UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

COALITION FOR GOOD GOVERNANCE, et al., *Plaintiffs*, v. BRAD RAFFENSPERGER, in his official capacities as Secretary of State and member of the Georgia State Elections Board, et al., *Defendants*, REPUBLICAN NATIONAL COMMITTEE; NATIONAL REPUBLICAN SENATORIAL COMMITTEE; NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE; and GEORGIA REPUBLICAN PARTY, INC., *Proposed Intervenor-Defendants*.	No. 1:21-cv-02070-JPB

PROPOSED INTERVENOR-DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO INTERVENE

This Court should grant the motion to intervene and allow Movants—the Republican National Committee, National Republican Senatorial Committee, National Republican Congressional Committee, and Georgia Republican Party, Inc.—to be defendants in this case. As the Democratic Party recently observed, "political parties usually have good cause to intervene in disputes over election rules." *Issa v. Newsom*, Doc. 23 at 2, No. 2:20-cv-1044 (E.D. Cal. June 8, 2020). That is why, in recent litigation over election rules, the Republican Party was virtually always granted intervention.* Less than six months

* *See, e.g.*, *All. for Retired American's v. Dunlap*, No. CV-20-95 (Me. Super. Ct. Aug. 21, 2020) (granting intervention to the RNC, NRSC, and Republican Party of Maine); *Mi Familia Vota v. Hobbs*, Doc. 25, No. 2:20-cv-1903 (D. Ariz. June 26, 2020) (granting intervention to the RNC and NRSC); *Ariz. Democratic Party v. Hobbs*, Doc. 60, No. 2:20-cv-1143 (D. Ariz. June 26, 2020) (granting intervention to the RNC and Arizona Republican Party); *Swenson v. Bostelmann*, Doc. 38, No. 20-cv-459 (W.D. Wis. June 23, 2020) (granting intervention to the RNC and Republican Party of Wisconsin); *Edwards v. Vos*, Doc. 27, No. 20-cv-340 (W.D. Wis. June 23, 2020) (same); *League of Women Voters of Minn. Ed. Fund v. Simon*, Doc. 52, No. 20-cv-1205 (D. Minn. June 23, 2020) (granting intervention to the RNC and Republican Party of Minnesota); *Nielsen v. DeSantis*, Doc. 101, No. 4:20-cv-236 (N.D. Fla. May 28, 2020) (granting intervention to the RNC, NRCC, and Republican Party of Florida); *Priorities USA v. Nessel*, 2020 WL 2615504, at *5 (E.D. Mich. May 22, 2020) (granting intervention to the RNC and Republican Party of Michigan); *Thomas v. Andino*, 2020 WL 2306615, at *4 (D.S.C. May 8, 2020) (granting intervention to the South Carolina Republican Party); *Corona v. Cegavske*, Order Granting Mot. to Intervene, No. CV 20-OC-644-1B (Nev. 1st Jud. Dist. Ct. Apr. 30, 2020) (granting intervention to the RNC and Nevada Republican Party); *League of Women Voters of Va. v. Va. State Bd. of Elections*, Doc. 57, No. 6:20-cv-24 (W.D. Va. Apr. 29, 2020) (granting intervention to the Republican Party of Virginia); *Democratic Nat'l Comm. v. Bostelmann*, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020) (granting intervention to the RNC and Republican Party of

ago, Judge Jones let the Republican Party intervene in another similar case. *See Black Voters Matter Fund v. Raffensperger*, Doc. 42, No. 1:20-cv-4869 (N.D. Ga. Dec. 9, 2020). This Court should do the same for two independent reasons.

First, Movants satisfy the criteria for intervention as of right under Rule 24(a)(2). Their motion is timely; Plaintiffs' complaint was just filed, this litigation has yet to begin in earnest, and no party will possibly be prejudiced. Movants also have a clear interest in protecting their members, candidates, voters, and resources from Plaintiffs' attempt to invalidate Georgia's duly enacted election rules. Finally, no other party adequately represents Movants' interests. Adequacy is not a demanding standard, and the state Defendants do not share Movants' distinct interests in conserving their resources or helping Republican candidates and voters.

Second, and alternatively, the Court should grant Movants permissive intervention under Rule 24(b). Again, this motion is timely. Movants' defenses share common questions of law and fact with the existing parties. In fact, some of the Plaintiffs are Democratic Party entities—Movants' "direct counterparts,"

Wisconsin); *Gear v. Knudson*, Doc. 58, No. 3:20-cv-278 (W.D. Wis. Mar. 31, 2020) (same); *Lewis v. Knudson*, Doc. 63, No. 3:20-cv-284 (W.D. Wis. Mar. 31, 2020) (same); *see also Common Cause R.I. v. Gorbea*, 970 F.3d 11, 17 (1st Cir. 2020) (partially reversing denial of intervention to the RNC and Republican Party of Rhode Island); *VoteVets Action Fund v. Detzner*, Doc. 16, No. 4:18-cv-524-MW-CAS (N.D. Fla. Nov. 11, 2018) (granting intervention to the NRSC); *Democratic Exec. Comm. of Fla. v. Detzner*, No. 4:18-cv-520 (N.D. Fla. Nov. 9, 2018) (granting intervention to the NRSC); *Jacobson v. Detzner*, Doc. 36, No. 4:18-cv-262-MW-CAS, 2018 WL 10509488 (N.D. Fla. July 1, 2018) (granting intervention to the NRSC and RGA).

making the Republican Party "uniquely qualified to represent the 'mirror-image' interests of the plaintiffs." *Bostelmann*, 2020 WL 1505640, at *5. Incremental prejudice is also unlikely here—a case that will inevitably involve multiple parties because it is one of seven challenges to SB 202 before this Court. The Court's resolution of these important questions will have significant implications for Movants as they work to ensure that their candidates and voters can participate in fair and orderly elections.

Whether under Rule 24(a)(2) or (b), Movants should be allowed to intervene as defendants. Defendants take no position on intervention. Plaintiffs reserve their right to take a position after reviewing Movants' filings.

INTERESTS OF PROPOSED INTERVENORS

Movants are four political committees who support Republicans in Georgia. The RNC is a national committee, as defined by 52 U.S.C. §30101, that manages the Republican Party's business at the national level, supports Republican candidates for public office at all levels, coordinates fundraising and election strategy, and develops and promotes the national Republican platform. The NRSC and NRCC are national political committees that work to elect Republicans to the U.S. Senate and House of Representatives, respectively, to conduct fundraising, and to assist candidates with communication, strategy, and planning. The Georgia Republican Party is a political party that works to promote Republican values and to assist Republican candidates in obtaining election to partisan federal, state, and local office. All four Movants have interests—their own and those of their members, candidates, and voters—in the

rules and procedures governing Georgia's elections. These interests are heightened given Georgia's crucial elections coming up in 2022 for U.S. Senate, U.S. House, Governor, and other offices.

More specifically, Intervenors oppose Plaintiffs' attempt to invalidate three aspects of SB 202: what Plaintiffs call the "Takeover Provisions"; the time to apply for absentee ballots, O.C.G.A. §21-2-381(a)(1)(A) (eff. July 1, 2021); and the voter-ID requirements for absentee ballots, §21-2-381(a)(1)(C)(i) (eff. July 1, 2021). The legislature adopted these provisions to increase the efficiency, reliability, and integrity of Georgia's elections. An order judicially invalidating them would confuse Movants' voters, decrease their confidence in and understanding of Georgia elections, and require Movants to divert resources to preparing for and combatting decentralized election mismanagement. Movants take no position on Plaintiffs' challenges to what they call the the "Elector Observation Felony," the "Gag Rule," the "Estimating Ban," and the "Photography Ban."

ARGUMENT

I. Movants are entitled to intervene as of right.

Rule 24 is "liberally construed with all doubts resolved in favor of the proposed intervenor." *S.D. ex rel. Barnett v. U.S. Dep't of Interior*, 317 F.3d 783, 785 (8th Cir. 2003); *accord Fed. Sav. & Loan Ins. Corp. v. Falls Chase Special Taxing Dist.*, 983 F.2d 211, 216 (11th Cir. 1993) ("Any doubt concerning the propriety of allowing intervention should be resolved in favor of the proposed intervenors because it allows the court to resolve all related disputes in a single

action."). Under Rule 24(a)(2), this Court must grant intervention as of right if four things are true: the motion is timely; movants have a legally protected interest in this action; this action may impair or impede that interest; and no existing party adequately represents Movants' interests. *See Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989). All four are true here.

A. The motion is timely.

This Court considers four factors in determining the timeliness of a motion to intervene: the delay after the movant knew its interest in the case; any prejudice to the existing parties from that delay; prejudice to the movant from denying intervention; and any unusual circumstances. *Id.* The convenience of the parties is not a factor. *Clark v. Putnam Cty.*, 168 F.3d 458, 462 (11th Cir. 1999). All four factors favor Movants.

Movants filed this motion early, just a few weeks after Plaintiffs filed the lawsuit. Movants hardly could have moved faster than they did. Much later intervention motions have been declared timely. *See e.g.*, *North Dakota v. Heydinger*, 288 F.R.D. 423, 429 (D. Minn. 2012) (motion filed one year after answer); *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (motion filed four months after complaint); *Uesugi Farms, Inc. v. Michael J. Navilio & Son, Inc.*, 2015 WL 3962007, at *2 (N.D. Ill. June 25, 2015) (motions filed 4-6 weeks after complaint).

Nor will Movants' intervention prejudice the parties. This litigation has only just begun. No parties have filed responsive pleadings and this Court has not decided any dispositive motions. There are no unusual circumstances.

Movants will comply with all deadlines governing the parties, will work to prevent duplicative briefing, and will coordinate with the parties on discovery. But if Movants are not allowed to intervene, their interests could be irreparably harmed by an order overriding Georgia's election rules and undermining the integrity of Georgia's elections. This motion is timely.

B. Movants have protected interests in this action.

As Republican Party organizations who represent members, candidates, and voters in every county in Georgia, Movants also have "'direct, substantial, legally protectible interest[s] in the proceeding'" because they are Republican Party organizations that represent candidates and voters. *Chiles*, 865 F.2d at 1213-14. Specifically, Movants have direct and significant interests in ensuring that the State's election procedures are fair and reliable. And laws like SB 202 are designed to serve "the integrity of [the] election process," *Eu v. San Fran. Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989), and the "orderly administration" of elections, *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). As Judge Jones found, Movants have "a specific interest" in "promoting their chosen candidates and protecting the integrity of Georgia's elections." *Black Voters Matter*, *supra*, at 5.

Movants want Republican voters to vote, Republican candidates to win, and Republican resources to be spent wisely and not wasted on diversions. These interests "are routinely found to constitute significant protectable interests" under Rule 24. *Issa v. Newsom*, 2020 WL 3074351, at *3 (E.D. Cal. 2020); *see, e.g.*, *Siegel v. LePore*, 234 F.3d 1163, 1169 n.1 (11th Cir. 2001); *Trinsey v.*

Pennsylvania, 941 F.2d 224, 226 (3d Cir. 1991); *Anderson v. Babb*, 632 F.2d 300, 304 (4th Cir. 1980); *supra* n.*. Given their inherent and intense interest in elections, usually "[n]o one disputes" that political parties "meet the impaired-interest requirement for intervention as of right." *Citizens United v. Gessler*, 2014 WL 4549001, *2 (D. Col. Sept. 15, 2014). That is certainly true here, where "changes in voting procedures could affect candidates running as Republicans and voters who [are] members of the … Republican Party." *Ohio Democratic Party v. Blackwell*, 2005 WL 8162665, *2 (S.D. Ohio Aug. 26, 2005); *see id.* (under such circumstances, "there [was] no dispute that the Ohio Republican Party had an interest in the subject matter of this case").

These interests are also not "generalized" or shared by all Georgians. Not all Georgians have an interest in electing *Republicans* or conserving the resources of the *Republican Party*. As the Democratic Party has explained, Movants "have specific interests and concerns—from their overall electoral prospects to the most efficient use of their limited resources—that neither Defendants nor any other party in this lawsuit share." *Wood v. Raffensperger*, Doc. 13 at 16, No. 1:20-cv-5155-TCB (N.D. Ga. Dec. 21, 2020). And if voter participation and resource diversion are not too generalized to give Plaintiffs standing, *see* Compl. ¶¶150-161, 223-226, 377, then they are certainly not too generalized to justify Movants' intervention, *see Meek v. Metro. Dade Cty.*, 985 F.2d 1471, 1480 (11th Cir. 1993) ("If we accepted such an argument, we would be forced to conclude that most of the plaintiffs also lack standing ….").

These direct harms are not an "indirect impact" on Movants' general "economic interest" either. *Cf. Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1251 (11th Cir. 2002). Encouraging voter participation and winning elections are not "economic" at all. And courts routinely recognize that preventing diversions of resources away from an organization's activities is a legitimate "interest" under Rule 24(a)(2). *E.g.*, *Issa*, 2020 WL 3074351, at *3; *Bldg. & Realty Inst. of Westchester & Putnam Ctys., Inc. v. New York*, 2020 WL 5658703, at *11 (S.D.N.Y. 2020).

Simply put, "'in cases challenging … statutory schemes as unconstitutional or as improperly interpreted and applied, … the interests of those who are governed by those schemes are sufficient to support intervention.'" *Chiles*, 865 F.2d at 1214. Because Movants' candidates will "actively seek [election or] reelection in contests governed by the challenged rules," and Movants' voters will vote in them, Movants have an interest in "demand[ing] adherence" to Georgia's rules. *Shays v. FEC*, 414 F.3d 76, 88 (D.C. Cir. 2005).

C. This action threatens to impair Movants' interests.

Movants are "so situated that disposing of [this] action may as a practical matter impair or impede [their] ability to protect [their] interest." Fed. R. Civ. P. 24(a)(2). Movants "do not need to establish that their interests *will* be impaired," "only that the disposition of the action 'may' impair or impede their ability to protect their interests." *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014). This inquiry is "flexible." *Chiles*, 865 F.2d at 1213-14. The language

of Rule 24 is "obviously designed to liberalize the right to intervene in federal actions." *Nuesse v. Camp*, 385 F.2d 694, 701 (D.C. Cir. 1967).

Here, Movants' interests will plainly "suffer if the Government were to lose this case, or to settle it against [Movants'] interests." *Mausolf v. Babbitt*, 85 F.3d 1295, 1302-03 (8th Cir. 1996). Not only would an adverse decision undercut democratically enacted laws that protect voters and candidates (including Movants' members), but it would also change the "structur[e] of th[e] competitive environment" and "fundamentally alter the environment in which [Movants] defend their concrete interests (e.g. their interest in … winning [election or] reelection)." *Shays*, 414 F.3d at 85-86. These changes, especially if they occur near an election, would confuse voters and undermine confidence in the electoral process, *see Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006), making it less likely that Movants' voters will vote, *Crawford*, 553 U.S. at 197; *Black Voters Matter*, *supra* at 5. And it requires Movants to spend substantial resources fighting confusion and galvanizing participation. *Crawford*, 553 U.S. at 197; *Pavek v. Simon*, 2020 WL 3183249, at *10 (D. Minn. June 15, 2020).

These concerns are magnified by the likelihood that such an order would come shortly before the 2022 election. *See Purcell*, 549 U.S. at 4-5. While SB 202 itself changed Georgia's election laws, those changes were democratically enacted—not imposed by federal courts. *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020). Voters, candidates, campaigns, and election officials will be diligently studying and implementing SB 202 while this case is litigated and appealed. See *Democratic Nat'l Comm. v. Wis. State*

Legislature, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring in denial of application to vacate stay). The whiplash from a "conflicting" court order invalidating parts of SB 202, particularly as the election "draws closer," could only "result in voter confusion and consequent incentive to remain away from the polls." *Purcell*, 549 U.S. at 4-5.

Any stare decisis effect of an adverse ruling would also jeopardize Movants' interests. *Chiles*, 865 F.2d at 1214. Similar groups have recently challenged other election-integrity measures in Iowa and Florida, for example. A ruling in Plaintiffs' favor here thus could undermine Movants' ability to assert their rights and interests in those cases and in future cases across the country. *See Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004 (holding that the "persuasive effects" of one court's opinion on other courts can be significant and thus warrant intervention).

In short, the "very purpose of intervention is to allow interested parties to air their views so that a court may consider them before making potentially adverse decisions." *Brumfield*, 749 F.3d at 345. The "best" course—and the one that Rule 24 "implements"—is to give "all parties with a real stake in a controversy … an opportunity to be heard" in this suit. *Hodgson v. United Mine Workers of Am.*, 473 F.2d 118, 130 (D.C. Cir. 1972). That includes Movants.

D. No party adequately represents Movants' interests.

Finally, Movants are not adequately represented by the existing parties. Inadequacy is not a demanding showing. It's satisfied "if the proposed intervenor shows that representation of his interest *may be* inadequate." *Chiles*, 865

F.2d at 1214 (cleaned up; emphasis added). The required showing is "'minimal'" and "not difficult." *Clark*, 168 F.3d at 461. Movants "'should be allowed to intervene unless it is clear that [the current parties] will provide adequate representation.'" *Chiles*, 865 F.2d at 1214. While adequacy is sometimes presumed when movants have the same objective as one of the parties, "[t]his presumption is weak and can be overcome if the [movants] present some evidence to the contrary." *Stone*, 371 F.3d at 1311-12. "Some evidence" exists when there is a "difference in interests." *Id.*

As then-Judge Garland explained, courts "often conclude[] that governmental entities do not adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003). "[T]he government's representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a [private movant] merely because both entities occupy the same posture in the litigation." *Utah Ass'n of Ctys. v. Clinton*, 255 F.3d 1246, 1255-56 (10th Cir. 2001). Here, too, Defendants necessarily represent "the public interest," rather than Movants' "particular interest[s]" in protecting their resources and the rights of their candidates and voters. *Coal. of Ariz./N.M. Counties for Stable Economic Growth v. DOI*, 100 F.3d 837, 845 (10th Cir. 1996). While political parties also want what's best for the country, the reality is that they have different ideas of what that looks like and how best to accomplish it.

This tension is stark in the context of elections. Defendants have no interest in the election of particular candidates or the mobilization of particular

voters, or the costs associated with either. Instead, state officials, acting on behalf of all Georgia citizens and the State itself, must consider "a range of interests likely to diverge from those of the intervenors." *Meek*, 985 F.2d at 1478. Those interests include "the expense of defending the current [laws] out of [state] coffers," "the social and political divisiveness of the election issue," "their own desires to remain politically popular and effective leaders," and even the interests of Plaintiffs, *Meek*, 985 F.2d at 1478; *Clark*, 168 F.3d at 461-62; *In re Sierra Club*, 945 F.2d 776, 779-80 (4th Cir. 1991); *see Clark*, 168 F.3d at 461 (Defendants necessarily "represent interests adverse to [Movants]" because, as the State, they also represent the plaintiffs).

This difference in interests makes Defendants less likely to make the same arguments, less likely to exhaust all appellate options, and more likely to settle. *Clark*, 168 F.3d at 461-62. It is thus "sufficient to … [show] adequate representation." *Stone*, 371 F.3d at 1312. To quote the Democratic Party again, inadequacy is a "'light'" burden here because Defendants' "'views are necessarily colored by [their] view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it.'" *Ga. Republican Party*, *supra* at 9-10 (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998)).

Additionally, the Defendants, charged with defending state election law and representing all Georgians, do not oppose intervention. As many courts have stressed, the State's "silence on any intent to defend [the movant's] special interests is deafening." *Conservation Law Found. of N.E., Inc. v. Mosbach-*

er, 966 F.2d 39, 44 (1st Cir. 1992); *accord Utahns for Better Transp. v. DOT*, 295 F.3d 1111, 1117 (10th Cir. 2002) (same). Because the State "nowhere argues … that it will adequately protect [Movants'] interests," Movants "have raised sufficient doubt concerning the adequacy of [its] representation." *U.S. House of Representatives v. Price*, 2017 WL 3271445, at *2 (D.C. Cir. 2017).

At the very least, Movants will "serve as a vigorous and helpful supplement" to Defendants and "can reasonably be expected to contribute to the informed resolutions of these questions." *NRDC v. Costle*, 561 F.2d 904, 912-13 (D.C. Cir. 1977). Movants affirmatively seek to preserve Georgia's voting safeguards, including the bill challenged here, and bring a unique and well-informed perspective to the table. Movants thus should be granted intervention under Rule 24(a)(2).

II. Alternatively, Movants are entitled to permissive intervention.

Even if Movants were not entitled to intervene as of right under Rule 24(a), this Court should grant them permissive intervention under Rule 24(b). Exercising "broad" judicial discretion, courts can grant permissive intervention to "'anyone … who has a claim or defense that shares with the main action a common question of law or fact.'" *Jacobson v. Detzner*, 2018 WL 10509488, at *1 (N.D. Fla. July 1, 2018) (quoting Fed. R. Civ. P. 24(b)(1)(B)); *see Chiles*, 865 F.2d at 1213. Courts also consider "whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3); *see Chiles*, 865 F.2d at 1213. Inadequate representation is not a requirement. *Black Voters Matter*, *supra* at 5. Where a court has doubts, "the

most prudent and efficient course" is to allow permissive intervention. *Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wis. v. United States*, 2002 WL 32350046, *3 (W.D. Wis. Nov. 20, 2002).

The requirements of Rule 24(b) are met here. As explained, Movants filed a timely motion. And Movants will raise defenses that share many common questions with the parties' claims and defenses. Plaintiffs allege that the contested provisions are unconstitutional and must be enjoined. Movants reject that allegation and will argue that the provisions are valid, that an injunction is unwarranted, and that Plaintiffs' desired relief would undermine Movants' interests. This obvious clash is why courts allow political parties to intervene in defense of state election laws. *See, e.g.*, *Swenson*, *supra* ("[T]he [RNC and Republican Party of Wisconsin] have a defense that shares common questions of law and fact with the main action; namely, they seek to defend the challenged election laws to protect their and their members' stated interests—among other things, interest in the integrity of Wisconsin's elections."); *Priorities USA*, 2020 WL 2615504, at *5 (recognizing that the permissive-intervention factors were met when the RNC "demonstrate[d] that [it] seek[s] to defend the constitutionality of Michigan's [election] laws, the same laws which the plaintiffs allege are unconstitutional").

Movants' intervention will not unduly delay this litigation or prejudice anyone. Movants swiftly moved to intervene at this case's earliest stage, *see Black Voters Matter*, *supra* at 6, and their participation will add no delay beyond the norm for multiparty litigation. Plaintiffs put the legality of Georgia's

law at issue, after all, so they "can hardly be said to be prejudiced by having to prove a lawsuit [they] chose to initiate." *Security Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995). Movants also commit to complying with all deadlines that govern the parties, working to prevent duplicative briefing, and coordinating with the parties on discovery, "which is a promise" that undermines claims of undue delay. *Emerson Hall Assocs., LP v. Travelers Casualty Ins. Co. of Am.*, 2016 WL 223794, *2 (W.D. Wis. Jan. 19, 2016); *see Nielsen v. DeSantis*, 2020 WL 6589656, at *1 (N.D. Fla. 2020). Of course, "any introduction of an intervener in a case will necessitate its being permitted to actively participate, which will inevitably cause some 'delay,'" but that kind of prejudice or delay is irrelevant. Rule 24(b) is concerned with "*undue*" delay or prejudice, and "'[u]ndue' means not normal or appropriate." *Appleton v. Comm'r*, 430 F. App'x 135, 138 (3d Cir. 2011).

Allowing Movants to intervene will promote consistency and fairness in the law, as well as efficiency in this case. The Republican Party has litigated these same constitutional and statutory issues in many cases across the country. Intervention will therefore allow "the Court … to profit from a diversity of viewpoints as [Movants] illuminate the ultimate questions posed by the parties." *Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017). Moreover, any prejudice from granting intervention would be no greater than the prejudice from denying intervention. *See Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370, 377 (1987) ("[W]hen an order prevents a putative intervenor from becoming a party in *any* respect, the order is

subject to immediate review."); *Jacobson*, 2018 WL 10509488, at *1 ("[D]enying [Republican Party organizations'] motion [to intervene] opens the door to delaying the adjudication of this case's merits for months—if not longer").

This Court should not consider whether to change the election rules in a crucial battleground State without giving one of the two major political parties a seat at the table. Republican Party organizations "are not marginally affected individuals; they are substantial organizations with experienced attorneys who might well bring perspective that others miss or choose not to provide." *Nielsen*, 2020 WL 6589656, at *1. Movants should not be shut out here.

CONCLUSION

Movants respectfully ask the Court to grant their motion and allow them to intervene as defendants in this important case.

Dated: June 3, 2021

Respectfully submitted,

/s/ *William Bradley Carver, Sr.*

John E. Hall, Jr.
Georgia Bar No. 319090
William Bradley Carver, Sr.
Georgia Bar No. 115529
W. Dowdy White
Georgia Bar No. 320879
HALL BOOTH SMITH, P.C.
191 Peachtree Street NE
Suite 2900
Atlanta, GA 30303
(404) 954-6967
bcarver@hallboothsmith.com

Tyler R. Green (*pro hac vice* forthcoming)
Cameron T. Norris (*pro hac vice* forthcoming)
Steven C. Begakis (*pro hac vice* forthcoming)
CONSOVOY MCCARTHY PLLC
1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
(703) 243-9423

Counsel for Proposed Intervenor-Defendants

CERTIFICATE OF SERVICE AND CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

Pursuant to N.D. Ga. L.R. 5.1(C), I prepared the foregoing in Century Schoolbook font and 13-point type. I electronically filed it using CM/ECF, thus electronically serving all counsel of record.

Dated: June 3, 2021

/s/ *William Bradley Carver, Sr.*

John E. Hall, Jr.
Georgia Bar No. 319090
William Bradley Carver, Sr.
Georgia Bar No. 115529
W. Dowdy White
Georgia Bar No. 320879
HALL BOOTH SMITH, P.C.
191 Peachtree Street NE
Suite 2900
Atlanta, GA 30303
(404) 954-6967
bcarver@hallboothsmith.com
dwhite@hallboothsmith.com
jhall@hallboothsmith.com

Tyler R. Green (*pro hac vice* forthcoming)
Cameron T. Norris (*pro hac vice* forthcoming)
Steven C. Begakis (*pro hac vice* forthcoming)
CONSOVOY MCCARTHY PLLC
1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
(703) 243-9423

Counsel for Proposed Intervenor-Defendants