

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

ALPHA PHI ALPHA FRATERNITY
INC., et al.,
Plaintiffs,

CIVIL ACTION FILE

No. 1:21-CV-5337-SCJ

v.

BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia,
Defendant.

COAKLEY PENDERGRASS et al.,
Plaintiffs,

CIVIL ACTION FILE

No. 1:21-CV-5339-SCJ

v.

BRAD RAFFENSPERGER et al.,
Defendants.

ANNIE LOIS GRANT et al.,
Plaintiffs,

CIVIL ACTION FILE

No. 1:22-CV-122-SCJ

v.

BRAD RAFFENSPERGER et al.,
Defendants.

ORDER

The Court enters this Order to perfect the Record on trial logistics. The presentation of evidence will proceed as follows:

The Plaintiffs will present their cases-in-chief by element. This means that all Plaintiffs will introduce all testimony and evidence of the first Gingles precondition, then the second and third Gingles preconditions, and conclude with the totality of the circumstances. During the course of these presentations, the Court will hear all of the evidence from one Plaintiff on that element before moving to the next Plaintiff. For example, for the first Gingles precondition, the Alpha Phi Alpha Plaintiffs will introduce all their witnesses' testimony and all their evidence related to the first Gingles precondition; then the Court will hear the Pendergrass Plaintiffs' presentation on the first Gingles precondition and conclude with the Grant Plaintiffs' presentation on the first Gingles precondition.¹

¹ At the telephone conference, the Plaintiffs indicated that they would like to come to an agreement on the order in which the Plaintiffs will present their cases-in-chief, i.e., Alpha Phi Alpha first, Pendergrass second, and Grant third, or some other order. For purposes of judicial efficiency and to ensure that all Parties are adequately prepared, the Court requires Plaintiffs to submit a notice of the order in which they will present their cases-in-chief on or before **5:00PM on SEPTEMBER 1, 2023**.

The Court will allow an exception to this method of presentation for witnesses who are testifying for multiple Plaintiffs on the same element. For example, both the Alpha Phi Alpha and the Pendergrass Plaintiffs list Mr. Cooper as one of their witnesses, presumably on the first Gingles precondition. For the convenience of the witness, the Court will allow Mr. Cooper to testify consecutively on the element at issue for the cases in which he is named as a witness. Meaning, for example, Mr. Cooper will give his complete testimony in Alpha Phi Alpha (direct examination, cross-examination, redirect, and re-cross) and then, Mr. Cooper will testify in Pendergrass following the same pattern. See below for more detail. Once Mr. Cooper finishes his testimony, the Court will then resume the case-in-chief of the Alpha Phi Alpha Plaintiffs (or whichever of the Plaintiffs called Mr. Cooper first).

The following details the method by which the Parties may examine a particular witness:

Only the Plaintiffs who have specifically named a witness in their case will have the opportunity to direct and/or redirect the witness. Defendants will then have the opportunity to cross-examine said witness, but only about the case in which said witness was called.

If multiple Plaintiffs are calling the same witness in their cases-in-chief, and the subject matter does not overlap, then the witness will be questioned in the first set of Plaintiffs' case-in-chief and after the direct examination, cross-examination, redirect, and re-cross, the second set of Plaintiffs will call the same witness and the questioning will proceed in the same manner. For example, if Alpha Phi Alpha calls Mr. Cooper, counsel must state that they are calling Mr. Cooper as a witness in Alpha Phi Alpha for purposes of the first Gingles precondition. The Alpha Phi Alpha Plaintiffs will then directly examine Mr. Cooper on their case-in-chief; Secretary Raffensperger will then cross-examine Mr. Cooper on his testimony in Alpha Phi Alpha, then redirect and re-cross. After Mr. Cooper concludes his testimony in the Alpha Phi Alpha case-in-chief, counsel for the Pendergrass Plaintiffs will need to state on the Record that the Pendergrass Plaintiffs are calling Mr. Cooper as a witness for purposes of the first Gingles precondition. Questioning will proceed in the same manner as in Alpha Phi Alpha, except it will relate only to the Pendergrass case-in-chief.

If multiple Plaintiffs call the same witness in their case-in-chief and the subject matter does overlap, when the witness is proffered, counsel must state on the Record all of the cases in which that witness is being called. At which point,

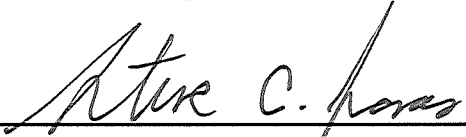
each Plaintiff will have an opportunity to directly examine said witness, and the Defendants will have an opportunity to cross-examine that witness about all the cases in which said witness is testifying. When the Plaintiffs switch between cases, they must clearly state so for the Record. For example, counsel for Pendergrass will now question Witness A on Senate Factor One. The order for direct examinations and redirects will comply with the Parties' agreed-upon case presentation order.

With respect to the Defendants' cases-in-chief, Defendants need to state clearly on the Record which case(s) their witness is testifying. If the witness is testifying for multiple cases, counsel must inform the Court on the Record which case the witness is offering testimony. For example, counsel will introduce Witness A as testifying in all three cases. Before counsel questions Witness A about a particular case, they need to state Witness A will now be testifying about Alpha Phi Alpha; if the witness changes the focus of his or her testimony to Pendergrass while on the stand, counsel will need to state Witness A will now be testifying about Pendergrass.

For purposes of cross-examination, in the Defendants' cases-in-chief, the Plaintiffs will cross-examine in the same order that they presented their cases-in-chief.

In conclusion, the Parties are **ORDERED** to comply with this Order when presenting the evidence in the coordinated cases at trial. The Court reserves the right to amend or alter this Order in the future.

IT IS SO ORDERED this 24th day of August, 2023.



HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE