., Title 18 U.S.C. Section 2319); Infringements can be punishable by up to five (5) years in prison and \$250,000 in fines.

Sender
CLIENT SERVICES,
1125 N. CHARLES STREET, BALTIMORE, MD 21201



T
PRSR MKT
U.S. POSTAGE
PAID
CAROL STREAM
PERMIT #1988

Ship To:



824000061104 ESI ID# DESIWC26
SAM DEUSCHENDORF 16211B - 23
[REDACTED]
MORROW, GA [REDACTED]

*Not at
This Address*

Contents	Description	Qty	Net Weight (lbs/oz)	Origin Country
PRINTED MATTER	"AMERICA'S NEXT BIG GAME CHANGER IS HERE: THE BIGGEST NEW TECH BREAKTHROUGH AFFECTING YOU AND YOUR MONEY TODAY"	1	0/1.5	USA

I CERTIFY THIS PACKAGE DOES NOT CONTAIN ANY UNDECLARED DANGEROUS ARTICLES, OR ARTICLES PROHIBITED BY LEGISLATION OR BY POSTAL REGULATIONS. I HAVE MET ALL APPLICABLE REQUIREMENTS UNDER FEDERAL LAW AND REGULATIONS.

SENDER'S SIGNATURE *[Signature]*

Please confirm receipt.

On Dec 19, 2020, at 2:29 PM, Watson, Frances <fwatson@sos.ga.gov> wrote:

This person is listed as deceased and no ballot would be able to be submitted in this name. There may have been a Absentee ballot request (application) mailed out by a third party organization. He is not a eligible voter in the system.

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Saturday, December 19, 2020 1:20 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From G Levi

Name: G Levi
Phone: [REDACTED]
Address: [REDACTED]
City: Morrow
State: Ga
Zip Code: [REDACTED]
County: Clayton
E-mail: [REDACTED]

Location of Violation: [REDACTED], Morrow, GA

Description of Violation: An actual ballot was sent to the prior owner of house on [REDACTED] - Sam Duetschendorf - who was last the owner about 19 years ago. I have a photo of the ballot. The current resident of the home does not want to be on TV and so I am reporting it on her behalf.

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 1/5/2021 9:07:34 PM
To: Brittany Bird [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From Brittany Bird

These is an absentee ballot request form. Not a actual ballot. The third party organizations are sending these out.

Thank you
Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226



From: Brittany Bird <[REDACTED]>
Sent: Tuesday, January 5, 2021 3:17 PM
To: Watson, Frances <fwatson@sos.ga.gov>
Subject: Re: Web E-Mail [Stop Voter Fraud] From Brittany Bird

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Election Mail Service

PO BOX 6492 AUSTIN, TX 78762



ELECTRONIC SERVICE REQUESTED

PRESORTED FIRST CLASS

~~PRESORTED USPS~~
~~GOVERNMENT MAIL~~
U.S. POSTAGE
PAID
PERMIT NO. 1
DALLAS TX

**GOVERNMENT DOCUMENT ENCLOSED.
DO NOT DISCARD.**

114454*****AUTO**5-DIGIT [REDACTED] T403 P7
CARSON BIRD
[REDACTED]
NEWNAN, GA [REDACTED]

On Tue, Jan 5, 2021 at 3:14 PM Watson, Frances <fwatson@sos.ga.gov> wrote:

You can sent a photo of the outside of the envelope

Frances Watson

Chief Investigator

Investigations Division

Georgia Secretary of State

Main: 470-312-2774

Cell: 404-683-3226



From: Brittany Bird <[REDACTED]>
Sent: Tuesday, January 5, 2021 2:29 PM
To: Watson, Frances <fwatson@sos.ga.gov>
Subject: Re: Web E-Mail [Stop Voter Fraud] From Brittany Bird

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

I sure can! I haven't opened the ballot yet just to be safe. Is it okay if I open the ballot and send you a scanned copy?

On Tue, Jan 5, 2021 at 9:44 AM Watson, Frances <fwatson@sos.ga.gov> wrote:

Can you forward a copy of what you received

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>

Sent: Monday, January 4, 2021 8:58 PM

To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>

Subject: Web E-Mail [Stop Voter Fraud] From Brittany Bird

Name: Brittany Bird

Phone: [REDACTED]

Address: [REDACTED]

City: [Newnan](#)

State: GA

Zip Code: [REDACTED]

County: Coweta

E-mail: [REDACTED]

Location of Violation: Mail in ballot for election on Jan. 5th 2021

Description of Violation: I received a mail in ballot addressed to my LATE husband, USAF Capt. Carson Grady Bird who passed away on November 26, 2016!

I sure can! I haven't opened the ballot yet just to be safe. Is it okay if I open the ballot and send you a scanned copy?

On Tue, Jan 5, 2021 at 9:44 AM Watson, Frances <fwatson@sos.ga.gov> wrote:

Can you forward a copy of what you received

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Monday, January 4, 2021 8:58 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From Brittany Bird

Name: Brittany Bird

Phone: [REDACTED]

Address: [REDACTED]

City: [Newnan](#)

State: GA

Zip Code: [REDACTED]

County: Coweta

E-mail: [REDACTED]

Location of Violation: Mail in ballot for election on Jan. 5th 2021

Description of Violation: I received a mail in ballot addressed to my LATE husband, USAF Capt. Carson Grady Bird who passed away on November 26, 2016!

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Friday, December 18, 2020 7:13 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Ken Ennis

Name: Ken Ennis
Phone: [REDACTED]
Address: [REDACTED]
City: Brooks
State: GA
Zip Code: [REDACTED]
County: Fayette
E-mail: [REDACTED]

Location of Violation: Fayetteville, GA 30214

Description of Violation: I received an actual ABSENTEE BALLOT in the mail a few days ago. It had someone else's name on it WITH MY ADDRESS. If someone had sent in an application it is doubtful they would have put the wrong address on it. It looks to me like the "FAYETTE COUNTY BOARD OF ELECTIONS
140 STONEWALL AVE WEST
SUITE 208
FAYETTEVILLE, GA 30214" Has committed a crime here. I've gotten applications addressed to this person before but have always destroyed them. I've given written notice to the FCBOE several times but have never heard back and the applications still keep coming! Now they have skipped the application and actually sent a ballot! This is a problem and is part of the reason why we don't trust our elected officials!

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Thursday, December 10, 2020 9:50 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Kerri McBride

Name: Kerri McBride
Phone: [REDACTED]
Address: [REDACTED]
City: Treasure Island
State: FL
Zip Code: [REDACTED]
County: DeKalb
E-mail: [REDACTED]

Location of Violation: Out of state resident receiving application for absentee ballots

Description of Violation: My husband and I moved out of state earlier this year and voted in our new state of residence, FL. We both just received applications for absentee ballots from DeKalb County. No where on this form does it specify that we must be residents of the state or county. It does not ask me to vouch for my being a legal voter it simply asks if I want a ballot. You are begging for fraudulent votes by mass mailing out of state "ovoters" applications for absentee ballots when they haven't requested them. This practice must stop if you have any hope of maintaining the integrity of the voting system. I am outraged.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Sunday, December 6, 2020 3:54 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Betty Jones Holt

Name: Betty Jones Holt
Phone: [REDACTED]
Address: [REDACTED]
City: Tifton
State: GA
Zip Code: [REDACTED]
County: Tift
E-mail: [REDACTED]

Location of Violation: Tifton

Description of Violation: I have received 3 applications for a ballot for the January senate runoff in the name of John Jeffery Holt. My husband died in 2019 but his name was John Franklin Holt. No one here by John Jeffery Holt. I took the application letters to Tifton to Supervisor of Elections an she told me to put on outside of letter Return to Sender. They were mailed from Washington D C. Return address was America Votes PO Box 33516, Washington DC 20033 I did not return. Looks like fraud to me.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Thursday, December 3, 2020 7:17 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Yvette Powell

Name: Yvette Powell

Phone: [REDACTED]

Address: [REDACTED]

City: Bay St. Louis

State: MS

Zip Code: [REDACTED]

County: McIntosh

E-mail: [REDACTED]

Location of Violation: Bay St. Louis, MS via mail

Description of Violation: My husband and I received applications for official absentee ballots. This was sent directly to our address in Mississippi. We moved from Georgia in 2018 and have not voted in Georgia since we left. The application is coming from Honest Elections Project in Alexandria, VA. Why would we receive applications specifically for Georgia elections when we reside in Mississippi.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 3:11 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From David P. Cooper

Name: David P. Cooper
Phone: [REDACTED]
Address: [REDACTED]
City: Conyers
State: Georgia
Zip Code: [REDACTED]
County: Rockdale
E-mail: [REDACTED]

Location of Violation: [REDACTED] Conyers GA [REDACTED]

Description of Violation: I am the second owner of this home living here since 1996. Home was built 1995-1996. The previous owner lived here a month or two and got transferred. We bought it from a relocation company No Juan Rene Cooper Sr. has ever lived here and we are getting absentee ballot applications addressed to Juan Rene Cooper Sr from America Votes

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 7:21 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Deb Buckner

Name: Deb Buckner

Phone: [REDACTED]

Address: [REDACTED]

City: Conyers

State: GA

Zip Code: [REDACTED]

County: Rockdale

E-mail: [REDACTED]

Location of Violation: In the mail

Description of Violation: My brother has been deceased since 2015. Last week I received a partially completed voter registration Application to register him to vote. It came from Register2vote.org. What data base are they using? What gives them the authority to arbitrarily send out applications? How many people fill these out for deceased people? This is encouraging fraud and making it so simple.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Monday, December 14, 2020 6:15 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Robert Burke

Name: Robert Burke
Phone: [REDACTED]
Address: [REDACTED]
City: Tampa
State: FL
Zip Code: [REDACTED]
County: Chatham
E-mail: [REDACTED]

Location of Violation: Chatham County

Description of Violation: I moved from Ga to FL in 2018. Please remove me from the voter rolls as I have received absentee ballot applications. I voted in the state of Florida since moving.
-RJB

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Thursday, December 3, 2020 8:07 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Steve Mondibrown

Name: Steve Mondibrown

Phone: [REDACTED]

Address: [REDACTED]

City: CUMMING

State: GA

Zip Code: [REDACTED]

County: Forsyth

E-mail: [REDACTED]

Location of Violation: Mailbox

Description of Violation: I just wanted to see if it is legal for someone out of state to send unsolicited absentee ballot applications. My daughter received one post marked Boston, MA. She never requested one.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 8/26/2020 12:33:24 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Elizabeth Brown

Name: Elizabeth Brown

Phone: [REDACTED]

Address: [REDACTED]

City: Gainesville

State: Georgia

Zip Code: [REDACTED]

County: Hall

E-mail: [REDACTED]

Location of Violation: Clarke County

Description of Violation: My mother-in-law who lives in Athens GA received 2 voter applications with my nickname, Lisa, at her home address. Both are from the Center for Voter Information. She is already registered to vote in Clarke County, and I am registered to vote in Hall County.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 8/21/2020 5:25:16 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Rosemarie Kobau

Name: Rosemarie Kobau

Phone: [REDACTED]

Address: [REDACTED]

City: Decatur

State: GA

Zip Code: [REDACTED]

County: DeKalb

E-mail: [REDACTED]

Location of Violation: not entered

Description of Violation: I received a letter from the Center for Voter Information--with a modification to my name (i.e., added a middle initial which I DO NOT have). I wonder if I ignored this and submitted a request for an absentee ballot, if there would be a problem because my names wouldn't match.

I don't plan on submitting this form at all. But, I wanted to report this as potential fraud as it could be a bigger problem.

Thank you.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 8/20/2020 4:03:51 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Larry W Causby Jr

Name: Larry W Causby Jr

Phone: [REDACTED]

Address: [REDACTED]

City: CARTERSVILLE

State: GA

Zip Code: [REDACTED]

County: Bartow

E-mail: [REDACTED]

Location of Violation: Bartow County

Description of Violation: People receiving unsolicited pre-filledout application for absentee ballot in the mail from The Center for Voter Information.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 8/19/2020 3:29:39 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Glenn Hayden

Name: Glenn Hayden

Phone: [REDACTED]

Address: [REDACTED]

City: Macon

State: GA

Zip Code: [REDACTED]

County: Bibb

E-mail: [REDACTED]

Location of Violation: Mail

Description of Violation: I received an unsolicited application for Official Absentee Ballot from the Center For Voter Information with my name and address already completed (incorrect middle initial). I did not request this and I'm extremely displeased to receive this, what if the form was sent to incorrect address and someone tried to fill it out. This should not be allowed and causes me great concern that possible voter fraud may result from these unsolicited mailings. 1st sentence states that SSoS and local elections officials encourage voters to use mail ballots.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 7/7/2020 2:14:26 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Thomas Woodward

Name: Thomas Woodward

Phone: [REDACTED]

Address: [REDACTED]

City: Evans

State: GA

Zip Code: [REDACTED]

County: Columbia

E-mail: [REDACTED]

Location of Violation: home residence

Description of Violation: I'm not sure if this is voter fraud or not but I received a letter from the "Center for Voter Information" with a person that hasn't had that name in over 10 years and has never lived at the address that was used for this correspondence. This may or may not be fraud but with the use of outdated databases, it can open the door to fraud.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 11/30/2020 8:39:54 AM
To: EMailStopVoterFraud [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d4563a949c84299ae2bc6814d8441c5-EMailStopVo]
Subject: Web E-Mail [Stop Voter Fraud] From Richard Wright

Name: Richard Wright
Phone: [REDACTED]
Address: [REDACTED]
City: St Simons Island
State: GA
Zip Code: [REDACTED]
County: Glynn
E-mail: [REDACTED]

Location of Violation: Saint Simons Island, GA
Glynn County

Description of Violation: I received a letter entitled "VOTER ALERT, US Senate Runoff Election is January 5, 2021; Vote at Home Ballot Request Form Enclosed".

The letter was addressed to Ricky Thomas Wright with my address.

When I opened the letter I found Form #ABS-APP-18 with the voter name filled in as Ricky Wright with a street address of [REDACTED].

The letter had a self addressed envelop to Glenn County Board of Registrars Offices and a return my return address with Ricky Wright's name.

There was also a letter from the Center for Voter Information, signed by Lionel Dripps. I found the website www.centerforvoterinformation.org and also found a number of articles across the country suggesting the organization has been using questionable tactics in other states.

Here are links to those articles:

https://www.yoursun.com/charlotte/opinion/letters_to_editor/letter-they-are-trying-to-manipulate-mail-in-voting/article_06ee64dc-d346-11ea-bb8c-97e53d4b060f.html

<https://yallpolitics.com/2019/11/04/left-leaning-voting-information-group-sends-last-minute-misleading-letters-that-may-scare-voters/>

<https://yallpolitics.com/2019/11/04/left-leaning-voting-information-group-sends-last-minute-misleading-letters-that-may-scare-voters/>

This is apparently a non-profit organization that is trying to get people to vote. However, I feel it is an organization that may be bending the rules to directly solicit people's absentee ballots in ways that may not be legal.

Clearly, they sent the information that was prefilled to the wrong person and the wrong address. I can provide the original mailing or a scan if this would be helpful to investigate.

Sincerely yours,
Richard C. Wright

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 9/9/2020 9:28:45 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Victor Hudon

Name: Victor Hudon

Phone: [REDACTED]

Address: [REDACTED]

City: Duluth

State: GA

Zip Code: [REDACTED]

County: Gwinnett

E-mail: [REDACTED]

Location of Violation: Voter Registration Mailout in Gwinnett County.

Description of Violation: My mother, who has been deceased for over 20 years, just got an application to vote from "The Center for Voter Information" at 925B Peachtree St. NE #615 Atlanta GA. Although my mother died in the Atlanta metro area she did not vote here. She was a resident of Minnesota. It appears to me that someone is going through a list of deceased persons and compiling names and associated surnames to attempt to fraudulently register voters.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, December 1, 2020 7:50 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Lenny Mercurio

Name: Lenny Mercurio
Phone: [REDACTED]
Address: [REDACTED]
City: Douglasville
State: Ga
Zip Code: [REDACTED]
County: Douglas
E-mail: [REDACTED]

Location of Violation: Douglasville, Georgia/
Sacramento, California

Description of Violation: My girlfriend is a former resident of Georgia. She's lived in California for about 17 years. On 12/1/20 she received two Georgia absentee ballot applications at her home in Sacramento, California. They are labeled as being sent from the "Republican National Committee". It's addressed to her surname and the word "household" or "current resident". She has the ballot application and photos and is willing to provide this information. I can provide her contact information upon request.
-Leonard Anthony Mercurio

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, December 8, 2020 12:01 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Stefanie Franklin

Name: Stefanie Franklin
Phone: [REDACTED]
Address: [REDACTED]
City: Midway
State: GA
Zip Code: [REDACTED]
County: Liberty
E-mail: [REDACTED]

Location of Violation: N/A

Description of Violation: I live in Ga and received a partial pre-filled Absentee Ballot application for my husband on 12/03/2020.

My Husband passed on 08/2013.

I checked prior to & after Election to make sure he was not reactivated as a voter, due to many dead people being able to vote this year. The application was send by register2vote.org, which is run by Madeline Eden & Jeremy Smith. I did some research on Mrs. Eden and feel that the website for "help with Registrations" and info on there is very misleading, since it states that they are a no Party affiliated, independent, Tax-exempt 501 org. yet Mrs. Eden ran as a Dem for the House, District 17 in Texas in 2020.

The form could look somewhat legit to someone who wouldn't know the difference, but at closer look it's made to possibly be altered with any random information, since the Ballot application has wired name and address change options as well as "if no valid ID" or "no address available" options. My Husband was always a registered Republican, as am I, yet I keep getting tons of wired Ballot applications from Democrats that just don't seem. I assume my Husband's info was retrieved from prior years registration data? I will continue to monitor my husband's voter info to make sure he is not being activated prior to the GA runoff, since this application will obviously not be returned by him or anyone else.

Thank you very much for your time
Sincerely
S. Franklin

EXHIBIT H

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 1/13/2021 1:37:42 PM
To: Hall, Adrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8244186feb9408681b44f7f614eeb31-Hall, Adric]; Callaway, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=366c24bcd3a14a12b5a8f18214647d3c-Callaway, J]
Subject: FW: Web E-Mail [Stop Voter Fraud] From Brian Pollard

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
cell: 404-683-3226

-----Original Message-----

From: Watson, Frances
Sent: Wednesday, January 13, 2021 8:36 AM
To: Barron, Richard L. <Richard.Barron@fultoncountyga.gov>; Jones, Ralph <Ralph.Jones@fultoncountyga.gov>
Subject: FW: Web E-Mail [Stop Voter Fraud] From Brian Pollard

Can you advise if there was any absentee ballot issued or mailed to Brian Pollard VR 02387932

Please see the below. A poll worker told him there was a Absentee in his name and had him cancel the Absentee. Was he on the roll over list and when was the original application? Can you forward a copy of that application?

Frances

>>
>>
>>

>> -----Original Message-----

>> **From:** VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
>> **Sent:** Thursday, January 7, 2021 10:24 AM
>> **To:** EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
>> **Subject:** Web E-Mail [Stop Voter Fraud] From Brian Pollard

>> **Name:** Brian Pollard
>> **Phone:** [REDACTED]
>> **Address:** [REDACTED]
>> **City:** Atlanta
>> **State:** GA
>> **Zip Code:** [REDACTED]
>> **County:** Fulton
>> **E-mail:** [REDACTED]

>> **Location of Violation:** Cathedral of St Phipps

>> **Description of Violation:** I received 5 applications for absentee ballot two were from a group called America Votes P O Bx 33516 Washington DC 20033 I suspect a leftist group from California. Received one from The Center for Voter Information (25B Peachtree St NE # 615 Atlanta ,GA 30309, and 2 absentee ballot application from another source I did not save envelop. I did not request any absentee ballot. The poll worker stated they had my absentee ballot. I informed him I had not sent in an absentee ballot. I had to go to another poll worker to have him cancel my absentee ballot that I never sent in. Then I was allowed to vote.This is Fraud in the Senate Voting in Georgia! I will sign a legal form to verify this Fraud. .

Message

From: Harvey, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3F1F603CA29F4E62874AD7949BCD384B-HARVEY, CHR]
Sent: 11/3/2020 6:18:39 PM
To: Evans, Blake [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a09e743410f9426790ae196aa7f44db8-Evans, Blak]
Subject: FW:

Chris Harvey

Elections Director
Georgia Secretary of State

Main 470-312-2777
Cell 404-985-6351



From: Harvey, Chris
Sent: Tuesday, November 3, 2020 12:36 PM
To: Watson, Frances <fwatson@sos.ga.gov>; Germany, Ryan <rgermany@sos.ga.gov>; Fuchs, Jordan <jfuchs@sos.ga.gov>
Subject: RE:

We can follow up, but this is a very strange set of facts.
I'm not sure if there is confusion about absentee voting status or concerns with the BMDs.

Chris Harvey

Elections Director
Georgia Secretary of State

Main 470-312-2777
Cell 404-985-6351



From: Watson, Frances <fwatson@sos.ga.gov>
Sent: Tuesday, November 3, 2020 12:29 PM
To: Germany, Ryan <rgermany@sos.ga.gov>; Fuchs, Jordan <jfuchs@sos.ga.gov>; Harvey, Chris <wharvey@sos.ga.gov>
Subject:

Just an fyi

Getting many reports similar to this one that voters that have not requested an Absentee Ballot or voted are being told they already voted.

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/12/2020 7:25:08 PM
To: Hall, Adrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d8244186feb9408681b44f7f614eeb31-Hall, Adric]
Subject: FW: Web E-Mail [Stop Voter Fraud] From Ivellies Wilson

I believe we have added this to a Fulton County case but please have someone call her .

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Thursday, December 10, 2020 12:36 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From Ivellies Wilson

Name: Ivellies Wilson
Phone: [REDACTED]
Address: [REDACTED]
City: Atlanta
State: GA
Zip Code: [REDACTED]
County: Fulton
E-mail: [REDACTED]

Location of Violation: absentee ballot

Description of Violation: I have screenshots showing that an absentee ballot was requested on 10/16, issued on 10/17, and received on 10/17. HOWEVER, I voted IN PERSON. I have called the Secretary of States office twice to complain. I was told the first time "this is not an issue" but I specifically requested that my complaint be referred to whoever researches voter fraud complaints. My husband called back yesterday (12/9) and there was no record that either he r I had called. We was told the "only" way to file a complaint was online. I recently received UNSOLICITED two different applications for absentee ballots: one from VPC and the NAACP and one from America Votes. Both include a postage paid envelope, so aren't the providing something of value (postage) to get me to vote? Isn't that against the law?

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/15/2020 1:09:01 AM
To: [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From David Brower

As the law is written currently the sending of the ballot request is legal. Completing and submitting them if not eligible is the violation.

Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Monday, December 14, 2020 7:55 AM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From David Brower

Name: David Brower
Phone: [REDACTED]
Address: [REDACTED]
City: Kennesaw
State: GA
Zip Code: [REDACTED]
County: Cobb
E-mail: [REDACTED]

Location of Violation: Mail

Description of Violation: We have received multiple absentee ballot request forms from a third party by mail that was NOT requested. Is this legal?

Received from: America Votes, PO Box 33516, Washington, DC 20033

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 12/19/2020 4:27:20 AM
To: James Devlin [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From James M. Devlin

Thank you. The envelopes are for Absentee ballot request (applications). These are mailed by third party groups and not by our office or the county. There is currently no violation for the organizations to mail these.

Thank you for the information

Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226



From: James Devlin <[REDACTED]>
Sent: Friday, December 18, 2020 9:45 PM
To: Watson, Frances <fwatson@sos.ga.gov>
Cc: James Devlin <[REDACTED]>
Subject: Re: Web E-Mail [Stop Voter Fraud] From James M. Devlin

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good Evening Frances,

Attached to this email is a picture of all three unrequested absentee ballots for the Georgia runoff race.

Respectfully,

James M. Devlin
USMC, LCpl (Ret.)

From: Watson, Frances <fwatson@sos.ga.gov>
Sent: Thursday, December 17, 2020 4:58 PM

To: [REDACTED] <[REDACTED]>
Subject: RE: Web E-Mail [Stop Voter Fraud] From James M. Devlin

Were these applications that you received? Can you send me a photo of what you received

Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Thursday, December 17, 2020 2:09 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From James M. Devlin

Name: James M. Devlin
Phone: [REDACTED]
Address: [REDACTED]
City: Savannah
State: Ga
Zip Code: [REDACTED]
County: Chatham
E-mail: [REDACTED]

Location of Violation: [REDACTED] Savannah, Ga [REDACTED]

Description of Violation: I received 3 unrequested absentee ballots for the Georgia runoff race. I do not live in Georgia. I live in Maryland and I am a Maryland registered voter.

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 1/8/2021 7:11:03 PM
To: Allyson Pellegrino [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From Allyson Pope

Thank you. These are Absentee Ballot applications that the third party and campaigns mailed out. The mailing of the applications to request a ballot is not a violation of the code as it is written currently.

Thank you for sending me the photos

Frances

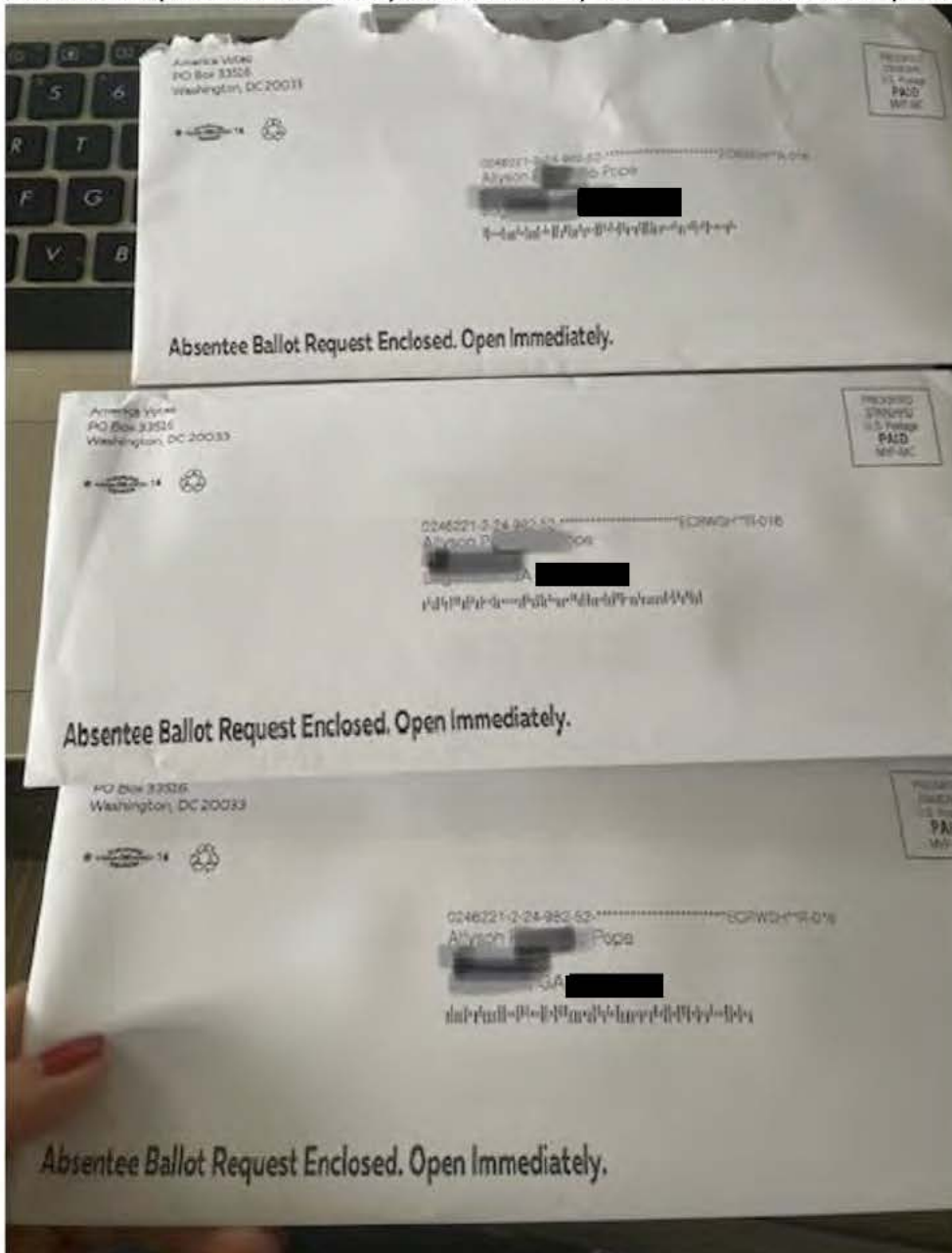
Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
Cell: 404-683-3226



From: Allyson Pellegrino <[REDACTED]>
Sent: Friday, January 8, 2021 1:34 PM
To: Watson, Frances <fwatson@sos.ga.gov>
Subject: Re: Web E-Mail [Stop Voter Fraud] From Allyson Pope

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thank you. I did not request one that is why I'm curious why I received 3 of them. See picture



attached.

On Jan 8, 2021, at 11:47 AM, Watson, Frances <fwatson@sos.ga.gov> wrote:

I do not show a request for a Absentee Ballot. Can you forward a copy of the envelopes that you received.

Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State

Main: 470-312-2774
Cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Sunday, January 3, 2021 6:00 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From Allyson Pope

Name: Allyson Pope

Phone: [REDACTED]

Address: [REDACTED]

City: Loganville

State: GA

Zip Code: [REDACTED]

County: Gwinnett

E-mail: [REDACTED]

Location of Violation: My Mail

Description of Violation: I received 3 absentee ballots that I did not request in the mail on the same day for the runoff election....

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Sunday, December 27, 2020 12:26 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Lorraine M. Holtsinger

Name: Lorraine M. Holtsinger

Phone: [REDACTED]

Address: [REDACTED]

City: Dacula,

State: Georgia

Zip Code: [REDACTED]

County: Gwinnett

E-mail: [REDACTED]

Location of Violation: Gwinnett

Description of Violation: I received many unsolicited applications for absentee ballot.

Voted early with no recognition of this on Ga voters page

Would like the officials that I, personally, voted for to be recorded to help Audits.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Saturday, December 26, 2020 11:40 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Michael Barrett Culpepper

Name: Michael Barrett Culpepper
Phone: [REDACTED]
Address: [REDACTED]
City: Lilburn
State: GA
Zip Code: [REDACTED]
County: Gwinnett
E-mail: [REDACTED]

Location of Violation: My home.

Description of Violation: I have never registered to vote & I received numerous absentee ballot applications this fall. My step daughter was not registered to vote and she did as well. How many others received ballots when they never did the legwork to register to vote.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Friday, December 18, 2020 12:36 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Cathy Carter

Name: Cathy Carter
Phone: [REDACTED]
Address: [REDACTED]
City: Box Springs
State: Ga
Zip Code: [REDACTED]
County: Talbot
E-mail: [REDACTED]

Location of Violation: [REDACTED]
Box Springs, GA [REDACTED]

Description of Violation: I moved here to Talbot County 8 years ago. I have neither registered or voted in that time. My husband has NEVER voted or even registered to vote. This year for the first time ever, we received over 15 absentee ballot applications for mail in voting. Many came addressed to "ocurrent resident" , just like bulk/junk mail. We also received ballot applications for my husband's dead Mother & Father along with one for his mentally handicapped Sister who can neither read or write. NONE of them have ever lived here. There was nothing remotely secure about these absentee ballots and I take issue with the fact that our supposedly secure and unbiased elections have been hijacked by corporate oligarchs with big money to buy our elections. I think the dead comedian George Carlin was sharing a sad fact when he told us: "o If voting really made any difference they wouldn't let us do it" .

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 9, 2020 6:03 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Laurice Herzog

Name: Laurice Herzog
Phone: [REDACTED]
Address: [REDACTED]
City: Loganville
State: GA
Zip Code: [REDACTED]
County: Gwinnett
E-mail: [REDACTED]

Location of Violation: My mailbox in Loganville GA

Description of Violation: I received 4 - FOUR - Applications for Absentee Ballots that were unsolicited. In fact, I have NEVER asked for an absentee ballot in my whole life and now I get 4 all in one day? I called the SoS office but they don't seem to give a shit, and I doubt you do, either, but what the heck, I'll humor the people who tell me that I should report this.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 9, 2020 12:02 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Leanne Lewis

Name: Leanne Lewis
Phone: [REDACTED]
Address: [REDACTED]
City: Woodstock
State: GA
Zip Code: [REDACTED]
County: Cherokee
E-mail: [REDACTED]

Location of Violation: My home

Description of Violation: Received 2 applications for mail in ballot in the last week.. I've never applied for mail in ballot.. also have had democratic groups contacting me to reapply for my absentee ballot for the next election.. I've always voted in person and have never asked to receive absentee ballot

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 9:18 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Justin Cavanaugh

Name: Justin Cavanaugh

Phone: [REDACTED]

Address: [REDACTED]

City: Atlanta

State: GA

Zip Code: [REDACTED]

County: Fulton

E-mail: [REDACTED]

Location of Violation: Home residence mail box

Description of Violation: I have received 3 absentee ballot applications that I did not request from America votes. I also received 2 absentee ballot requests from the state of Georgia that I did not request. I had destroyed 4 of these applications and kept the one mailed today.

Today I received mail to my address with someone else's name I gave me never seen before. This was from the Voter Participation Center. As the mail is addressed to someone else I have not opened, but the letter says it's a vote at home ballot request enclosed. It seems to me if I were willing to commit fraud, to which I am not, receiving 6 applications in the mail for absentee ballots that I did not request is troublesome to say the least.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 8:52 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Patti Tennis

Name: Patti Tennis
Phone: [REDACTED]
Address: [REDACTED]
City: Stone Mountain
State: 13
Zip Code: [REDACTED]
County: DeKalb
E-mail: [REDACTED]

Location of Violation: Dekalb and Walton County

Description of Violation: I received an absentee ballot application which I never asked for. My daughter received 3 applications for absentee ballots which she never asked for.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 6:33 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Elaine Barnes-Bailey

Name: Elaine Barnes-Bailey

Phone: [REDACTED]

Address: [REDACTED]

City: Marietta

State: GA

Zip Code: [REDACTED]

County: Cobb

E-mail: [REDACTED]

Location of Violation: Marietta

Description of Violation: When I saw this before the Presidential election I was wondering if it was normal to receive 3 applications for Absentee ballots for one person in my household and the only one who is a Democrat.

Now for the Senate race that same Democrat has received 2 applications thus far for the Absentee Ballot.

Ga enough this is wrong and it is happening all over our State!

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 3:04 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Jody Williams traylor

Name: Jody Williams traylor

Phone: [REDACTED]

Address: [REDACTED]

City: Marietta

State: Ga

Zip Code: [REDACTED]

County: Cobb

E-mail: [REDACTED]

Location of Violation: My home

Description of Violation: Received 3 applications for absentee ballot. All addressed to me. All received on same date.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Wednesday, December 2, 2020 2:53 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Peggy Johnson

Name: Peggy Johnson

Phone: [REDACTED]

Address: [REDACTED]

City: Duluth

State: GA

Zip Code: [REDACTED]

County: Gwinnett

E-mail: [REDACTED]

Location of Violation: My home address

Description of Violation: I keep receiving unsolicited Absentee Ballet Applications from America Votes. These ballots aren't even official. Have sent an address cancellation request to them and have sent three of these same mailings back to them. Return Address P.O.Box 33516 Washington, D.C. 2033. This is harrassment. I have only resided at my current address one year. Also they have the audacity to show postage paid on applicaton ballot...I called the number on this mailing 1-866-687-8683...Person that answers says they are not America Votes... I told them, it doesnt matter, I will be reporting this.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, December 1, 2020 7:47 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Matthew Kirby

Name: Matthew Kirby

Phone: [REDACTED]

Address: [REDACTED]

City: Tybee Island

State: GA

Zip Code: [REDACTED]

County: Chatham

E-mail: [REDACTED]

Location of Violation: Mailbox and text message

Description of Violation: I have received 3 absentee ballot applications for the US Senate runoff in the mail in the past week but have never requested an absentee ballot or expressed interest to vote by mail. Today, December 1st, I received a text message from 1-830-271-5693 providing me with a link to request a mail ballot for the US Senate runoff <https://r.seiu.org/GaMailBallot>. I attempted to call the number to speak with someone but it line wasn't able to receive incoming calls. I then text them back and informed them I hadn't requested a mail in ballot and plan to vote in person and planned to report them. They told me they have since opted me out of texts immediately and to "have a great day". This seems very suspicious to me and could easily allow fraudulent activity during any local or national election.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Monday, November 30, 2020 9:07 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Sheree Muniz

Name: Sheree Muniz

Phone: [REDACTED]

Address: [REDACTED]

City: Dahlonega

State: GA

Zip Code: [REDACTED]

County: Lumpkin

E-mail: [REDACTED]

Location of Violation: Mailing of absentee ballot unrequested from America Votes.

Description of Violation: I have received 3 unrequested absentee ballot applications from America Votes. I don't have any dealing with America Votes. If this company mailed anything during the Presidential election, this could be considered fraud.

I personally drop off my absentee ballot application at my local office. Thanks.

Sheree Nicole Muniz

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, January 5, 2021 6:04 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Greg Ragsdale

Name: Greg Ragsdale

Phone: [REDACTED]

Address: [REDACTED]

City: Suwanee

State: GA

Zip Code: [REDACTED]

County: Gwinnett

E-mail: [REDACTED]

Location of Violation: [REDACTED], Suwanee, GA [REDACTED]

Description of Violation: It appears an individual is using my P.O. Box as a "home address" as over the past 2 months I have been receiving post cards, letters, flyers, numerous applications for absentee ballots and mailers addressed to this individual urging her to vote for certain two candidates. Many of the mail comes from out of state and a large volume from the Dem Party of Georgia, the NAACP, Stacey Abrams and others. Something is rotten in Denmark!

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Thursday, December 17, 2020 10:04 AM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Leonard Celaya,

Name: Leonard Celaya

Phone: [REDACTED]

Address: [REDACTED]

City: Blairsville

State: GA

Zip Code: [REDACTED]

County: Union

E-mail: [REDACTED]

Location of Violation: [REDACTED], Blairsville, GA [REDACTED]

Description of Violation: Received three (3) Applications for Official Absentee Ballot from the following organizations: Women Speak Out Pac, PO Box 1876, Merrifield, VA 22116-8076 and The Conservative Caucus, PO Box 1890, Merrifield, VA 22116-8090.

Why am I receiving these from VA and not from the state of Georgia? Why is the mailing address to a PO box in VA?

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Monday, December 7, 2020 1:02 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Ryan Stern

Name: Ryan Stern
Phone: [REDACTED]
Address: [REDACTED]
City: Kathleen
State: GA
Zip Code: [REDACTED]
County: Houston
E-mail: [REDACTED]

Location of Violation: Kathleen, GA

Description of Violation: I am currently stationed at Robins AFB, GA near Warner Robins, GA. I have received 4 applications in the mail to register to vote for the upcoming Senate runoff on 5 Jan. I am registered to vote in South Dakota since I am on Active Duty and that is my home of record. I received no such solicitations for the general election on Nov 3rd. The applications also have my middle name as Andrew instead of Matthew and they are for the Gwinnett County Board of Registrars Offices when I currently live in Houston County. The groups sending these applications are America Votes and the Black Progressive Action Coalition. I'm not sure how the citizens of Georgia can expect a fair and free election when absentee ballots are being sent to non-residents of the state.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 10/15/2020 11:59:56 AM
To: EMailStopVoterFraud [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d4563a949c84299ae2bc6814d8441c5-EMailStopVo]
Subject: Web E-Mail [Stop Voter Fraud] From Heather Vedell

Name: Heather Vedell

Phone: [REDACTED]

Address: [REDACTED]

City: Atlanta

State: GA

Zip Code: [REDACTED]

County: Fulton

E-mail: [REDACTED]

Location of Violation: My home- [REDACTED], atlanta Ga [REDACTED]

Description of Violation: I have received 4 different applications for absentee ballots. All of them had my name typed differently (one all caps, one all lowercase, one sentence case, one with my middle initial). These are all from the Center For Voter Information. I shredded the first two and have received 2 more this week. In my opinion, this makes it ripe to request multiple absentee ballots and I have not requested any absentee ballots

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 10/6/2020 9:50:13 AM
To: EMailStopVoterFraud [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d4563a949c84299ae2bc6814d8441c5-EMailStopVo]
Subject: Web E-Mail [Stop Voter Fraud] From Richard Cree

Name: Richard Cree

Phone: [REDACTED]

Address: [REDACTED]

City: Smyrna

State: Ga

Zip Code: [REDACTED]

County: Cobb

E-mail: [REDACTED]

Location of Violation: Home US Mail

Description of Violation: My wife and I continually receive pre-filled out Absentee Ballot Applications that we DID NOT request from your office or Cobb County Board of Elections. Most of these multiple mailings are from the Center for Voter Information. We have also been receiving the same type unsolicited applications for a former resident at this address, Debbie Lee that hasn't lived at this address for over 15 or so years.

Again these are all unsolicited. My wife and me intend to vote in person on November 3rd. We sincerely hope that any of these pre-filled out absentee applications are not intercepted, filled out with fraudulent addresses and submitted.

We would hope that this attempt to get absentee applications out filled out with voter information is illegal. If not, it should be. Thanks for your help with our concern,

Richard Cree

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 11/6/2020 11:49:30 AM
To: EMailStopVoterFraud [/o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=3d4563a949c84299ae2bc6814d8441c5-EMailStopVo]
Subject: Web E-Mail [Stop Voter Fraud] From Brian Fisher

Name: Brian Fisher
Phone: [REDACTED]
Address: [REDACTED]
City: Peachtree City
State: GA
Zip Code: [REDACTED]
County: Fayette
E-mail: [REDACTED]

Location of Violation: Fayette

Description of Violation: We purchased our home at [REDACTED] in Peachtree City on September 1, 2020 and the house had been vacant since at least February of 2020. It had been used as a rental home prior to that. We received multiple pieces of mail from the Center for Voter Information and/or the Voter Participation Center for numerous previous renters of the property. We can recall at least 5 different names possibly more, none of whom currently reside at our address currently or have resided in the previous 10 months. We did return them with "Not at this address" written on the envelopes. But wanted to make sure that it is known that only Brian and Stephanie Fisher should have been registered to vote at our address.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, December 29, 2020 7:07 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Dustin Young

Name: Dustin Young
Phone: [REDACTED]
Address: [REDACTED]
City: Orange Park
State: FL
Zip Code: [REDACTED]
County: Forsyth
E-mail: [REDACTED]

Location of Violation: Forsyth County Georgia

Description of Violation: I have been getting absentee ballot applications from the Democratic Party of Georgia and your website shows that I'm an active registered voter in Georgia. I've lived in Florida since 2014 and when I did live in GA more than 6 years ago, I was a registered Republican. I suspect someone is voting for me in Georgia just like they are for many other people. Someone needs to contact me and let me know that they have made sure that I didn't vote in GA between 2014-present and that GA voter registration is deactivated immediately. Thank you.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Friday, December 11, 2020 12:00 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Suzanne Grantham

Name: Suzanne Grantham
Phone: [REDACTED]
Address: [REDACTED]
City: Kingwood
State: TX
Zip Code: [REDACTED]
County: Morgan
E-mail: [REDACTED]

Location of Violation: Kingwood Texas

We moved from Morgan County GA almost 2 years ago. We have Texas residency and we voted in Texas. Why are we getting applications for absentee ballots from the Republican National Committee and the Honest Elections Project? If I were to fill these out would I actually get an absentee ballot from Georgia? It seems to me that my residency in Texas should be known by Georgia. This is very suspicious and makes me not trust the legitimacy of the election count even more.

Description of Violation: We moved from Morgan County GA almost 2 years ago. We have Texas residency and we voted in Texas. Why are we getting applications for absentee ballots from the Republican National Committee and the Honest Elections Project? If I were to fill these out would I actually get an absentee ballot from Georgia? It seems to me that my residency in Texas should be known by Georgia. This is very suspicious and makes me not trust the legitimacy of the election count even more.

EXHIBIT I

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

VOTEAMERICA, *et al.*,

Plaintiffs, v.

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

Defendants,

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants.

Civil Action No.:
1:21-CV-1390-JPB

**PLAINTIFFS’ OBJECTIONS AND RESPONSES TO
DEFENDANTS’ FIRST SET OF INTERROGATORIES
REQUEST FOR PRODUCTION OF DOCUMENTS,
AND REQUESTS FOR ADMISSION**

Pursuant to Federal Rules of Civil Procedure 26 and 34, as well as applicable Local Rules of the United States District Court for the Northern District of Georgia (“Local Rule(s)”), Plaintiffs VoteAmerica, Voter Participation Center (“VPC”), and Center for Voter Information (“CVI”) (together, “Plaintiffs”) object and respond to Defendants’ First Set of Interrogatories, Requests for Production of Documents, and

REQUESTS FOR ADMISSION

1. Admit that before SB 202 was enacted, each Plaintiff expended resources to assist Georgia voters requesting absentee ballots.

RESPONSE: Admit.

2. Admit that after SB 202 was enacted, each Plaintiff engaged in activities to assist Georgia voters requesting absentee ballots.

RESPONSE:

VPC/CVI: Deny.

VoteAmerica: Admit, to the extent that the VoteAmerica online Mail and Absentee Ballot tool remains available to Georgia voters to receive absentee ballot applications via email. Otherwise, deny.

3. Admit that before SB 202 was enacted, each Plaintiff expended resources to assist Georgia voters in submitting absentee ballots.

RESPONSE:

VoteAmerica: Deny. VoteAmerica assists Georgia voters in requesting absentee ballot applications; they do not assist voters in submitting their absentee ballots.

VPC/CVI: Admit to the extent that VPC/CVI sent follow up mail to Georgia voters reminding them to submit mail ballots if they had requested one and had not yet submitted it. Otherwise, deny.

list from which voter names can be “removed.”

Respectfully submitted,

s/ Valencia Richardson

Danielle Lang*

Jonathan Diaz*

Alice Huling*

Hayden Johnson*

Valencia Richardson*

Campaign Legal Center

1101 14th St. NW, Ste. 400

Washington, D.C. 20005

Tel: (202) 736-2200

Fax: (202) 736-2222

dlang@campaignlegalcenter.org

jdiaz@campaignlegalcenter.org

ahuling@campaignlegalcenter.org

hjohnson@campaignlegalcenter.org

vrichardson@campaignlegalcenter.org

Robert B. Remar

(Ga. Bar No. 600575)

Katherine L. D’Ambrosio

(Ga. Bar No. 780128)

Smith, Gambrell & Russell, LLP

1105 W. Peachtree NE, Suite 1000

Atlanta, GA 30309

(404) 815-3500

rremar@sgrlaw.com

kdambrosio@sgrlaw.com

**Admitted pro hac vice*

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2022, the foregoing was served by electronic mail on all counsel of record.

/s/Valencia Richardson

*Counsel for Plaintiffs
Admitted pro hac vice*

EXHIBIT J

MILTON D. KIDD
IN RE GEORGIA SENATE BILL 202

May 05, 2022

1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

IN RE)	
)	
GEORGIA SENATE BILL 202)	
)	
Plaintiff,)	
vs.)	Civil Action No.
)	1:21:MI-55555-JPB
)	
Defendants.)	
)	
-----)	

DEPOSITION OF
MILTON D. KIDD

Thursday, May 5, 2022, 10:09 a.m. (EST)

HELD AT:

Thompson Hine LLP
Two Alliance Center
3560 Lenox Road, Suite 1600
Atlanta, Georgia 30326

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

1 applications in the mail?

2 A I have had voters call because they --
3 yes.

4 Q And so you mentioned that voters called.
5 Did you receive any of those kinds of complaints in
6 any other form, like email or in person or anything
7 like that?

8 A In person and phone calls were the
9 majority of the incidences.

10 Q So tell us a little bit about the types of
11 those complaints that you received.

12 A They were wondering if this was legal of
13 other organizations to send an absentee ballot
14 request outside of our office sending them.

15 Q Was there anything else that was relayed
16 to you or your office with respect to those
17 particular complaints other than what you've said?

18 A I don't believe so.

19 Q And what actions did Douglas County take
20 in response to those complaints?

21 A We did post information on our website
22 indicating that we did do mailers and indicating
23 that third-party groups are able to disseminate --
24 well, were able to disseminate absentee ballot
25 applications at that time.

1 We also participated in several forms at
2 community events to notify voters of their right, or
3 that they would be receiving these in a campaign
4 election season.

5 Q And was it --

6 MS. LaROSS: Sorry. Strike that.

7 Q So the folks that complained to your
8 office concerning their receipt of multiple absentee
9 ballot applications, did any of those individuals
10 express confusion as to why they were receiving
11 multiple ballot applications?

12 A Yes.

13 Q And just to get an idea of the number of
14 these kinds of complaints, can you give us a
15 ballpark number of them? Is it a handful or 20 to
16 30 or 100? Do you have any sense for that?

17 A I would say 20 to 30.

18 Q 20 to 30. And did any of the individuals
19 indicate that they had already completed and
20 returned an absentee ballot application and then
21 received another afterward?

22 A Yes.

23 Q Did any of these individuals express
24 confusion about whether the documents were
25 applications or ballots?

1 A Yes.

2 Q And did any of the individuals express
3 concern about problems with voting or voter fraud
4 when making these complaints?

5 A Can you restate the question?

6 Q So did any of the individuals express to
7 you concern that there might be wrongful use of the
8 ballots or voter fraud when making these complaints?

9 A There was confusion as to the fact that an
10 absentee ballot application is not a ballot. So
11 some of the complaints were being addressed that
12 they were receiving ballots but they were receiving
13 applications.

14 Q Okay. And in that instance you all would
15 clarify what they had actually received?

16 A Yes.

17 Q And whether it was an application or a
18 ballot, correct?

19 A Yes.

20 Q And are you aware of any complaints that
21 the Douglas County election office received from
22 potential voters stating that they had received
23 absentee ballot applications that included incorrect
24 personal information?

25 A Yes.

EXHIBIT K

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
Civil Division

----- :
VOTEAMERICA, ET AL, :
 :
Plaintiff, : CASE NO.
 :
vs. : 1:21-cv-01390
 :
BRAD RAFFENSPERGER, IN HIS :
OFFICIAL CAPACITY AS SECRETARY :
OF STATE OF THE STATE OF :
GEORGIA, ET AL., :
 :
Defendants. :
 :
----- :

DEPOSITION OF DONALD P. GREEN, PHD

DATE: October 4, 2022
TIME: 9:38 a.m.
LOCATION: Campaign Legal Center
1101 14th Street, NW
Suite 400
Washington, DC 20005

REPORTED BY: Constance H. Rhodes
Reporter, Notary

Veritext Legal Solutions
1250 Eye Street, Northwest
Washington, DC 20005

1 So what we wanted to warn readers about is
2 that, for example, when vendors sell robocalls, you
3 might not hear from them about the fact that the
4 robocalls have almost a perfect record of never
5 working.

6 Q So it's possible for an organization to
7 have expertise in doing direct mail without having
8 expertise in understanding how effective it is or
9 how cost-effective it is in producing the desired
10 effect of increasing voter participation for
11 elections?

12 A That's correct. My co-author, Alan
13 Gerber, in another book, another series of
14 articles, has written eloquently about the fact
15 that this is not limited to campaigns and
16 elections. It's also true for medical -- clinical
17 medicine, that there are instances of surgical
18 procedures that are known not to be effective and
19 yet are widely performed, often by physicians with
20 the best of intentions. They are not trying to
21 harm their patients, they are trying to help them,
22 but there are some surgeries that have been

1 demonstrated to have no effect.

2 Q You are saying that that's also true of
3 certain get-out-the-vote efforts, including direct
4 mail efforts?

5 A Yes. It's a bit of a paradox, right?
6 Because many of the people who are campaign
7 consultants are ardent partisans. They very much
8 want to win. And just as many clinical physicians
9 are extremely talented, smart, good hearted, it's
10 not as though they are doing this just to make a
11 fast buck. But it's very hard for a person to
12 assess cause and effect when they are that close
13 to the process.

14 Q Well, I think that's a good cue to go to
15 page 16, because I think you address this very
16 topic. On page 16 at the second checkmark, you
17 write, quote: Experts frequently adduce dubious
18 statistics purporting to show the effectiveness of
19 their campaign efforts -- dot, dot, dot -- which
20 is what I'll say when I'm skipping over some
21 text -- so dot, dot, dot, but lacking a background
22 in research design or statistical inference they

1 campaigns fail to use the most recent address list
2 they could?

3 A Yes. The reason to underscore that
4 point is that very often groups that are sending
5 out mail have to pay to purchase a list, and
6 there's a temptation to purchase a list once but
7 not update it.

8 Q I'm sorry. Did you have something you
9 wanted to add?

10 A That's sufficient. I would say this is
11 a problem for groups that are strapped for cash or
12 that don't have a lot of technical capacity. It
13 tends not to bite in the same way for large
14 sophisticated groups.

15 Q Now, down near the bottom on 67, you
16 wrote, quote: Bear in mind most recipients will
17 glance at the piece only momentarily on route to
18 the trashcan. End quote.

19 Have I read that correctly?

20 A Yes.

21 Q And is that a finding confirmed by the
22 literature that voters only glance at mail and

1 then toss it?

2 A Yes. I would -- obviously it's not as
3 though we're in people's homes watching them sort
4 through mail, but there have been qualitative
5 studies that have given people a stack of mail and
6 watched them as they sift through it. And not
7 surprisingly, they quickly sort the junk mail from
8 the real mail.

9 Another perhaps subtle way of measuring
10 this is there are -- I think they are called planet
11 codes that indicate whether a person has responded
12 or replied to something, and that indicates that
13 even when you include a coupon or money, people will
14 often throw it out. So there's reason to believe
15 that quite a lot of mail is thrown out without ever
16 being opened.

17 By way of anecdote I noticed yesterday
18 before I left to come to Washington, D.C. that in my
19 mail there were direct mailers that included coinage
20 that was visible through the transparent part of the
21 envelope to make sure that before I threw it in the
22 trash I glanced at the, in this case, two pennies

EXHIBIT L

Voteamerica, Et Al Vs. Raffensperger, Brad

Page 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

VOTEAMERICA, et al.,
Plaintiffs,

CIVIL ACTION NO.:
1:21-CV-1390-JPB

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

Defendants.

VIDEO DEPOSITION OF ALISA HAMILTON
October 7, 2022
9:00 a.m.
1600 Parkwood Circle, Suite 200
Atlanta, Georgia

Carolyn M. Carboni, RPR, RMR, CCR-B-878
David Ramirez, Videographer

Voteamerica, Et Al Vs. Raffensperger, Brad

Page 60

1 Q That's your voice we hear on the video --

2 A Yes.

3 Q -- in addition to the interview subject?

4 A (Witness nods head.)

5 Q Now, this interviewee initially said, "I
6 pretty much would fill it out, put all my name and
7 identification stuff on it, and sign it and just
8 basically wait for my ballot to come back," right;
9 he said that?

10 A Yes.

11 Q And that was in reference to the version
12 of the form with the disclaimer box?

13 A Uh-huh.

14 Q So at first, he didn't have any -- he
15 didn't seem to have any concerns about the box?

16 A Correct.

17 Q Later on, after you pointed out, you said,
18 "What do you think about that box," and he said,
19 "Well, I'd put this in the trash"?

20 A Uh-huh.

21 Q So once you drew his attention to it, he
22 sang a bit of a different tune, but initially, he
23 said he would fill it out; is that right?

24 A Uh-huh.

25 Q And he also told you, "I usually just go

EXHIBIT M

Message

From: Watson, Frances [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A76276F39BDD4942930106C456DEBCA6-WATSON, FRA]
Sent: 1/3/2021 11:59:12 PM
To: [REDACTED]
Subject: RE: Web E-Mail [Stop Voter Fraud] From Kelly Pait

Can you forward me a copy of what you received so I can verify it is the same that I have already been made aware of.

Frances

Frances Watson
Chief Investigator
Investigations Division
Georgia Secretary of State
Main: 470-312-2774
cell: 404-683-3226

-----Original Message-----

From: VoterFraudEmailAlerts@sos.ga.gov <VoterFraudEmailAlerts@sos.ga.gov>
Sent: Wednesday, December 30, 2020 2:06 PM
To: EMailStopVoterFraud <EMailStopVoterFraud@sos.ga.gov>
Subject: Web E-Mail [Stop Voter Fraud] From Kelly Pait

Name: Kelly Pait
Phone: [REDACTED]
Address: [REDACTED]
City: Smyrna
State: GA
Zip Code: [REDACTED]
County: Cobb
E-mail: [REDACTED]

Location of Violation: Direct mailing

Description of Violation: I received a mailing from The Center for Voter Information, signed by their president Tom Lopach, that was designed unethically to look like an official government supplied document. After reading it more closely it is clearly a campaign flier for Warnock and Ossoff but it was designed to scam voters into thinking otherwise. Luckily for me, I have already voted for the best two candidates and am not falling victim to this hoax.

Watson, Frances

From: VoterFraudEmailAlerts@sos.ga.gov
Sent: Tuesday, December 8, 2020 3:28 PM
To: EMailStopVoterFraud
Subject: Web E-Mail [Stop Voter Fraud] From Samantha Briner

Name: Samantha Briner
Phone: [REDACTED]
Address: [REDACTED]
City: Atlanta
State: GA
Zip Code: [REDACTED]
County: DeKalb
E-mail: [REDACTED]

Location of Violation: Mail-in ballot applications

Description of Violation: I have received correspondence from a business named "Democracy for America". They are sending mail-in ballot applications to individuals under the name "America Votes".

Shouldn't mail in ballot applications come solely from the government? Why would I fill out a ballot and return it to a business called "America Votes"?

There is 100% voter fraud in Georgia and it's sad that the SOS is not taking it more seriously.

Message

From: VoterFraudEmailAlerts@sos.ga.gov [VoterFraudEmailAlerts@sos.ga.gov]
Sent: 9/29/2020 2:35:41 PM
To: EMailStopVoterFraud [/o=SOS/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=fe6ed741b1ac47beb601daf8709ce9b8-EMailStopVoterFraud]
Subject: Web E-Mail [Stop Voter Fraud] From Jaime Graham

Name: Jaime Graham

Phone: [REDACTED]

Address: [REDACTED]

City: Atlanta

State: GA

Zip Code: [REDACTED]

County: Fulton

E-mail: [REDACTED]

Location of Violation: My mailbox

Description of Violation: I received an official looking letter from what I believed to be a government office in Georgia. The letter was sent to encourage voters to vote by mail and included a prepaid envelope. It included an absentee ballot request form in the mailing and purported to be an encouragement from the Secretary of State in GA. However, this letter was sent by a lobbying group based in Washington, DC. Very shady!! They should not be allowed to use the name of state elected officials - which is intentionally misleading.

Mailer paid for by: Center for Voter Information 866-377-7396 www.centerforvoterinformation.org