

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

INTERNATIONAL ALLIANCE OF
THEATER STAGE EMPLOYEES LOCAL
927,

Plaintiff,

v.

JOHN FERVIER, EDWARD LINDSEY,
JANICE W. JOHNSTON, SARA TINDALL
GHAZAL, and RICK JEFFARES, in their
official capacities as members of the Georgia
State Election Board; and PATRISE
PERKINS-HOOKER, AARON V.
JOHNSON, MICHAEL HEEKIN, and
TERESA K. CRAWFORD, in their official
capacities as members of the Fulton County
Registration and Elections Board,

Defendants.

Civil Action No.:
1:23-CV-04929-AT

**AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff International Alliance of Theater Stage Employees Local 927 (“IATSE”), by and through the undersigned counsel, files this AMENDED COMPLAINT for DECLARATORY and INJUNCTIVE RELIEF against JOHN FERVIER, in his official capacity as a member of the Georgia State Election Board; EDWARD LINDSEY, in his official capacity as a member of the Georgia State Election Board; JANICE W. JOHNSTON, in her official capacity as a member of

the Georgia State Election Board; SARA TINDALL GHAZAL, in her official capacity as a member of the Georgia State Election Board; RICK JEFFARES, in his official capacity as a member of the Georgia State Election Board; PATRISE PERKINS-HOOKER, in her official capacity as a member of the Fulton County Registration and Elections Board; AARON V. JOHNSON, in his official capacity as a member of the Fulton County Registration and Elections Board; MICHAEL HEEKIN, in his official capacity as a member of the Fulton County Registration and Elections Board; and TERESA K. CRAWFORD, in her official capacity as a member of the Fulton County Registration and Elections Board; and alleges as follows:

NATURE OF THE CASE

1. On November 5, 2024, voters across the United States will elect the President and Vice President of the United States. Many voters will cast their votes in person on election day. Millions of Americans, however, will cast absentee ballots in accordance with state and federal laws.

2. Yet after sweeping changes to Georgia's election laws passed in response to the record turnout in the 2020 general election (and subsequent Senate runoffs), Georgia no longer complies with key provisions of the Voting Rights Act

governing absentee balloting. S.B. 202, § 25, 156th Gen. Assemb., Reg. Sess. (Ga. 2021 Act 9) (“SB 202”) (amending O.C.G.A. § 21-2-381(a)(1)(A)).

3. For more than fifty years, federal law has required states to allow all eligible voters who may be absent from their voting jurisdiction on election day to cast absentee ballots for President and Vice President so long as they have applied at least *seven days* before the election. 52 U.S.C. § 10502(d). Prior to SB 202, Georgia complied with this requirement. Now, however, Georgia cuts off absentee applications eleven days before the election—four days before the federally mandated seven-day period. O.C.G.A. § 21-2-381(a)(1)(A).

4. As a result, Georgians who are fully qualified to vote absentee and who submit their absentee ballot applications within the time specified by federal law will have their applications rejected as untimely. The unlawful rejection of these ballot applications will deprive Georgians of their federally protected right to participate in choosing who will lead the United States in the coming years. 52 U.S.C. § 10502(c).

5. Members of IATSE are particularly affected by the unlawful absentee application deadline because their work requires them to frequently travel around and outside of Georgia, often on short notice. Members therefore will be forced to travel during the election but will not know of their need to vote absentee until

shortly before election day, including during the period between Georgia's absentee application deadline and the federally mandated seven-day period. By shortening the timeframe for requesting absentee ballots, Georgia's new application deadline makes it more difficult for IATSE members to ensure that their applications are timely submitted, depriving them of full lawful access to absentee ballots and the rights conferred by the Voting Rights Act when voting for President and Vice President.

6. For these reasons and those stated below, Plaintiff requests that the Court declare that Georgia's absentee ballot application deadline, when applied to elections for President and Vice President, violates the Voting Rights Act.

JURISDICTION AND VENUE

7. Plaintiff brings this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation, under color of state law, of rights secured by the federal Voting Rights Act.

8. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the laws of the United States and involve the assertion of deprivation, under color of state law, of rights secured under federal law.

9. This Court has personal jurisdiction over Defendants, who are sued in their official capacities.

10. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because Defendants reside in the Northern District of Georgia.

11. This Court has the authority to enter declaratory judgment and provide injunctive relief under Federal Rules of Civil Procedure 57 and 65 and 28 U.S.C. §§ 2201 and 2202.

PARTIES

12. Plaintiff International Alliance of Theater Stage Employees Local 927 is an association headquartered in Atlanta of more than 190 professionals who work behind the scenes at live theater and television productions throughout Georgia and the United States. IATSE's members, almost all of them Georgia residents and many of them residents of Fulton County, offer skills ranging from set building to programming and operating the most advanced computerized sound and lighting technology.

13. IATSE is dedicated to protecting the dignity and both the financial and physical well-being of its members. It does so by advocating for safe working conditions, fair wages, and just treatment of all its members. In addition to negotiating contracts on behalf of its members, IATSE advocates for the election of

candidates at all levels of government who support both the rights of workers and the cultural traditions and institutions that have brought Atlanta international renown.

14. Georgia's premature deadline threatens to make it more difficult for IATSE's members to vote because it restricts their legally protected opportunities to request and cast an absentee ballot. Some IATSE members must travel for work, and on any given day several will be away from their voting jurisdiction. Among the injured members are those who work on traveling productions and spend months on the road, often working 14-hour days. Even members who do not travel on such extended trips are commonly called upon to travel widely within Georgia. These IATSE members are entitled under federal law to apply for an absentee ballot until seven days before the presidential election, and Defendants by enforcing Georgia's earlier deadline will deprive these members of that federal right.

15. It is a virtual certainty that IATSE members will be called on to work outside of their voting jurisdiction during the 2024 presidential election, as evidenced by the fact that in every year dating back to at least 2016—except for 2020, during the pandemic—members have been on the road touring with productions on each Tuesday following the first Monday of November (i.e. election day).

16. Each of those members, moreover, were registered Georgia voters at the time of their absence and received their touring assignment more than seven days prior to the election—which would allow them to request an absentee ballot under the deadline imposed by the Voting Rights Act.

17. Given such consistent member travel it is virtually certain that these or other members will be absent from their voting jurisdiction on election day. *Cf. Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1160 (11th Cir. 2008) (“When the alleged harm is prospective, we have not required that the organizational plaintiffs name names because every member faces a probability of harm in the near and definite future.”); *Am. Coll. of Emergency Physicians v. Blue Cross & Blue Shield of Ga.*, 833 F. App’x 235, 241 n.8 (11th Cir. 2020) (“[W]e note that for prospective equitable relief . . . requiring specific names at the motion to dismiss stage is inappropriate.”).

18. Defendants JOHN FERVIER, EDWARD LINDSEY, JANICE W. JOHNSTON, SARA TINDALL GHAZAL, and RICK JEFFARES are members of the Georgia State Election Board (“SEB”) and are named in their official capacities as members of the SEB (together, “SEB Defendants”).

19. As members of the SEB, the SEB Defendants are authorized by the state legislature to formulate, adopt, and promulgate such rules and regulations, consistent

with Georgia law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections in Georgia. O.C.G.A. § 21-2-31(1)-(2) (“It shall be the duty of the State Election Board . . . [t]o promulgate rules and regulations so as to obtain uniformity in the practices and proceedings of superintendents, registrars, deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections; [and t]o formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.”). Specifically, SEB Defendants are “authorized to promulgate reasonable rules and regulations for the implementation of” Georgia’s absentee ballot request procedure, including its 11-day deadline. O.C.G.A. § 21-2-381(e).

20. SEB Defendants are empowered with a range of mechanisms to enforce compliance with Georgia election law, including issuing cease and desist orders, O.C.G.A. § 21-2-33.1(a)(1); imposing civil penalties for failure to comply with state election law on anyone who SEB Defendants “deem[] appropriate,” O.C.G.A. § 21-2-33.1(a)(2), which cannot subsequently be substantively reviewed, O.C.G.A. § 21-2-33.1(d); and even suspending county or municipal election superintendents and appointing temporary replacements, O.C.G.A. § 21-2-33.1(f). This district has previously found such “significant oversight authority” sufficient to establish that

injuries caused by election laws “are traceable to the Board and its members.” *Fair Fight Action, Inc. v. Raffensperger*, 634 F. Supp. 3d 1128, 1187 (N.D. Ga. 2022) (citing O.C.G.A. §§ 21-2-31 & 33.1).

21. Defendants PATRISE PERKINS-HOOKER, AARON V. JOHNSON, MICHAEL HEEKIN, and TERESA K. CRAWFORD, are sued in their official capacities as members of the Fulton County Registration and Elections Board (collectively, the “County Defendants”). In this capacity, the County Defendants oversee Fulton County’s election activities. *See* O.C.G.A. § 21-2-202(d). This includes assuming the role of registrar, or overseeing the absentee ballot clerk, in reviewing each absentee ballot application to ensure it conforms with Georgia law and issuing ballots only to voters whose applications are timely submitted and otherwise satisfactory. *Id.* § 21-2-381(b).

STATEMENT OF FACTS AND LAW

22. Prior to 2021, Georgia law allowed a voter wishing to vote absentee to submit their application starting 180 days before the election. O.C.G.A. § 21-2-381(a)(1)(A) (2019). If the voter was determined eligible, the law required the board of registrars or absentee ballot clerk to mail or issue an absentee ballot immediately upon determining eligibility. *Id.* § 21-2-384(a)(2) (2019). Ballots were to be mailed or issued through the Sunday before the election. *Id.*

23. SB 202 changed these requirements by significantly shortening the period during which absentee applications could be timely submitted. Under current law, applications cannot be submitted earlier than 78 days before the election and will not be accepted if submitted fewer than 11 days before the election. O.C.G.A. § 21-2-381(a)(1)(A).

24. This change brought Georgia’s deadline for absentee ballot applications into irreconcilable conflict with longstanding federal law when applied to those who seek to vote for President or Vice President and may be absent from their election district on election day.

25. In 1970, Congress amended the Voting Rights Act of 1965 to address “the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections.” 52 U.S.C. § 10502(a). Congress found that these restrictions denied or abridged citizens’ constitutional rights, including “the inherent constitutional right of citizens to vote for their President and Vice President,” and “the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment.” *Id.*

26. To address these issues, Congress amended the Voting Rights Act to provide that no citizen shall “be denied the right to vote for electors for President and Vice President . . . *because of the failure of such citizen to be physically present*

in such State or political subdivision at the time of such election” 52 U.S.C. § 10502(c) (emphasis added). Further, the Voting Rights Act set a federal floor for the opportunities states must provide to vote by absentee ballot: “each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President . . . by all duly qualified residents of such State who may be absent from their election district” so long as those individuals “have applied therefor not later than *seven days* immediately prior to such election.” 52 U.S.C. § 10502(d) (emphasis added).

27. Georgia’s 11-day cutoff for accepting absentee ballot applications violates the Voting Rights Act and shortens the amount of time that voters who may be absent on election day, like Plaintiff’s members, have to request absentee ballots.

28. Although Georgia provides early in-person voting until the Friday before an election—a procedure that Georgia law also refers to as absentee voting or advance voting, *see* O.C.G.A. § 21-2-385(c)—that option is not available to “*all* qualified voters,” as the Voting Rights Act requires, 52 U.S.C. § 10502(d). Many voters who will be absent from their voting jurisdiction on election day, including IATSE members, cannot appear *in person* to cast a ballot. Regardless of the terms Georgia uses to describe various forms of in-person voting, a state cannot define its way out of compliance with Section 202 of the Voting Rights Act, which secures the

right to vote for President and Vice President specifically for those who are not “physically present” on election day, 52 U.S.C. § 10502(c), when they apply to vote absentee up to seven days before election day.

CLAIMS FOR RELIEF

COUNT I

**52 U.S.C. § 10502; 52 U.S.C. § 10307; 42 U.S.C. § 1983
Violation of 52 U.S.C. § 10502(d)
Against All Defendants**

29. Plaintiff realleges and reincorporates by reference paragraphs 1-6 and 22-28 and of this Complaint as though fully set forth herein.

30. 52 U.S.C. § 10502(d) provides that:

[E]ach State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

31. Defendants’ enforcement of the absentee ballot application deadline deprives Georgians (including IATSE members) who may be absent from their election district on election day of the right to cast an absentee ballot for President

and Vice President so long as they apply at least seven days before the relevant election.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff IATSE respectfully requests that this Court enter judgment:

- a. Declaring that the absentee ballot application deadline, as it appears in O.C.G.A. § 21-2-381, and any other provisions requiring an individual who is voting for President or Vice President and may be absent on election day to submit an application for an absentee ballot more than seven days before the election, violate 52 U.S.C. § 10502(d);
- b. Preliminarily and permanently enjoining Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to the absentee ballot application deadline for applications submitted by voters who may be absent from their voting district on election day, in elections for President and Vice President;
- c. Awarding Plaintiff its costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. § 1988 and other applicable laws; and

- d. Granting such other and further relief as the Court deems just and proper.

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Respectfully submitted,

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