

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

**COALITION FOR GOOD  
GOVERNANCE, et al.,**

**Plaintiffs,**

**v.**

**BRIAN KEMP, et al.,**

**Defendants.**

**Civil Action No. 21-cv-02070-JPB**

**PLAINTIFFS' MOTION TO STAY AND FOR EXTENSION OF DEADLINES**

Plaintiffs move to stay this case until March 1, 2023, and to extend the current deadlines in the case to May 15, 2023 (for discovery), and June 15, July 6, and July 20, 2023 (for summary judgment motions, responses and replies, respectively).<sup>1</sup> Defendants and Intervenor oppose the relief sought in this motion. The stay, and the extension of deadlines, is necessary because Plaintiffs, and Plaintiff's counsel, must continue to devote an extraordinary amount of time and resources to pending litigation involving the security of the State of Georgia's

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<sup>1</sup> The current deadlines are October 3, 2022 for discovery, and November 1, November 22, and December 6, 2022 for summary judgment motions, responses, and replies. (ECF No. 84).

election system, *Curling v. Raffensperger*, No. 17-cv-02989-AT (N.D. Ga.). The discovery in the *Curling* case is time-sensitive and difficult. In light of the immediate demands in the *Curling* case, Plaintiffs cannot, without substantial hardship, devote the time and resources necessary to prosecute this case. Plaintiffs are not seeking injunctive relief relating to any elections during the stay period. Moreover, a stay of approximately four months will not prejudice the defendants.

#### **A. Legal Standards**

The Court has the inherent authority to stay a case and extend deadlines in appropriate circumstances. It is well accepted that “[t]he District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681 (1997). As Justice Cardozo wrote for the Supreme Court in *Landis v. North American Company*:

Apart, however, from any concession, the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.

299 U.S. 248, 254-55 (1936). *See also Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1269 (11th Cir. 2001) (“we accord district courts broad discretion

over the management of pre-trial activities, including discovery and scheduling”); *Barnes v. CS Marketing LLC*, 430 F.Supp. 3d 1309, 1311 (S.D. Fla. 2020) (same).

Stays granted to parties should not be for an “immoderate” length of time. *Center for Biological Diversity v. Desantis*, No. 8:21-CV-1521, 2022 WL 899677, at \*7 (M.D. Fla. March 28, 2022) (holding that the defendants’ proposed six-month stay was “a reasonable timeframe”).

## **B. Discussion**

Lead Plaintiff Coalition for Good Governance is a lead plaintiff in *Curling*, and is represented in *Curling* by its lead counsel in this case, Bruce Brown and Cary Ichter. *See generally* Declaration of Marilyn Marks, attached hereto as Exhibit A. *Curling* is a Section 1983 case challenging the security of the State of Georgia’s Dominion electronic election system. For the past several months, the *Curling* case has been intensely focused on the Plaintiffs discovery relating to the breach of the statewide election system emanating from Coffee County, Georgia, and the impact that breach has upon the security of the election system in Georgia. *Id.*, ¶ 5. Though that discovery is well underway, it is anticipated that discovery relating exclusively to the Coffee County breach will last for another month, followed immediately by intense summary judgment briefing and trial preparation. *See Curling*, ECF No. 1477. The leadership and volunteers working for the

Coalition for Good Governance (a non-profit organization), as well as counsel, are heavily involved in the Coffee County discovery. It is not possible, without substantial hardship, for Plaintiffs and their counsel to continue with the time-sensitive discovery in *Curling* and devote the necessary time and resources to this case at this time. It also is not feasible, from a financial perspective, to retain additional counsel to assist in either case. *Id.*, ¶¶ 5-8.

A stay will not be prejudicial to the Defendants. Defendants until the end of this calendar year will be preoccupied with running the mid-term elections and the inevitable December run-offs. A stay encompassing the upcoming elections, and the intervening holidays, will have only a modest impact on the ultimate duration of the litigation. Plaintiffs are not seeking injunctive relief effective for the 2022 mid-term election cycle.

The proposed extensions beyond the stay period will give the parties, after the stay ends, a full opportunity to take the depositions of persons with knowledge and to prepare motions for summary judgment.

### **C. Conclusion**

For the foregoing reasons, Plaintiffs move the Court to exercise its inherent authority “to control the disposition of the causes on its docket with economy of

time and effort for itself, for counsel, and for litigants,” *Landis*, and grant the proposed stay and extension of deadlines. A proposed order is filed herewith.

Respectfully submitted this 13<sup>th</sup> day of September, 2022.

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CERTIFICATE OF SERVICE AND CERTIFICATE OF COMPLIANCE WITH  
LOCAL RULE 5.1

Pursuant to N.D. Ga. L.R. 5.1(C), I certify that the foregoing was prepared using Times New Roman 14 font. I electronically filed this using CM/ECF, thus electronically serving all counsel of record.

This 13<sup>th</sup> day of September, 2022.

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**COALITION FOR GOOD  
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**Plaintiffs,**

**v.**

**BRAD RAFFENSPERGER, et al.,**

**Defendants.**

**Civil Action No. 21-cv-02070 JPB**

**DECLARATION OF MARILYN MARKS**

**I, MARILYN MARKS**, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am over the age of 18 and have personal knowledge of all facts stated in this declaration and, if called to testify, I could and would testify competently thereto.

2. I am the Executive Director of Coalition for Good Governance (“CGG”). CGG is a small 501(c)(3) non-profit organization, with no salaried staff, accomplishing its work primarily through volunteer efforts and a modest legal and litigation support budget.

3. I currently devote approximately 100 hours per week to my duties at CGG. Those current demands are resulting from unanticipated events in another

case in which CGG is a primary plaintiff, *Curling v. Raffensperger*, No. 17-cv-02989-AT.

4. For litigation support, CGG relies on a team of highly-engaged volunteers contributing numerous hours each week to CGG's election-related work. Some of those volunteers are also individual named plaintiffs in this litigation.

5. In recent weeks, discovery in the *Curling* case has confirmed a major breach of the state's voting system emanating from Coffee County, Georgia. The news of the voting system breach has been widely reported in the national press.

For example, the Associated Press article may be found at

<https://apnews.com/article/2022-midterm-elections-technology-donald-trump-voting-92c0ace71d7bee6151dd33938688371e>. The most recent Washington Post

report may be found at

<https://www.washingtonpost.com/investigations/2022/09/06/coffee-county-georgia-breach-logan/>.


6. The voting system breach has significant implications for the pending November and December 2022 elections and requires significant daily priority attention from our attorneys, our volunteers and me.

7. Attorneys Bruce Brown and Cary Ichter, lead counsel for the Plaintiffs in this case, are also attorneys for CGG in the *Curling* case. Mr. Brown

and Mr. Ichter have small firms without the resources to manage both cases at this unusually intense time. Mr. Brown and Mr. Ichter work on these cases substantially on a pro bono/Section 1988 basis. It is not feasible for CGG to engage additional counsel at this time.

8. In summary, the unexpected discovery in *Curling* has overlapped with the scheduled discovery in this case, making it for all practical purposes impossible for CGG attorneys and volunteer staff to respond properly to the needs in both cases simultaneously.

Executed this 12th day of September 2022.

  
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Marilyn Marks