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

ALPHA PHI ALPHA FRATERNITY INC., a nonprofit organization on behalf of members residing in Georgia; SIXTH DISTRICT OF THE AFRICAN METHODIST EPISCOPAL CHURCH, a Georgia nonprofit organization; ERIC T. WOODS; KATIE BAILEY GLENN; PHIL BROWN; JANICE STEWART, *Plaintiffs*, vs. BRAD RAFFENSPERGER, in his official capacity as Secretary of State of Georgia. *Defendant*.	**Case No. 1:21-cv-5337**

PLAINTIFFS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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PROPOSED FINDINGS OF FACTS

I. Background Facts

A. Measuring Black Population

1. As used throughout these Proposed Findings of Fact and Conclusions of Law, Any Part ("AP") Black Voting Age Population ("BVAP") refers to the population of people who self-identify as Black on the Census form, whether in combination with other races or not. Sept. 5 AM Tr. 69:22-70:3; Alpha Ex. 1 (Cooper Report), at 3-4, ¶ 7 & n.1 (hereinafter "Alpha Ex. 1").[1] Unless otherwise noted, these Proposed Findings of Fact and Conclusions of Law use the term "Black" to refer to persons who are any-part or AP Black, i.e., persons who are single-race Black or persons of two or more races and some part Black, including Hispanic Black.

2. Plaintiffs' demographic and mapping expert, William Cooper uses the AP BVAP metric in defining which districts are majority-Black. Alpha Ex. 1, at 4, ¶ 8; Sept. 5 AM Tr. 69:22-25 (Cooper based his definition of "Black" on "any part of Black population, which would include persons who are Hispanic, Black, or some part Black and some other race.").

3. Mr. Cooper attested that he understood that "following the U.S. Supreme Court decision in *Georgia v. Ashcroft*, 539 U.S. 461 (2003), the 'Any Part' definition is an appropriate Census classification to use in most Section 2 cases." Alpha Ex. 1, at 3-4 n.1.

B. Map Definitions

4. The "2021 Senate Plan" or "Enacted Senate Plan" and "2021 House Plan" or "Enacted House Plan" refer to the maps that Governor Kemp signed into law on December 30, 2021.

[1] Alpha Exhibits are stamped as "APA Ex. __."

C. Plaintiffs

a. Alpha Phi Alpha Fraternity Inc.

5. Plaintiff Alpha Phi Alpha Fraternity Inc. is the first intercollegiate Greek-letter fraternity established for Black men. Doc. No. [280], at 38, ¶ 51; Sept. 11 AM Tr. 1294:20-1295:10.

6. Alpha Phi Alpha Fraternity Inc. has thousands of members in Georgia, including Black Georgians who are registered voters who live in Senate Districts 16, 17, and 23 under the 2021 Senate Plan, as well as in House Districts 74, 114, 117, 128, 133, 134, 171, and 173 under the 2021 House Plan. Doc. No. [280], at 38, ¶ 52; Sept. 11 AM Tr. 1312:18-1313:2.

7. Alpha Phi Alpha Fraternity Inc. has long made political participation for its members and Black Americans an organizational priority, including through programs to raise political awareness, register voters, and empower Black communities. Doc. No. [280], at 38, ¶ 53; Sept. 11 AM Tr. 1315:25-1318:11.

8. Harry Mays is a member of Alpha Phi Alpha Fraternity Inc. Doc. No. [94], at 2, ¶ 4; Doc. No. [280], at 38, ¶ 54. Mr. Mays resides in House District 117 under the State's 2021 House Plan, and under Plaintiffs' illustrative maps, would reside in a new majority-Black House District. Doc. No. [280], at 38-39, ¶¶ 55-56.

b. Sixth District of the African Methodist Episcopal Church

9. Plaintiff Sixth District of the African Methodist Episcopal Church ("AME Church") is a nonprofit religious organization. Doc. No. [280], at 39, ¶ 57.

10. The Sixth District is one of twenty districts of the African Methodist Episcopal Church and covers the entirety of the State of Georgia. Doc. No. [280], at 39, ¶ 58; Sept. 6 AM Tr. 374:10-20. In Georgia, the AME Church has more than 500 member-churches and approximately 90,000 individual members across the state, with churches located in Senate Districts 16, 17, and 23 under the 2021 Senate Plan as well as in

House Districts 74, 114, 117, 128, 133, 134, 171, and 173 under the 2021 House Plan. Doc. No. [280], at 39, ¶¶ 59-61; Sept. 6 AM Tr. 375:10-376:7.

11. The Church has long made encouraging and supporting civic participation among its members a core aspect of its work, including through programs to register voters, transporting churchgoers to polling locations, hosting "Get Out the Vote" efforts, and providing food, water, encouragement, and assistance to voters waiting in lines at polling locations. Doc. No. [280], at 39-40, ¶ 62; Sept. 6 AM Tr. 377:15-22.

12. Plaintiff Phil S. Brown is a member of the Lofton Circuit AME Church in Wrens, Georgia, and Plaintiff Janice Stewart is a member of the Saint Peter AME Church in Camilla, Georgia. Doc. No. [280], at 40, ¶¶ 63-64.

c. Eric T. Woods

13. Plaintiff Eric T. Woods is a Black citizen of the United States who resides in Tyrone, Georgia in Fayette County. Doc. No. [280], at 40, ¶¶ 65-66. Mr. Woods has been a registered voter at his current address since 2011. Id. at 40, ¶ 67.

14. Mr. Woods resides in State Senate District 16, which is not majority Black, under the 2021 Senate Plan. Under Plaintiffs' illustrative map, Mr. Woods would reside in a new majority Black Senate District, Illustrative Senate District 28. Doc. No. [280], at 40-41, ¶¶ 68-69.

d. Katie Bailey Glenn

15. Plaintiff Katie Bailey Glenn is a Black citizen of the United States who resides in McDonough, Georgia in Henry County. Doc. No. [280], at 41, ¶¶ 70-71. Ms. Glenn has been a registered voter at her current address for approximately 50 years. Id. at 41, ¶ 72.

16. Ms. Glenn resides in State Senate District 17, which is not majority Black, under the State's 2021 Senate Plan. Under Plaintiffs' illustrative state Senate map, Ms. Glenn would reside in a new majority Black

Senate District, Illustrative Senate District 17. Doc. No. [280], at 41, ¶¶ 73-74.

e. Phil S. Brown

17. Plaintiff Phil S. Brown is a Black citizen of the United States who resides in Wrens, Georgia in Jefferson County. Doc. No. [280], at 41-42, ¶¶ 75-76. Mr. Brown has been a registered voter at his current address for years. Id. at 42, ¶ 77.

18. Mr. Brown resides in State Senate District 23, which is not majority Black, under the State's 2021 Senate Plan. Under Plaintiffs' illustrative maps, Mr. Brown would reside in a new majority Black Senate District, Illustrative Senate District 23. Doc. No. [280], at 42, ¶¶ 78-79.

f. Janice Stewart

19. Plaintiff Janice Stewart is a Black citizen of the United States who resides in Thomasville, Georgia in Thomas County. Doc. No. [280], at 42, ¶¶ 80-81. Ms. Stewart has been a registered voter at her current address for years. Id. at 42, ¶ 82.

20. Ms. Stewart resides in State House District 173, which is not majority Black, under the State's 2021 House Plan. Under Plaintiffs' illustrative maps, Ms. Stewart would reside in a new majority Black House District, Illustrative House District 171. Doc. No. [280], at 41-42, ¶¶ 83-84.

D. Defendant Brad Raffensperger

21. Defendant Brad Raffensperger is the Georgia Secretary of State and is sued in his official capacity. Doc. No. [280], at 43, ¶ 85.

22. Secretary Raffensperger is responsible for overseeing the conduct of Georgia's elections and implementing election laws and regulations, including the State House and State Senate district maps at issue in this litigation. See Ga. Code Ann. § 21-2-50(a); Ga. Comp. R. & Regs. 590-1-1-.01, .02 (2018); Jacobsen v. Fla. Sec'y of State, 974 F.3d 1236 (11th Cir. 2020).

E. The 2021 Redistricting Process

23. The General Assembly's 2021 Committee Guidelines for both the House and Senate set forth "General Principles for Drafting [Redistricting], Plans," and provides that "[a]ll plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended." Joint Exs. 1, 2.

24. The General Assembly's 2021 Committee Guidelines also provide that "[t]he Committee should consider: (a) The boundaries of counties and precincts; (b) Compactness; and (c) Communities of interest." Joint Exs. 1, 2.

25. The General Assembly's 2021 Committee Guidelines provide that "[e]fforts should be made to avoid the unnecessary pairing of incumbents." Joint Exs. 1, 2.

26. Traditional districting principles include population equality, compactness, contiguity, following county and voting district (VTD) boundaries, respect for communities of interest, and the non-dilution of minority voting strength. Joint Exs. 1, 2. See also Alpha Ex. 1, at 5, ¶ 10; Sept. 5 AM Tr. 89:23-91:9, 91:22-92:23, 94:6-9-101:9, 103:5-107:17, 109:2-112:8; Sept. 12 AM Tr. 1611:21-24. To comply with the population equality principles, Georgia's mapdrawers stayed within a 1% population deviation for the State Senate and 1.5% deviation for the State House. Sept. 5 AM Tr. 91:25-92:8; Sept. 5 PM Tr. 187:21-188:6; Sept. 12 AM Tr. 1607:11-1608:7; Sept. 13 AM Tr. 1968:16-22.

27. All of the public town hall meetings convened by the State's Redistricting Committees were held during June and July 2021. Doc. No. [280], at 52, ¶ 139.

28. On August 21, 2021, the Census Bureau released the detailed population counts that Georgia used to redraw districts. Doc. No. [280], at 52, ¶ 140.

29. The 2021 Senate and House Plans were first released on November 2, 2021. Doc. No. [280], at 53, ¶ 143.

30. The 2021 Special Session of the Georgia General Assembly convened on November 3, 2021, by Governor Kemp's proclamation. Governor's Proclamation Convening the Gen. Assembly of Ga. in Special Sess. (Sept. 23, 2021), ; Doc. No. [280], at 53, ¶ 144.

31. There are 56 Senate districts in the State's 2021 Senate Plan. Doc. No. [94], at 7, ¶ 59; Doc. No. [280], at 57, ¶ 172.

32. 14 of the 56 Senate districts in the State's 2021 Senate Plan, approximately 25%, are majority Black. Alpha Ex. 1, at 9, ¶ 15 & Ex. L.

33. There are 180 House districts in the State's 2021 House Plan. Doc. No. [94], at 8, ¶ 64; Doc. No. [280], at 58, ¶ 179.

34. 49 of the 180 House districts in the State's 2021 House Plan, approximately 27%, are majority Black. Alpha Ex. 1, at 58-59, ¶ 132 & fig. 23.

35. The Georgia General Assembly passed the 2021 Senate and House Plans on November 12, 2021. Doc. No. [280], at 53, ¶ 147.

36. Not a single Black legislator voted in favor of the 2021 Senate or House Plans. Doc. No. [94], at 7, ¶ 57; Doc. No. [280], at 54, ¶ 151.

37. The 2021 Special Session of the Georgia General Assembly adjourned on November 22, 2021. Ga. Senate Daily Status Report (Nov. 22, 2021), https://www.legis.ga.gov/api/document/docs/default-source/senate-calendars/2021ex/senate-daily-status-2021ex-legislative-session-day-15.pdf?sfvrsn=b3e46ada_2; Ga. House of Representatives Daily Status Report (Nov. 22, 2021), https://www.legis.ga.gov/api/document/docs/default-source/house-calendars/20212022/11222021.pdf?sfvrsn=795eb5ce_2.

38. After a delay of 38 days, Governor Kemp signed the 2021 Senate and House Plans into law on December 30, 2021. See Doc. No. [280], at 53-54, ¶¶ 148-149.

F. Procedural History

a. Filing of Complaint and Motion for Preliminary Injunction

39. Plaintiffs filed this suit on December 30, 2021, hours after Governor Kemp signed the Plans. See Doc. No. [268], at 11.

40. Plaintiffs filed a Motion for a Preliminary Injunction on January 7, 2022. See Doc. No. [268], at 11.

41. Plaintiffs filed a Renewed Motion for a Preliminary Injunction one week after their initial motion. The Renewed Motion differed from the original only through minor updates to expert reports. See Doc. No. [39].

42. The parties consented to an expedited briefing schedule. See Doc. No. [62].

43. Defendant filed a motion to dismiss, arguing that Plaintiffs failed to request a three-judge court for an action involving "the apportionment of congressional districts or the apportionment of any statewide legislative body," (see 28 U.S.C. § 2284(a)), and that this Court, therefore, lacks subject matter jurisdiction over Plaintiffs' claims. Doc. No. [43-1], at 2.

44. Defendant also asserted that even if this case is properly before a single-judge court, Plaintiffs' Complaint fails to state a claim against Defendant for declaratory relief because Congress has not expressed an intent to provide a private right of action under Section 2. Doc. No. [43-1], at 13.

45. This Court determined that the plain language of § 2284(a), its legislative history, and other cases confirmed that a three-judge panel was not required in this matter. Doc. No. [65], at 30-31.

46. This Court also determined that there is a private right of action to enforce Section 2. It acknowledged that lower courts have treated the question whether the VRA furnishes an implied right of action under Section 2 as an open question but determined that lower courts have

consistently answered the question in the affirmative. Doc. No. [65], at 33.

47. This Court denied Defendant's motion to dismiss and declined to authorize an immediate appeal. Doc. No. [65], at 34.

b. Coordinated Preliminary Hearing

48. This Court held a six-day coordinated preliminary injunction hearing in Alpha Phi Alpha et al. v. Raffensperger (1:21-cv-05337-SCJ), Pendergrass et al. v. Raffensperger et al. (1:21-cv-05339-SCJ), and Grant et al. v. Raffensperger et al. (1:22-cv-00122-SCJ). Alpha Phi Alpha and Grant challenge Georgia's state legislative maps, and Pendergrass challenges Georgia's congressional maps, all under Section 2 of the Voting Rights Act for unlawful vote dilution.

49. The Court began the preliminary injunction hearing on February 7, 2022 and concluded the hearing on February 14, 2022. See Doc. No. [268], at 11.

50. All written declarations or reports submitted by the Alpha Phi Alpha Plaintiffs' witnesses were admitted into evidence at the start of the coordinated hearing. See Feb. 7 AM Tr. 31:19–25. This included written submissions of witnesses who did not testify live at the hearing. Witnesses who did not testify at the hearing but whose written submissions were admitted into evidence included Mr. Sherman Lofton, Jr., former State Director of Plaintiff Alpha Phi Alpha Fraternity Inc (Doc. No. [70-2]); Dr. Traci Burch, a political scientist who opined on Senate Factors Five and Eight (Doc. No. [39-9]); Dr. Jason Morgan Ward, a historian who opined on Senate Factors One, Two and Six (Doc. No. [39-10]); as well as individual plaintiffs Katie Bailey Glenn (Doc. No. [39-11]), Phil Brown (Doc. No. [39-12]), Janice Stewart (Doc. No. [39-13]), and Eric Woods (Doc. No. [39-14]).

51. The coordinated hearing included live testimony from 15 witnesses (10 experts and 5 fact witnesses); more than 250 pages of pre-hearing briefing; reports from 13 experts; and nearly 100 hearing exhibits. The

transcript of the preliminary injunction hearing spans approximately 1,300 pages.

52. The Court found that the Plaintiffs were likely to succeed on the merits of their claims regarding the creation of "two additional State Senate Districts and two State House districts in the Atlanta Metropolitan area and one additional State House District in southwestern Georgia." Doc. No. [134], at 93.

c. Summary Judgment

53. Plaintiffs amended their Complaint following the Court's preliminary injunction order. Doc. No. [141].

54. On March 20, 2023, Defendant filed a Motion for Summary Judgment. See Doc. No. [230].

55. On April 19, 2023, Plaintiffs filed their Response in Opposition to Defendant's Motion for Summary Judgment. See Doc No. [244].

56. On May 3, 2023, Defendant filed a Reply in Support of Motion for Summary Judgment. See Doc. No. [252].

57. On May 18, 2023, the Court heard argument on Defendant's Motion for Summary Judgment. See Doc. No. [257].

58. Following the Supreme Court's ruling in Allen v. Milligan, 599 U.S. 1 (2023), the Parties submitted supplemental briefing. See Doc. Nos. [262], [263].

59. On July 17, 2023 the Court denied Defendant's Motion for Summary Judgment. See Doc. No. [268].

60. In the order denying Defendant's motion, the Court:

a. Concluded that "it would need to make both fact and credibility determinations before it can decide whether race predominated the creation of the proposed districts";

b. Found that "there is Record evidence about the compactness of the minority population in the Proposed Districts";

c. "[R]eject[ed] Defendant's argument that the Illustrative Plans do not satisfy Nipper's remedial requirement";

d. Rejected Defendant's arguments that Plaintiffs must prove that political cohesion and racial bloc voting exist because of race rather than partisan preferences at the Gingles preconditions phase;

e. Concluded that this formulation of Gingles, which addresses the role of partisanship at the totality of the circumstances, is congruent with and proportional to the Fifteenth Amendment;

f. Concluded "that an inquiry into voter preferences as it relates to the race of the candidate is not necessary to prove the second and third Gingles preconditions";

g. Rejected Defendant's argument that Allen changed the inquiry into racial polarization;

h. Held that there was sufficient evidence of minority voter political cohesion and majority racial bloc voting to preclude summary judgment; and

i. Rejected Defendant's arguments concerning temporal limitations on Section 2 of the VRA. See Doc. No. [268], at 23, 27, 38, 48, 49, 52, 55, 60.

d. Trial

61. This Court held a consolidated trial of the Grant, Pendergrass, and Alpha Phi Alpha cases from September 5, 2023 to September 14, 2023.

62. The Court heard testimony from 19 witnesses and received 59 exhibits into evidence.

63. At the close of Plaintiffs' cases, Defendant moved for a judgment on partial findings under Rule 52(c). Doc. No. [305].

64. The Court denied the motion. Doc. No. [306].

65. Defendant renewed the motion at the close of trial, and the Court again denied the motion. Doc. No. [308].

66. Based on the evidence presented at trial, the Court makes the following findings of fact.

II. Gingles Precondition 1 – Sufficiently Large and Geographically Compact Minority Population

A. Plaintiffs' Expert William Cooper

67. Plaintiffs proffered Mr. Cooper as an expert in redistricting, demographics and use of Census data. Sept. 5 AM Tr. 65:21-24.

68. Mr. Cooper has testified at trial as an expert witness in roughly 55 federal cases involving voting issues over the last approximately 30 years, most of them involving Section 2 of the Voting Rights Act. Alpha Ex. 1, at 97-99; Sept. 5 AM Tr. 62:11-14.

69. On multiple occasions, federal courts have ordered plans that Mr. Cooper has drawn, including state legislative plans, into effect as remedies for vote dilution. Alpha Ex. 1, at 1-3; Sept. 5 AM Tr. 62:23-63:5.

70. Mr. Cooper estimates that he has "probably drawn voting plans in about 700 different jurisdictions" over the course of his 35-year career, including "close to a hundred" in Georgia. Sept. 5 AM Tr. 63:16-21, 64:8-14. He recalled that "the first case I ever did in Georgia was in 1989 involving a small city of Lumber City, in Telfair County." Id. at 61:6-8.

71. In 2022 alone, Mr. Cooper testified in seven Section 2 lawsuits. Alpha Ex. 1, at 92-93.

72. Mr. Cooper testified as an expert witness in Allen v. Milligan. Sept. 5 Tr. 62:17-19. See also Allen v. Milligan, 599 U.S. 1, 31 (2023) ("The District Court agreed. It found 'Cooper's testimony highly credible' and commended Cooper for 'work[ing] hard to give 'equal weight[]' to all traditional redistricting criteria.'").

73. Mr. Cooper has served as an expert in numerous redistricting cases in Georgia. Alpha Ex. 1, at 98, 100.

74. Mr. Cooper served as an expert in two post-2010 local-level Section 2 cases in Georgia: NAACP v. Fayette County, No. 3:11-cv-123-TCB (N.D. Ga. 2013), and NAACP v. Emanuel County, 6:16-cv-00021-JRH-GRS (S.D. Ga. 2016). In both cases, the parties settled on redistricting plans developed by Mr. Cooper (with input from the respective defendants). Alpha Ex. 1, at 2, ¶ 3.

75. In the latter part of the decade, Mr. Cooper served as the Gingles 1 expert in three additional Section 2 cases in Georgia, which were all voluntarily dismissed after the 2018 elections: Georgia NAACP v. Gwinnett County), No. 1:16-cv-02852-AT (N.D. Ga. 2019); Thompson v. Kemp, No. 1:17-cv-01427 (N.D. Ga. 2018); and Dwight v. Kemp, No. 1:18-cv-2869 (N.D. Ga. 2018). Alpha Ex. 1, at 2, ¶ 3.

76. Mr. Cooper testified that his work in NAACP v. Fayette County and Georgia NAACP v. Gwinnett County informed his understanding of the demographic changes that had taken place in the last decade in those counties. Sept. 5 AM Tr. 76:14-18. Similarly, Mr. Cooper drew on his work in Dwight v. Kemp, where he was asked to examine the demographic impact of modifications to State House District 105 in Gwinnett County and House District 111 in Henry County, to assess the demographics and characteristics of Henry County. Sept. 5 AM Tr. 116:19-24.

B. Demographic Change in Georgia

77. Plaintiffs' demographic and mapping expert Mr. Cooper conducted a demographic analysis of the State of Georgia and particular areas of Georgia, based on Census data, the results of which were not

disputed at trial and were largely stipulated to by the parties. Doc. No. [280], at 51, ¶ 133; Alpha Ex. 1, at 102, Ex. B.

78. From 2010 to 2020, Georgia's population grew by over 1 million people to a total of 10.71 million, which represents an increase of 10.57% from 2010. Doc. No. [280], at 44, ¶ 93.

79. Georgia's population growth over the last decade was driven to a significant extent by the growth of Georgia's Black population, which increased by 16% during 2010-2020, an increase of 484,048 persons. Doc. No. [280], at 45, ¶¶ 95-96. See also id. at 45, ¶ 97 (47.26% of overall population gain attributable to AP Black population growth).

80. Under the 2020 Census, AP Black Georgians comprise the largest minority population in the state at 33.03% of the total population. Doc. No. [280], at 45, ¶ 98. Georgia's voting age population is 31.73% Black. Id. at 46, ¶ 104.

81. From 2010 to 2020, Georgia's White population decreased by 51,764, or approximately 1%. Doc. No. [280], at 45, ¶ 99.

82. From 2000 to 2020, the AP Black population in the metro Atlanta region increased by 938,006 from 1,248,809 to 2,186,815, an increase of more than 75%. Doc. No. [280], at 47, ¶ 109.

83. As of 2020, the BVAP comprises 31.73% of the State's total voting age population. Alpha Ex. 1, at 20, fig. 3.

84. Since 1990, the Black population in Georgia has more than doubled, from 1.75 million to 3.54 million today. Doc. No. [280], at 46, ¶ 103.

85. Since 1990, Georgia's Black population has increased in absolute and percentage terms from about 27% in 1990 to 33.03% in 2020. Doc. No. [280], at 46, ¶ 102.

86. Over the same time period, the percentage of the population identifying as non-Hispanic White has dropped from 70% to 50.06%. Doc. No. [280], at 46, ¶ 102.

87. As described by Mr. Cooper, the growth in the statewide Black population from 2010 to 2020 of 484,048 persons is equivalent to the population of 2.5 State Senate districts or 8 State House districts. Alpha Ex. 1, ¶ 14; Sept 5 AM Tr. 71:9-19.

a. Metro Atlanta Demographic Change

88. The Atlanta Metropolitan Statistical Area (hereinafter "Metro Atlanta") consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton. Doc. No. [280], at 46, ¶ 106; Alpha Ex. 1, at 10 n.9 & Ex. C.

89. Under the 2000 Census, the population in the 29-county Metro Atlanta area was 29.29% AP Black, increasing to 33.61% in 2010, and 35.91% in 2020. Doc. No. [280], at 47, ¶ 108; Alpha Ex. 1, at 24, fig. 6.

90. Since 2000, the Black population in Metro Atlanta has grown from 1,248,809 to 2,186,815 in 2020, an increase of 938,007. Doc. No. [280], at 47, ¶ 109; Alpha Ex. 1, at 24, fig. 6.

91. During that same period of time, the White population in Metro Atlanta increased by only 85,726. Alpha Ex. 1, at 24, fig. 6.

92. Between 2010 and 2020, the Black population in Metro Atlanta increased by 409,927 from 1,776,888 to 2,186,815, an increase of more than 23%. Alpha Ex. 1, at 24, fig. 6.

93. During that same period of time, the White population in Metro Atlanta decreased by 22,736. Alpha Ex. 1, at 24, fig. 6.

b. South Metro Atlanta Demographic Change

94. The southern portion of the Metro Atlanta area contains the following five counties: Fayette, Spalding, Henry, Rockdale, and Newton. Doc. No. [280], at 48, ¶ 113. Based on his review of demographic data and his prior work drawing maps in Fayette and Henry Counties, Mr.

Cooper identified these counties as experiencing substantial demographic and socioeconomic change, and significant increases in Black population. Sept. 5 AM Tr. 68:8-16; see also id. at 1298:16-20, 1306:20-1307:2, 1307:24-1308:7.

95. In 2000, 18.51% of the population in the five-county Fayette-Spalding-Henry-Rockdale-Newton area was Black. By 2010, the Black population in that area more than doubled to reach 36.70% of the overall population, then grew to 46.57% in 2020. Doc. No. [280], at 48, ¶ 114; Alpha Ex. 1, at 25, fig. 7.

96. Between 2000 and 2020, the Black population in this five-county South Metro Atlanta area quadrupled, from 74,249 to 294,914. Doc. No. [280], at 48, ¶ 115. This area is now plurality Black. Alpha Ex. 1, at 25, fig. 7.

97. Fayette and Spalding Counties have seen Black population increases of 54.5% and 18.7%, respectively, since 2010. Alpha Ex. 1, at 40, ¶ 97.

98. Henry County's Black population has increased by 39.3% in the last decade, and Henry County is now plurality Black. As Mr. Cooper explained, in the 1990s, Henry County was not even "10 percent Black" but the county has "change[d] over time." Sept. 5 AM Tr. 116:17-18.

c. Eastern Black Belt Area Demographic Change

99. The Georgia Department of Community Affairs ("GDCA") has prepared regional commission maps, including of the Central Savannah River Area region. Alpha Ex. 1, at 13, ¶ 26; id. at 118-119, Ex. F.

100. The Central Savannah River Area Counties include: Jenkins, Burke, Richmond, Jefferson, McDuffie, Wilkes, Taliaferro, Glascock, Warren, Washington, and Hancock. Ten of these 11 contiguous counties—excluding Glascock—are identified as part of Georgia's Black Belt by the Georgia Budget and Policy Institute. Alpha Ex. 1, at 13-14, ¶ 27;

DTX 22 (Educ. in Ga.'s Black Belt: Policy Sols. To Help Overcome a History of Exclusion) (herein "DTX 22"), at 20-25.

101. Mr. Cooper identified this set of 11 counties as part of the "Eastern Black Belt." According to his analysis, the Black population in this grouping of counties was 45.02% of the total population in 1990, climbing to 54.62% in 2020. Alpha Ex. 1, at 26, ¶ 59. In other words, the Black population in that area has become more concentrated over time, and now comprises a majority.

102. This concentration is due in part to White depopulation. Since 1990, there has been a 28.7% decline in the non-Hispanic White population in the region, from 174,000 in 1990 to 124,000 in 2020. Alpha Ex. 1, at 26, ¶ 58. However, overall the total population has remained relatively constant over this period because of the growth in the Black population. Id. at 26, ¶ 58 & fig. 8.

d. Metropolitan Macon Demographic Change

103. Metropolitan Macon is "a seven-county region in Middle Georgia defined by the combined Metropolitan Statistical Areas ('MSAs') of Macon-Bibb and Warner Robins." Alpha Ex. 1, at 15-16, ¶ 33. "[T]hese seven MSA counties form the core of the Middle Georgia Regional Commission." Id. at 16, ¶ 34.

104. The Macon-Bibb MSA includes the counties of Twiggs, Macon-Bibb, Jones, Monroe, and Crawford. Doc. No. [280], at 50, ¶ 124; Alpha Ex. 1, at 16 n.14. The adjacent Warner Robins MSA encompasses Houston and Peach Counties. Doc. No. [280], at 50, ¶ 124; Alpha Ex. 1, at 16 n.14.

105. Three of the Macon area counties are "identified as part of Georgia's Black Belt"—Macon-Bibb, Peach, and Twiggs, encompassing about 59% of the Black population (177,269) in the seven-county region. Alpha Ex. 1, at 29.

106. The total population of Twiggs, Macon-Bibb, Jones, Monroe, Crawford, Houston, and Peach Counties has increased from 356,801 in 2000 to 425,416 in 2020. Doc. No. [280], at 50, ¶ 125.

107. During that same period of time, the AP Black population in Twiggs, Macon-Bibb, Jones, Monroe, Crawford, Houston, and Peach Counties increased from 131,627 (36.89%) to 177,269 (to 41.67%). Doc. No. [280], at 50, ¶ 126.

108. Bibb County is 53.16% AP Black; Macon County is 60.59% AP Black; Twiggs County is 39.87% AP Black; Monroe County is 23.13% AP Black; Crawford County is 20.17% AP Black; Houston County is 32.43% AP Black; Peach County is 43.96% AP Black. Alpha Ex. 1, at 395-99.

109. Under the 2000 Census, the population in Metropolitan Macon was 36.89% AP Black, increasing to 39.38% in 2010, and 41.67% in 2020. Alpha Ex. 1, at 28, fig. 10.

110. Since 2000, the AP Black population in Metropolitan Macon has grown from 131,627 to 177,629, an increase of nearly 35%. Alpha Ex. 1, at 28, fig. 10.

111. Meanwhile, the Non-Hispanic White population has dropped from 59.40% in 2000 to 49.01% in 2020. Doc. No. [280], at 50, ¶ 127; Alpha Ex. 1, at 28, fig. 10.

e. Southwest Georgia Demographic Change

112. The Enacted Senate Plan includes a majority-Black district in Southwest Georgia, Senate District 12. Alpha Ex. 1, at 14, ¶ 30.

113. Senate District 12 encompasses part of the Southwest Georgia and Valley River Area Regional Commission areas identified by the Georgia Department of Community Affairs. Alpha Ex. 1, at 14, ¶ 30.

114. The area comprising Senate District 12 under the Enacted Senate Plan includes Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell,

Calhoun, Dougherty, Early, Miller, Baker, and Mitchell Counties. Doc. No. [280], at 50, ¶ 129; Alpha Ex. 1, at 15, ¶ 32.

115. From 2000 to 2020, the overall population in these same thirteen counties decreased from 214,686 to 190,819. Doc. No. [280], at 51, ¶ 130.

116. During that same period of time, the AP Black population in these same thirteen counties decreased by 3,165 from 118,786 (55.33%) to 115,621 (60.6%). Doc. No. [280], at 51, ¶ 131.

117. During that same period of time, the White population in these same thirteen counties decreased by 26,393, from 90,946 (42.36%) to 64,553 (33.83%). Doc. No. [280], at 51, ¶ 132.

118. Twelve of the thirteen counties in Senate District 12—all but Miller—are identified by the Georgia Budget and Policy Institute as Black Belt counties. Alpha Ex. 1, at 15, ¶ 32; DTX 22, at 20-25.

119. Twelve of the thirteen counties in Senate District 12 are at least 40% AP Black: Sumter, Webster, Stewart, Quitman, Clay, Randolph, Terrell, Calhoun, Dougherty, Early, Baker, and Mitchell counties. Doc. No. [280], at 50, ¶ 128.

120. Dougherty County is 68.9% BVAP, which represents a 4.8% increase from 2010. Alpha Ex. 1, at 140.

121. Mitchell County is 46.4% BVAP, which is roughly the same proportion as in 2010. Alpha Ex. 1, at 141.

122. Thomas County, which is adjacent to Senate District 12, is 35% BVAP, which is roughly the same proportion as in 2010. Alpha Ex. 1, at 142.

C. Lack of Growth In Black-Majority State Legislative Districts

123. There are 56 Senate districts in Georgia. Doc. No. [280], at 57, ¶ 172.

124. The ideal population for a Georgia Senate district is 191,284. Doc. No. [280], at 73, ¶ 277.

125. Of the 56 total Senate Districts, the State's Enacted Senate Plan contains 14 Black-majority Senate districts (or 25%) using 2020 Census data. Alpha Ex. 1, at 9, ¶ 15 & Ex. L; Doc. No. [280], at 59, ¶ 186.

126. The benchmark 2014 Senate plan (i.e., the plan that was in place prior to the 2021 Enacted Plan) contained 13 majority-Black districts using 2020 Census data, plus a 14th district with a BVAP of 49.76% using 2020 Census data. Doc. No. [280], at 57, ¶ 174. Using then-current 2010 Census numbers, the 2014 Senate Plan had 15 majority-Black Senate districts when it was enacted. Id. at 57, ¶ 173. Consistent with Mr. Cooper's testimony and analysis, the Court finds the number of Black-majority Senate districts is effectively unchanged from the benchmark 2014 Plan to the 2021 Plan.

127. There are 10 majority-Black Senate districts in the Metro Atlanta area under the Enacted Senate Plan. There were also 10 in the 2014 Plan and 10 in the earlier 2006 Senate Plan. Doc. No. [280], at 57-58, ¶¶ 176-78.

128. Mr. Cooper testified that lack of change in the number of Black-majority Senate Districts between the benchmark and the Enacted Senate Plan does not reflect the growth in the Black population over the past decades, either statewide or in Metro Atlanta. Sept. 5 AM Tr. 83:21-84:7, 86:5-11.

129. There are 180 House districts in Georgia. Doc. No. [280], at 58, ¶ 179.

130. The ideal population for a Georgia House district is 59,511. Doc. No. [280], at 74, ¶ 278.

131. The State's 2021 Enacted House Plan contains 49 Black-majority House districts (out of 180, or 27%) using 2020 Census Data. Alpha Ex. 1, at 58-59, ¶ 132 & fig. 23.

132. The previous 2015 House plan contained 47 majority-Black House districts at the time it was enacted. Alpha Ex. 1, at 62, ¶ 140, 59, fig. 23.

133. The 2006 House plan contained 45 majority-Black House districts. Alpha Ex. 1, at 58-59, ¶ 132 & fig. 23.

134. The number of majority-Black House districts in the Metro Atlanta area has grown from 30 in 2006 to 33 at present. Alpha Ex. 1, at 59, fig. 23.

135. Mr. Cooper testified that the small change in the number of Black-majority House Districts between the benchmark and the Enacted House Plan (from 47 to 49) does not reflect the growth in the Black population over the past decades, either statewide or in Metro Atlanta. Sept. 5 AM Tr. 86:5-8.

136. Mr. Cooper testified that given the dramatic demographic growth of Georgia's Black population, "additional Senate districts can be drawn that would be majority Black and additional House districts. I've identified three potential areas where additional majority Black Senate districts can be drawn, three, and also I've identified five potential illustrative House Districts in other areas also, but mainly in the eastern Black Belt around Macon, southwest Georgia, and then, of course, in South Metro for two, as opposed to the present day House plan." Sept. 5 AM Tr. 69:1-12; see also Alpha Ex. 1, at 5, ¶ 9 (concluding that Georgia's Black population is sufficiently numerous and geographically compact to enable him to draw at least three additional majority-Black Senate districts and at least five additional majority-Black House districts consistent with traditional districting principles). Mr. Cooper testified that he found the lack of change in the number of Black-majority legislative districts "just baffling." Sept. 5 AM Tr. 84:4-6.

137. Mr. Cooper testified that based on the demographic data, "it is highly likely, almost certain, that one could draw additional [majority-Black] House districts and Senate districts in Georgia." Sept. 5 AM Tr. 71:24-72:5.

D. Division of Black Populations Into White-Majority Districts

138. Mr. Cooper also analyzed the percentage of Black Georgians in Black majority districts and the percentage of White Georgians in White-majority districts. Alpha Ex. 1, at 435-466, 687-775. This analysis was not disputed at trial.

139. The percentage of Black Georgians of voting age in majority-Black Senate districts has hovered around 50% since the mid-2000s, while the percentage of the NH White VAP in majority-White districts has stayed above 80% over the same timeframe—approximately a 30-point gap. Alpha Ex. 1, at 31-32, ¶ 71 & fig. 12.

140. Similarly, the percentage of Black Georgians of voting age in majority-Black House districts is only slightly higher than it was in the 1990s (52% versus 45%). Under the 2021 Plan, the percentage of the NH White population in majority-White districts is 76%—a 24-point gap. Alpha Ex. 1, at 59-60, ¶ 134 & fig. 24.

141. Mr. Cooper concluded that the significant gap between the percentage of Black voters in Black-majority districts and White voters in White-majority districts indicates that, for both the 2021 Senate and 2021 House plans, Black populations are disproportionately "cracked" or divided into majority-White districts rather than placed in majority-Black districts. Alpha Ex. 1, at 31-32, ¶ 71 & fig. 13 & 59-60, ¶ 134 & fig. 24.

142. Mr. Cooper testified that the gap between the percentage of Black voters in Black-majority districts and White voters in White-majority districts "suggest[s] that more majority Black districts could be drawn." Sept. 5 AM Tr. 85:9-11.

143. Mr. Cooper testified that adding more Black-majority districts would ameliorate the disparity. Sept. 5 AM Tr. 86:22-87:1.

E. Plaintiffs' Expert Testimony at Trial

a. Mr. Cooper's Credibility

144. Mr. Cooper spent around six hours on the stand testifying as to his Illustrative Plans, including over three hours of cross-examination. The Court was able to question and observe him closely. Throughout Mr. Cooper's reports and hours of live testimony, his opinions were clear, consistent, and forthright, and he had no difficulty articulating the bases for his districting decisions. He was forthright with the Court when discussing the characteristics of Plaintiffs' illustrative maps and admitted that while the Illustrative Plans were acceptable for Gingles 1 purposes, there would be other ways to draw maps at the remedial stage. E.g., Sept. 5 PM Tr. 235:24-25.

145. The Court finds Mr. Cooper highly credible, including with respect to his bottom-line conclusion, which he unequivocally adhered to and which he supported with specific and detailed testimony, that the Illustrative Plans he drew properly balance all of the traditional districting principles.

b. Mr. Cooper's Analysis

146. Mr. Cooper was asked to determine whether the Black population in Georgia is sufficiently large and geographically compact to allow for the creation of additional majority-Black Senate and House districts, consistent with traditional districting principles. Alpha Ex. 1, at 3-4, ¶ 7; Sept. 5 AM Tr. 67:23-68:1.

147. Mr. Cooper drew illustrative State Senate and State House plans (the Illustrative Plans) showing the creation of those additional districts. Alpha Ex. 1, at 5, ¶ 9.

148. In drawing the Illustrative Plans, Mr. Cooper wrote in his report and testified at trial that he was guided by the traditional districting principles, including population equality, compactness, contiguity, respect for communities of interest, and the non-dilution of minority voting strength. Alpha Ex. 1, at 5, ¶ 10; Sept. 5 AM Tr. 89:23-91:9, 91:22-92:23, 94:6-101:9, 103:5-107:17, 109:2-112:8.

149. Mr. Cooper testified that "[his] goal was not to draw the maximum number of majority Black districts." Sept. 5 PM Tr. 197:19-25.

150. Mr. Cooper analyzed population and geographic data from the Decennial Census and the American Community Survey ("ACS") in preparing his expert report. Sept. 5 AM Tr. 59:18-60:8; Alpha Ex. 1, at 103-05, ¶¶ 3-5, 9-10; see also Alpha Ex. 1, at 791 (Exhibit CD compiling ACS data for Georgia counties and municipalities).

151. Mr. Cooper also analyzed incumbent addresses that were provided by attorneys for the plaintiffs. Alpha Ex. 1, at 104, ¶ 6.

152. Mr. Cooper used a geographic information system called Maptitude for Redistricting, a system used by many local and state governing bodies, for his districting analysis. Alpha Ex. 1, at 5-6, ¶ 12; id. at 103, Ex. B, ¶ 2.

153. Mr. Cooper developed Plaintiffs' Illustrative Plans by starting with the 2021 House and Senate plans as a baseline. Sept. 5 AM Tr. 87:21-25. He testified at trial, and it was not disputed, that 82% of voters are in the same district under both the 2021 and Illustrative Senate Plans, and 86% of voters are in the same district under both the 2021 and Illustrative House Plans. Sept. 5 AM Tr. 88:10-89:2. Mr. Cooper's Illustrative Plans keep 21 Senate districts and 87 House districts identical as between the two plans. DTX 2 (Morgan Report) (herein "DTX 2"), at 8, 25.

c. Mr. Cooper's Adherence to Traditional Districting Principles

i. Georgia's Reapportionment Guidelines

154. Mr. Cooper testified that he was able to draw Illustrative Plans that reflect new majority-Black districts in the regions at issuing the case "following traditional redistricting principles." Sept. 5 PM Tr. 168:12-14.

155. Mr. Cooper specifically testified in detail about how he followed the criteria in Georgia's districting guidelines when drawing the

Illustrative House and Senate Plans. See, e.g., Sept. 5 AM Tr. 89:15-91:9.

156. Mr. Cooper testified that the traditional redistricting principles include population equality, compactness, contiguity, respect for political subdivision lines like counties and voting tabulation districts ("VTDs," otherwise known as precincts), respect for communities of interest, and non-dilution of minority voting strength. See, e.g., Sept. 5 AM Tr. 90:2-91:9. Mr. Cooper also testified that avoiding incumbents is a consideration that he takes into account, consistent with Georgia's adopted districting guidelines. See, e.g., id. At 128:5-7; Sept. 5 PM Tr. 166:25:167:8, 225:15-24.

157. Mr. Cooper testified that, with respect to Plaintiffs' Illustrative Plans, he balanced all of the traditional redistricting principles, and that they "all went into the mix as I was drawing the [I]llustrative [P]lan." Sept. 5 AM Tr. 90:16-19. He confirmed that he "balanced the traditional districting principles in drawing [the] illustrative districts," (id. at 168:19-22), and he testified that none of the factors predominated over any others. Id. at 90:16-19; see also id. at 107:18-20 ("Q. Mr. Cooper, did any factors get more weight than others when you were drawing your [I]llustrative [P]lans? A. I don't believe so."); Sept. 6 AM Tr. 367:5-7 ("you really do have to balance, balance, balance. That's the name of the game."). Mr. Cooper explained of the traditional principles that "all went into the mix as I was drawing the [I]llustrative [P]lan." Sept. 5 AM Tr. 90:16-19.

158. When asked whether his Illustrative Plans "could be implemented as a remedy" if the Court finds vote dilution in the areas of focus in this case, Mr. Cooper unequivocally answered in the affirmative. Sept. 6 AM Tr. 362:13-16; see also Sept. 5 PM Tr. 168:23-169:2.

ii. Population Equality

159. Georgia's redistricting guidelines provide that district populations should be "substantially equal as practicable." Joint Ex. 1 (2021 Committee Guidelines) (herein "Joint Ex. 1"), at 3; Joint Ex. 2 (2021-

2022 Guidelines for the House Legislative and Congressional Reappointment Committee) (herein "Joint Ex. 2"), at 3.

160. Mr. Cooper testified that the Enacted Senate Plan stays within a population deviation range of plus or minus 1 percent and that the Enacted House Plan stays within a population deviation range of plus or minus 1.5 percent. Sept. 5 AM Tr. 92:3-5. He thus drew the Illustrative Plans to stay within those ranges. Id. at 92:5-8. See also Alpha Ex. 1, at 83-84, ¶ 184.

161. The Illustrative House Plan has a deviation relative range of -1.49% to 1.49%, compared to a range of -1.40% to 1.34% for the Enacted House Plan. Doc. No. [280], at 77, ¶ 302. Thus, both House plans are within plus-or-minus 1.5%.

162. The Illustrative Senate Plan has a deviation relative range of -1.00% to 1.00%, compared to a range of -1.03% to 0.98% for the Enacted House Plan. Doc. No. [280], at 77, ¶ 301. Both Senate plans are thus approximately plus-or-minus 1% deviation.

163. The Court finds that Mr. Cooper's Illustrative Plans are comparable to the 2021 Plans with respect to population equality.

iii. Contiguity

164. Georgia's redistricting guidelines provide that districts "shall be composed of contiguous geography." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

165. The principle of contiguity instructs just that "a district is connected." Sept. 5 AM Tr. 95:9-16.

166. All of the districts in Mr. Cooper's Illustrative Plans are contiguous. Doc. No. [280], at 77, ¶ 300; Sept. 5 AM Tr. 95:17-21.

167. The Court finds that Mr. Cooper's Illustrative Plans are contiguous.

iv. Compactness

168. Georgia's redistricting guidelines provide that mappers "should consider … [c]ompactness." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

169. Mr. Cooper testified that he considered compactness as a traditional districting principle. Sept. 5 AM Tr. 90:20-91:2. In addition to using the eyeball test to subjectively evaluate his districts' compactness, he also used two quantitative measures: Reock and Polsby-Popper scores. Id.

170. As Mr. Cooper explained in his report, the Reock test "is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. The Reock test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan." Alpha Ex. 1, at 52 n.27.

171. The Polsby-Popper test "computes the ratio of the district area to the area of a circle with the same perimeter: 4pArea/(Perimeter2). The measure is always between 0 and 1, with 1 being the most compact. The Polsby-Popper test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan." Alpha Ex. 1, at 52 n.28.

172. Mr. Cooper's report provides the compactness of the 2021 Enacted Plans using several different measures. Under the Polsby-Popper metric, the 2021 Enacted House Plan has a range of scores from 0.10 to 0.59, with an average score of 0.28. Alpha Ex. 1, at 691-97; Alpha Ex. 327 (Cooper's Notice of Errata) (herein "Alpha Exhibit 327"), at 2, ¶ 4. Under the Reock metric, the 2021 Enacted House Plan has a range of scores from 0.12 to 0.66, with an average score of 0.39. Alpha Ex. 1, at 691-97.

173. The 2021 Enacted Senate Plan has a range of Polsby-Popper scores from 0.13 to 0.50, with an average score of 0.29. Alpha Ex. 1, at 53, fig. 20 & 320-24. Under the Reock metric, the 2021 Enacted Senate Plan has a range of scores from 0.17 to 0.68, with an average score of 0.42. Id.

174. As reported in Mr. Cooper's report, the average Reock score of the Illustrative House Plan is identical to the average Reock score of the Enacted House Plan (0.39). Alpha Ex. 327, at 2, ¶ 4. The average Polsby-Popper score of the Illustrative House Plan (0.27) is almost identical to the average score for the 2021 Senate House Plan (0.28). Id. The Illustrative House Plan has a range of Polsby-Popper scores between 0.10 and 0.59 (Alpha Ex. 1, at 682-88, Ex. AA-6)—identical to the range of Polsby-Popper scores of the Enacted House Plan (0.10 to 0.59). Id. at 691-97, Ex. AG-2. The Illustrative House Plan also has a range of Reock scores between 0.12 and 0.66, which is also the same as the range of Reock scores of the Enacted House Plan (0.12 to 0.66). Id. at 682-88, Ex. AA-6 & 691-97, Ex. A-G. The low compactness of the Illustrative House Plan is .16 using the Reock test and .11 using the Polsby-Popper test. The low compactness of the 2021 Enacted House Plan is .12 using the Reock test and .10 using the Polsby-Popper test. Id. at 84.

175. As reported in Mr. Cooper's report, the average Polsby-Popper score of the Illustrative Senate Plan is 0.28, only slightly lower than the average score obtained by the 2021 Enacted Senate Plan (0.29). Alpha Ex. 1, at 53 fig. 20. And the average Reock score of the Illustrative Senate Plan is 0.43, slightly higher than the average Reock score of the Enacted Senate Plan (0.42). Id. The low compactness of the Illustrative Senate Plan is 0.22 using the Reock test and 0.14 using the Polsby-Popper test. The low compactness of the 2021 Enacted Senate Plan is 0.17 using the Reock test and 0.13 using the Polsby-Popper test. Id. at 53.

176. Consistent with those plan statistics, and despite the fact that his plans have higher minimum compactness scores, Mr. Cooper testified that the overall compactness of the Illustrative Plans is "[b]asically the same" as that of the Enacted Plans. Sept. 5 AM Tr. 95:1-3. See also Sept. 5 PM Tr. 212:17-21 ("Q. So it's correct to say the [I]llustrative [P]lan is slightly more compact on Reock and the enacted plan is slightly more compact on Polsby–Popper; right? A. Yes, but very slightly. So as far as I'm concerned, they are equal. There's not enough to really matter.").

177. As Mr. Cooper explained, the Illustrative Plans "matched or beat the State's plans on … compactness measures." Sept. 5 AM Tr. 109:2-4.

178. Defendant offered no evidence or testimony to contest Mr. Cooper's conclusion that the Illustrative and 2021 Plans were similarly compact or that the Illustrative Plan was within the acceptable range with respect to compactness.

179. In addition to overall compactness, Mr. Cooper also testified that he examined the compactness of each of the districts he drew to ensure they were compact. Sept. 6 AM Tr. 356:14-18. Defendant's mapping expert never testified that any of the districts in Mr. Cooper's Illustrative Plans were insufficiently compact.

180. The Court finds that Mr. Cooper's Illustrative Plans are comparable to or better than the 2021 Plans with respect to plan compactness and that the districts in his Illustrative Plans are reasonably compact.

v. County/VTD Splits

181. Georgia's redistricting guidelines provide that mappers "should consider … [t]he boundaries of counties and precincts." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

182. Mr. Cooper's Illustrative House Plan splits fewer counties than, and has the same number of total county splits, as the Enacted House Plan (68 versus 69 county splits and 209 versus 209 total county splits). Alpha Ex. 1, at 85, fig. 37; Sept. 5 AM Tr. 97:21-98:1.

183. Mr. Cooper's Illustrative Senate Plan splits fewer counties and has fewer total county splits than the Enacted Senate Plan (28 versus 29 split counties and 57 versus 60 total county splits). Alpha Ex. 1, at 53, fig. 21; Sept. 5 AM Tr. 97:9-17.

184. With respect to VTDs the Illustrative House Plan splits the same number of VTDs as the Enacted House Plan (179 versus 179 VTD splits). Alpha Ex. 1, at 85, fig. 37. The Illustrative Senate Plan splits 2 fewer VTDs than the Enacted Senate Plan (38 versus 40 VTD splits). Id. at 53, fig. 21. Cooper measured VTD splits by counting only

"populated" splits, which he testified refers to splits where "there are people in the area where the VTD was split. Sometimes VTDs will extend out into swamps or an unpopulated island. In that sense, even though it's a split, it's not really going to affect any voters." Sept. 6 AM Tr. 353:2-5.

185. Consistent with those plan statistics, Mr. Cooper testified that the Illustrative Plans compare "[v]ery favorably" to the Enacted Plans with respect to county and VTD splits. Sept. 5 AM Tr. 97:3-9.

186. The Court finds that that the Illustrative Plans are comparable to or better than the 2021 Plans with respect to county and VTD splits.

vi. Communities of Interest

187. Georgia's redistricting guidelines provide that mappers "should consider … [c]ommunities of interest." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

188. Mr. Cooper testified that he respected communities of interest when drawing Plaintiffs' Illustrative Plan. Sept. 5 AM Tr. 90:6-7. As he explained, he considered communities of interest in both "a subjective manner, looking at cultural and historical factors that might come into play," as well as quantitatively, by "looking at splits of municipalities, splits of counties, and splits of voting tabulation districts or precincts." Id. at 90:8-14.

189. Mr. Cooper testified that among the factors he considered when he drew the Illustrative Plans, he looked at municipalities, core-based statistical areas (CBSAs, commonly referred to as metro areas[2]),

[2] Mr. Cooper explained that CBSA are Census-designated statistical areas. They include MSAs (areas that have at least one city with over 50,000 persons) and micropolitan areas (areas that have a population between 10,000 and 50,000). Sept. 5 AM Tr. 99:12-17. The federal government designates these based on economic and transportation connections. Id. at 99:3-5, 100:22-101:5; see also United States Census Bureau, https://www.census.gov/topics/housing/housing-patterns/about/core-based-statistical-areas.html ("Housing Patterns and Core-Based Statistical Areas").

regional commissions[3], transportation corridors, historical connections, and socioeconomic connections or commonalities. See Sept. 5 AM Tr. 98:15-99:1,103:5-105:9. He also looked more generally at whether people in particular areas might have shared interests. Id. at 105:16-19.

190. Mr. Cooper generated reports comparing the number of split municipalities, metro areas, and regional commission areas. Alpha Exs. 328-339; Alpha Ex. 1, at 53-55, 85-86, ¶¶ 115-20, 188-193 & figs. 21, 22, 37, 38; see Sept. 6 AM Tr. 337:11-338:16. He testified that his Illustrative Plans are comparable to or better than the 2021 Plans with respect to each of those metrics. See Sept. 5 AM Tr. 97:18-20, 98:1-11.

191. The Court finds that Mr. Cooper's Illustrative Plans are comparable to or better than the 2021 Plans with respect to municipality, metro area, and regional commission area splits.

192. Mr. Cooper testified that sometimes, multiple types of communities of interest considerations coexist or overlap, and he asserted that where there is a conflict or tension, "[y]ou just have to reach a subjective conclusion as to how you do deal with it." Sept. 5 AM Tr. 105:23-106:5.

193. Mr. Cooper also testified that he considered Georgia's Black Belt to be a community of interest. Sept. 5 AM Tr. 105:20-22.

194. The "Black Belt" refers to a swath of the American South that historically had large numbers of enslaved Black persons, and that today continues to have substantial Black populations. Alpha Ex. 1, at 11, ¶ 19 & fig. 1; id. at 108, Ex. D.

[3] Mr. Cooper testified that the Georgia General Assembly established 12 regional commissions throughout the state for the purpose of fostering cooperation between counties within a region on various matters, including transportation and economic development. Sept. 5 AM Tr. 80:1-8; see also Georgia Dep't of Comm. Aff., https://www.dca.ga.gov/local-government-assistance/planning/regional-planning/regional-commissions ("Regional Commissions").

195. In Georgia, the Black Belt runs roughly southwest across the middle of the State, from Augusta-Richmond, through the Macon area, to Dougherty County and Southwest Georgia. Alpha Ex. 1, at 11-14, ¶¶ 19, 25, 30 & fig. 1; Sept. 5 AM Tr. 73:9-18; Alpha Ex. 6 (Burch Report) (hereinafter "Alpha Ex. 6"), at 37.

196. Mr. Cooper identified the Black Belt as a community of interest based on a shared history and socioeconomic considerations. Sept. 5 AM Tr. 77:20-78:18, 105:20-22.

197. He testified that he relied on a map that was prepared by the Georgia Budget and Policy Institute (GBPI) in a 2019 publication examining educational inequality in Georgia's Black Belt. Sept. 5 AM Tr. 77:20-78:18; DTX 22.

198. The GBPI document identifies the Black Belt as counties or school systems in Georgia where there had been enslaved population of 40 percent or more and that in present day have school districts that are over 30 percent Black in terms of the student body representation and over 30 percent poverty of those students. Sept. 5 AM Tr. 77:20-78:18. In other words, its definition considers not only present-day demographics, but also the historical presence of large numbers of enslaved persons in the jurisdiction, as well as contemporary poverty rates. Id. at 118:2-23; DTX 22.

199. The testimony of another Plaintiffs' expert, Dr. Burch, confirmed that the Black Belt is a community of interest with shared historical, geographical, socioeconomic, and political characteristics. Alpha Ex. 6, at 37, 41; Sept. 8 PM Tr. 1096:23-1097:3. In particular, Dr. Burch testified that the Black Belt's history gives it a particular political character. Sept. 8 PM Tr. 1096:6-1098:25 ("Q. So what characteristics does a Black Belt have from a political science perspective, in your view? A. So typically -- and this is most prominently associated with V.O. Key's work on southern politics. Black Belt is commonly used to refer to political units, like counties, where the Black population is a substantial proportion of the population. And, typically, that means more than 50 percent of the population is Black.").

200. Based on the testimony and evidence presented, the Court finds that a community of interest exists among counties in Georgia's Black Belt based upon shared historical, demographic, socioeconomic, and other characteristics.

201. More generally, and as discussed in further detail below, Mr. Cooper offered detailed testimony about the ways in which he took communities of interest into account. For example, he discussed the similar suburban and exurban characteristics of Fayette, Spalding, and Clayton Counties (Sept. 5 AM Tr. 113:24-25), the socioeconomic and demographic differences between Peachtree City and Griffin, which Mr. Cooper placed in different Senate districts (id. at 114:19-115:5), the fact that Thomasville and Albany share connections like sports leagues and intergovernmental cooperation (Sept. 5 PM Tr. 231:17-20; Sept. 5 AM Tr. 128:8-129:9), and connecting Eastern Black Belt counties that have similar socioeconomic characteristics such as poverty rates. Sept. 5 AM Tr. 124:15-125:1.

202. Defendant's fact witness, Gina Wright, testified similarly that, in her personal understanding, a community of interest is a community that has some kind of shared interest or resource. Sept. 12 AM Tr. 1681:10-13.

203. Ms. Wright agreed that communities of interest could be based around a shared economic interest, (Sept. 12 AM Tr. 1681:18-20); a school system (id. at 1682:7-9); that a municipality could be a community of interest (id. at 1682:10-11); that a community of interest might be defined by demographic similarities (id. at 1682:15-17); and that a community of interest might be based around a shared place of worship (id. at 1682:18-21). More generally, Ms. Wright agreed that there are numerous ways to define communities of interest. Id. at 1681:14-1682:24. Ms. Wright also agreed that communities of interest may sometimes overlap. Id. at 1617:2-3.

204. The Court finds that Mr. Cooper's Illustrative Plans consider and respect communities of interest.

vii. Incumbent Pairings

205. Georgia's redistricting guidelines provide that "efforts should be made to avoid unnecessary incumbent pairings." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

206. Mr. Cooper also sought to avoid incumbent pairings. Sept. 5 PM Tr. 236:1-2.

207. Mr. Cooper used official incumbent address information that defense counsel provided in January 2022 and another potential database of incumbent address information that followed the November 2022 General Election using the enacted maps. Alpha Ex. 1, at 5-6, ¶ 12.

208. Mr. Cooper testified that as he was drawing the Illustrative Plans, "always in the back of my mind was trying to avoid pairing incumbents." Sept. 5 PM Tr. 236:1-2.

209. Mr. Cooper's Illustrative Senate Plan pairs six incumbents. The Enacted Senate Plan pairs four incumbents. DTX 2, at 7. Mr. Cooper's Illustrative House Plans pairs 25 incumbents. The Enacted House Plan pairs 20 incumbents. Id. at 25.

210. Ms. Wright testified that the Guidelines mention incumbency only in terms of avoiding the unnecessary pairing of incumbents, and that the Guidelines do not mention ensuring political protection for incumbents. Sept. 12 AM Tr. 1684:2-12.

211. The Court finds that Mr. Cooper's Illustrative Plans are comparable to the 2021 Plans with respect to avoiding the pairing of incumbents.

viii. Core Retention

212. Georgia's Reapportionment Guidelines do not identify as a traditional districting principle the goal to preserve existing district cores among "General Principles for Drafting Plans." See Joint Exs. 1, 2.

213. Mr. Cooper's Illustrative Plans keep 21 Senate districts and 87 House districts identical as between the two plans. DTX 2, at 8, 25. 82% of the Georgia population would remain in the same district in the Enacted Senate Plan and Illustrative Senate Plan, and 86% of the population would remain in the same district in the Enacted House Plan and the Illustrative House Plan. Sept. 5 AM Tr. 88:13-18.

ix. Non-Dilution of Minority Voting Strength and Racial Considerations

214. Georgia's redistricting guidelines provide all plans must "comply with Section 2 of the Voting Rights Act, as amended." Joint Ex. 1, at 3; Joint Ex. 2, at 3.

215. Mr. Cooper testified that non-dilution of minority voting strength means that "as you're drawing a plan, you should make a point of not excluding the Black population in some areas where you might be able to draw a minority Black district or split one somehow or another into districts that don't necessarily have sufficient minority population to elect a candidate of choice or to overconcentrate Black voters in a single district when they could have been placed in two districts and perhaps have an opportunity in two districts instead of just one." Sept. 5 AM Tr. 92:14-23.

216. Mr. Cooper testified that for purposes of non-dilution, "you have to at least be aware of where the minority population lives." Sept. 5 AM Tr. 92:14-15.

217. However, Mr. Cooper testified that while race is "out there and [he's] aware of it, . . . it didn't control how the [Illustrative Plans] were drawn." Sept. 5 AM Tr. 108:7-11.

218. Mr. Cooper testified that he did not aim to draw any maximum or minimum number of Black-majority districts. Sept. 5 AM Tr. 112:11-14; see also Sept. 5 PM Tr. 197:23-24 ("My goal was not to draw the maximum number of majority Black districts"). When asked whether he was "trying to maximize the number of Black majority districts

when [he] drew the [I]llustrative [P]lans?," Mr. Cooper responded, "Not at all." Sept. 6 AM Tr. 358:9-12.

219. Mr. Cooper further explained that if the goal were to draw the maximum number of majority Black districts, "then that would seem to imply that race did predominate. That's not what I did." Sept. 5 PM Tr. 198:8-10.

220. When asked whether he ever uses racial shading maps or heat maps (i.e., map features that shade different VTDs or sub-VTD geography based on the percentage Black), Mr. Cooper answered, "Never. Never have. Didn't do it in Georgia. I've never done that." Sept. 5 AM Tr. 93:15-21. He later testified that he "[n]ever ever" uses racial shading maps, explaining that he "just find[s] it confusing." Sept. 6 AM Tr. 359:15-24. And he testified that in his view, racial shading maps are not consistent with a balanced approach to traditional districting principles. Id. at 361:8-11.

221. Mr. Cooper testified that when he draws maps, he sometimes uses "a little dot for precincts that are 30 percent or greater Black." Sept. 5 PM Tr. 200:11-15. He testified that he did not always use that feature. Sept. 5 AM Tr. 93:23-94:2.

222. Mr. Cooper repeatedly testified that "race did not predominate" in his drawing of the Illustrative Plans. Sept. 5 AM Tr. 93:1, 108:4-11, 108:23-109:5, 168:15-18. When asked by the Court if race predominated, Mr. Cooper responded, "No. Because I also had to take into account these other factors, population equality, avoiding county splits, avoiding splitting municipalities. So it's out there and I'm aware of it, but it didn't control how these districts were drawn. Id. at 108:4-11.

223. Particularly in light of Mr. Cooper's extensive experience and his lengthy and forthright testimony regarding the process he used in this case and his balancing of the various considerations, the Court finds credible Mr. Cooper's testimony that he balanced non-dilution of minority voting strength and the consideration of race with the other

traditional redistricting principles in his construction of the Illustrative Plans.

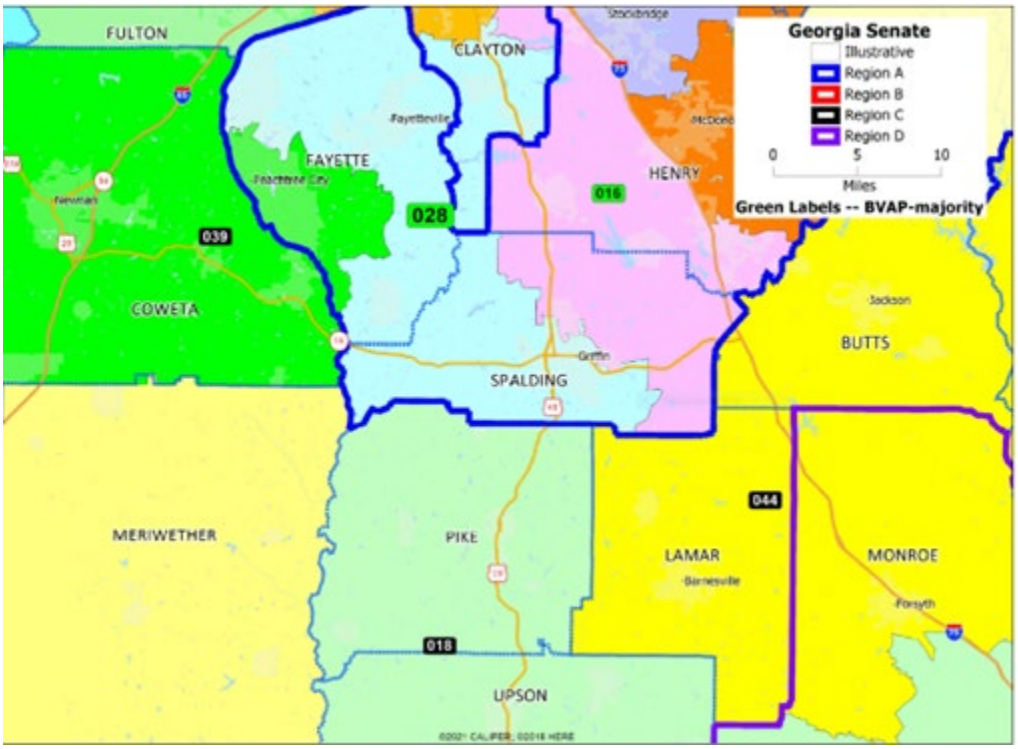
F. The Illustrative Plans

a. South Metro Atlanta

224. Mr. Cooper concluded that two additional majority-Black Senate districts and at least two additional majority-Black districts can be drawn in the South Metro Atlanta region, which consists of Fayette, Spalding, Henry, Rockdale, and Newton Counties. Alpha Ex. 1, at 25, ¶¶ 55-56.

i. Illustrative Senate District 28

225. The Illustrative Senate Plan includes a new majority-Black Senate District (Illustrative Senate District 28) around where Enacted Senate Plan District 16 was drawn. Alpha Ex. 1, at 41, 292.



226. Illustrative Senate District 28 has a BVAP of 51.32%. Alpha Ex. 1, at 41, ¶ 99. Illustrative Senate District 28 includes parts of South Clayton, Fayette, and Spalding Counties. Id. at 41, ¶ 99 & fig. 17A. It overlaps with Enacted Senate District 16 in parts of Fayette County and Spalding County. Id.

227. Senate District 16 under the 2021 Enacted Senate Plan includes part of Fayette as well as all of Spalding, Pike, and Lamar Counties. Alpha Ex. 1, at 39-40, ¶ 96 & fig. 16.

228. 2021 Senate District 16 was drawn with a BVAP of under 23% by combining Fayette and Spalding Counties with Whiter and more rural Pike and Lamar Counties. Alpha Ex. 1, at 41, ¶ 98; Sept. 5 PM Tr. 241:23-242:2. The Defendant's own mapping expert testified that the 2021 Senate Plan divides Fayette County along racial lines, splitting the City of Fayetteville and placing most of Fayetteville and other majority-Black areas of Fayette County into a nearly 70% (69.54%) BVAP district. Sept. 13 PM Tr. 2043:21-2044:7 (Morgan); see also Alpha Ex. 1, at 41, ¶¶ 98-99. Neighboring Senate District 44 under the 2021 Enacted Senate Plan, which includes suburban portions of South Clayton County that border Fayette and Spalding Counties, was also drawn with a BVAP of 71.34%. Alpha Ex. 1, at 177, Ex. M-1.

229. The Court finds that Illustrative Senate District 28 complies with traditional districting principles and represents a balanced approach to those principles.

230. The district is visually compact. Sept. 5 AM Tr. 113:19-21 (Cooper).

231. In addition, Illustrative Senate District 28 is comparable to Enacted Senate District 16 with respect to compactness metrics. DTX 2, at 11, ¶ 24, & 14-15, ¶ 29. Illustrative Senate District 28 has a Reock score of 0.37 and a Polsby-Popper score of 0.18, (Alpha Ex. 1, at 308, Ex. S-1), while Enacted Senate District 16 has a Reock score of 0.37 and a Polsby-Popper of 0.31. Id. at 2, Ex. S-3.

232. Mr. Cooper testified that he followed VTD and municipal lines in drawing the boundaries of the district. Sept. 5 AM Tr. 114:1-7. For

example, Mr. Cooper testified, "[y]ou can see that I separated or made the boundary for District 28, which is the new majority Black district, following the municipal lines of Griffin, which can be kind of odd shaped in places." Sept. 5 AM Tr. 114:4-7; Alpha Ex. 1, at 41, ¶ 99 & fig. 17B; see also id. at 329 (listing a single split VTD in Fayette County).

233. Mr. Cooper testified that communities in South Clayton County like Jonesboro and in Spalding County like Griffin are neighboring, geographically proximate areas. Sept. 5 AM Tr. 114:8-18. Notably, those communities are directly connected by US-41 and US-19. Id.; see also Alpha Ex. 1, at 41, 296.

234. Mr. Cooper testified that the areas of Fayette and Spalding County that he included in Illustrative Senate District 28 are growing, becoming more diverse and suburban, and thus more similar to Clayton County. Sept. 5 AM Tr. 113:6-114:18; see also Sept. 5 PM Tr. 242:15-24. Mr. Cooper explained that the areas he connected are similarly suburban and exurban in nature, in comparison to the more rural and predominantly White Pike and Lamar Counties, which were not included in Illustrative Senate District 28. Sept. 5 AM Tr. 113:24-25 ("Yes. This area is predominantly a suburban/exurban. So the area matches up socioeconomically, I believe.").

235. Moreover, Mr. Cooper examined ACS data showing that the counties included in Illustrative Senate District 28—namely, Fayette, Spalding, and Clayton Counties—share socioeconomic commonalities. Specifically, Fayette, Spalding, and Clayton Counties share certain socioeconomic characteristics, as all have a relatively high proportion of Black residents in the labor force. Alpha Ex. 1, at 56, ¶ 125 & Ex. CD, at 53-55.

236. Mr. Cooper further noted that these parts of Spalding and Fayette Counties are experiencing population growth and change as well as suburbanization, warranting grouping them with Clayton County. Sept. 5 AM Tr. 113:6-114:18.

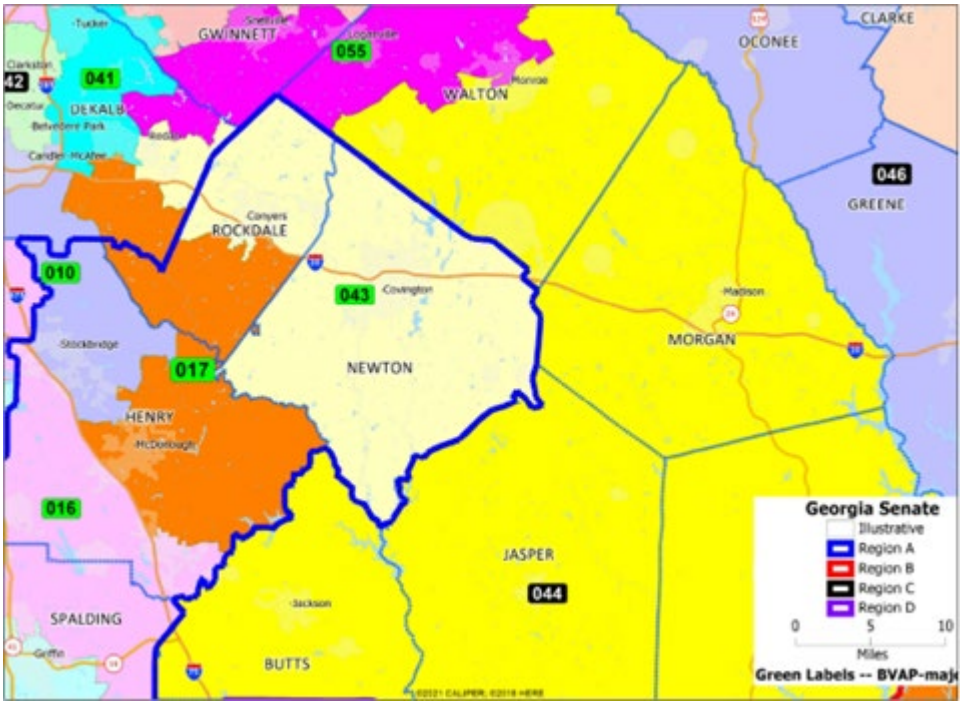
237. The testimony of Mr. Lofton, the immediate past State Director of Plaintiff Alpha Phi Alpha Fraternity Inc., a lifetime Metro Atlantan, and a long-time resident of Henry County with connections in Fayette, Clayton, and throughout the South Metro, was consistent with Mr. Cooper's. Mr. Lofton attested to the interconnectedness of the communities included in Illustrative Senate District 28. For example, as Mr. Lofton explained, if you visit shopping centers in Griffin you will see Fayette and Clayton tags. Sept. 11 AM Tr. 1302:9-11. Mr. Lofton also testified that areas covered by Illustrative Senate District 28 share common places of worship and that Black communities in the area share certain socioeconomic characteristics in common, such as similar educational attainment. Id. at 1309:25-1310:9. Gina Wright, who testified that she was familiar with the area, agreed that the area of South Clayton County that is included in Illustrative Senate District 28 is suburban. Id. at 1685:2-20.

238. Mr. Cooper also explained why it made sense to not include western Fayette County in Illustrative District 28, highlighting the differences between Peachtree City and Griffin (Sept. 5 AM Tr. 114:19-115:5 ("THE COURT: What are the commonalities of the people in Griffin and Peachtree City? THE WITNESS: Well, the -- Griffin and Peachtree City are quite different, frankly. THE COURT: They are. THE WITNESS: Peachtree City is predominantly white. Just kind of sprung up there I think in the 1980s. They drive around in golf carts. I mean, that's --. THE COURT: Yeah. THE WITNESS: Yeah. And so it doesn't really fit with Griffin exactly, which is one of the reasons why I didn't include it in District 28. It is the western part of Fayette County.")). Mr. Lofton's testimony was consistent on this point as well. See Sept. 11 AM Tr. 1311:21-1312:13.

239. In addition to all these factors, Mr. Cooper also discussed how the need to adhere to Georgia's strict 1% population deviation standard played a role in his construction of Illustrative Senate District 28. Sept. 5 PM Tr. 238:23-25.

ii. Illustrative Senate District 17

240. The Illustrative Senate Plan includes a new majority-Black Senate District (Illustrative Senate District 17) around Enacted Senate Plan District 17. Alpha Ex. 1, at 46, ¶ 105 & fig. 17D; id. at 300, Ex. Q-2.



241. Illustrative Senate District 17 has a BVAP of 62.55%. Alpha Ex. 1, at 227, Ex. O-1.

242. In the 2021 Enacted Senate Plan, Senate District 17 (BVAP 34%) combines portions of majority-Black Henry and Newton Counties with predominantly White populations in more rural Walton and Morgan Counties. Alpha Ex. 1, at 43-44, ¶¶ 102-103 & fig. 17C; see also id. at 123-124, Ex. G-1.

243. Illustrative Senate District 17 includes neighboring parts of South Dekalb, Henry, and Rockdale Counties, connecting the nearby communities of Stonecrest, Conyers, and McDonough. Alpha Ex. 1, at 45-6, ¶¶ 104-5 & fig. 17D. The 2021 Enacted and Illustrative districts overlap in and around McDonough in Henry County. Id. at 44, 46.

244. The Court finds that Illustrative Senate District 17 complies with traditional districting principles and represents a balanced approach to those principles.

245. Illustrative Senate District 17 is compact. Defendant's mapping expert admitted that Illustrative Senate District 17 is more geographically compact and includes fewer counties than 2021 Enacted Senate District 17. Sept. 13 PM Tr. 2026:17-2028:1 (Morgan).

246. With respect to compactness metrics, Illustrative Senate District 17 also beats Enacted Senate District 17 on compactness scores, with 0.18 Polsby-Popper and 0.37 Reock scores, compared with 0.17 Polsby-Popper and 0.35 Reock scores for the Enacted District. Alpha Ex. 1, at 307, 321, Ex. S-1, S-3.

247. Under the Illustrative Senate Plan, Newton County is kept whole (rather than split as in the 2021 Enacted Plan) and is included in Illustrative Senate District 43, which is compact and is also majority-Black. Alpha Ex. 1, at 48 & fig. 17F.

248. The communities included in Illustrative Senate District 17 are close to one another; as Mr. Cooper testified, it is "probably a ten-minute drive from western Henry County into Rockdale County." Sept. 5 PM Tr. 231:17-20.

249. The communities included in Illustrative Senate District 17 also share commonalities. Mr. Cooper testified that residents in the areas connected in the district would think of themselves as being from Atlanta. Sept. 5 PM Tr. 231:1-20. He testified that the areas "fit" in terms of demographics and their suburban and exurban character. Id. at 117:5-11. He testified that because of their proximity the communities he connected were probably in the same sports leagues. Id. at 231:17-20.

250. Moreover, Mr. Cooper examined ACS data showing that the counties included in Illustrative Senate District 17 share certain socioeconomic characteristics in common, such as similar educational attainment

rates among Black residents in Henry, Rockdale, and Dekalb Counties. Alpha Ex. 1, at 57, ¶¶ 127-128 & Ex. CD at 21-22.

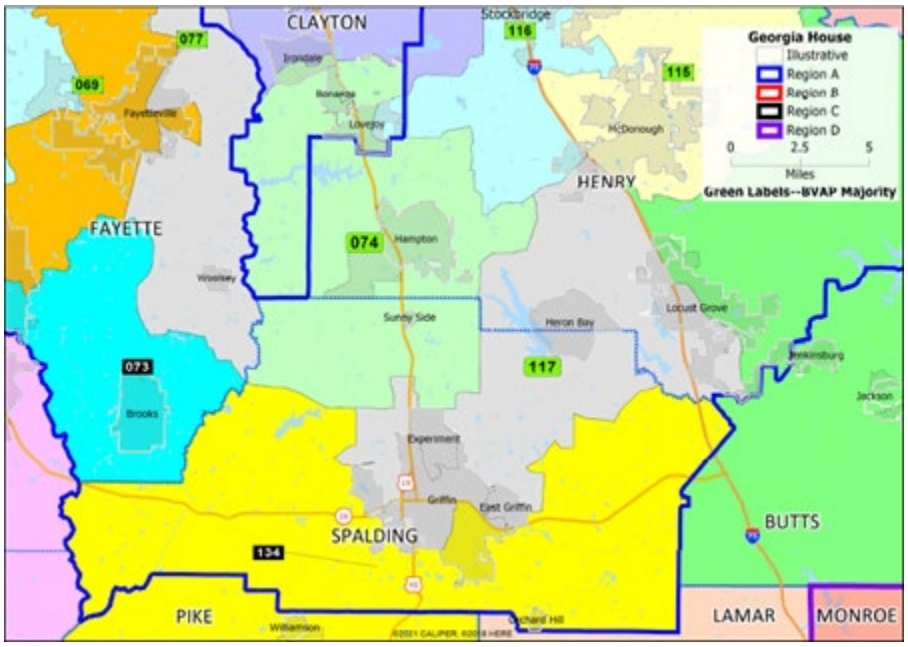
251. The testimony of Mr. Lofton, who lives in McDonough, was entirely consistent. Mr. Lofton testified regarding the interconnectedness of the different counties in South Metro Atlanta, including competing against one another in sports. Sept. 11 AM Tr. 1306:23-25 ("I visited Rockdale even from high school. We used to compete against Rockdale County Heritage High School when I was in high school. We were the same region.").

252. Mr. Lofton testified about the similarities and connections between Dekalb, Stonecrest, Conyers and McDonough. Sept. 11 AM Tr. 1308:16-22 (discussing the "major thoroughfares" connecting Dekalb, Rockdale, and Henry Counties that people drive up and down "all day."); id. at 1308:23-1309:8 (discussing travelling between McDonough, Stonecrest, Conyers, and Covington for shopping and dining "because they're not terribly far out of the way."). He also testified that Henry, Rockdale, and Dekalb Counties are getting more diverse and "on par" with one another. Id. at 1298:16-20, 1306:16-1307:8, 1308:4-7.

iii. Illustrative House District 74

253. The Illustrative House Plan includes an additional Black-majority district, Illustrative House District 74, in the South Metro Atlanta area in an area that includes adjacent areas in South Clayton, Henry, and

Spalding Counties. Alpha Ex. 1, at 68, ¶¶ 163-4 & Fig. 29; see also id. at 660, Ex. AB-2.



254. Illustrative House District 74 is 61.49% BVAP. Alpha Ex. 1, at 539, Ex. AA-1.

255. In the Enacted House Plan, District 74 is configured in a "U" shape, bypassing Clayton County but including portions of south Henry County as well as portions of Fayette County and Spalding County. Alpha Ex. 1, at 67-8, ¶ 162 & fig. 28. Enacted House District 74 has a BVAP of 25.52%. Id. at 428, Ex. Z-1.

256. The Court finds that Illustrative House District 74 complies with traditional districting principles and represents a balanced approach to those principles.

257. Illustrative District 74 is compact; as Mr. Cooper testified, the district "couldn't be more compact." Sept. 5 AM Tr. 122:18. Illustrative House District 74 (Reock of 0.63 and Polsby-Popper of 0.36) is in fact more compact than Enacted House District 74 (Reock of 0.50 and Polsby-Popper of 0.25). Alpha Ex. 1, at 684, 693, Ex. AG-1, Ex. AG-2.

258. Defendant's mapping expert agreed that Illustrative House District 74 is more compact than House District 74 the Enacted Plan. Sept. 13 PM Tr. 2049:8-12 (Morgan).

259. Illustrative House District 74 unites nearby, adjacent communities on either side of the line between south Clayton and Henry Counties. Alpha Ex. 1, at 87-8, ¶ 198. As Mr. Cooper testified "the distance[] there to get from one part of the district to the other are...maybe a 20-minute drive at most, unless you're going during rush hour traffic or something." Sept. 5 PM Tr. 272:24-273:2.

260. Mr. Cooper testified that the communities included in the district are "largely suburban" in nature. Sept. 5 PM Tr. 273:17-22. Consistent with that, Mr. Cooper's examination of the ACS data shows that the counties included in Illustrative House District 74 share a similar proportion of population in the labor force (71.0%, 58.2%, and 69.5% respectively). Alpha Ex. 1, at 87-8, ¶ 198.

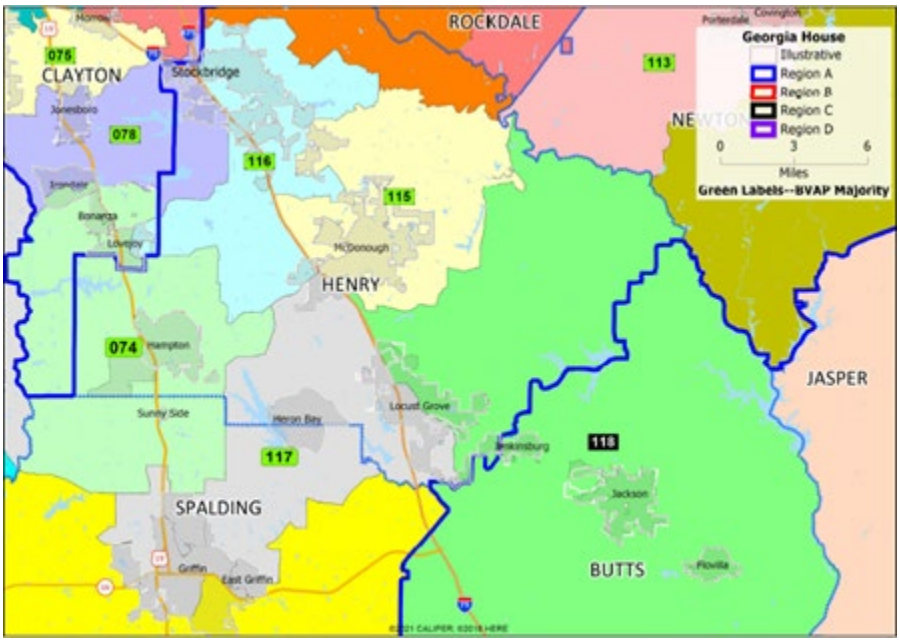
261. Mr. Lofton's testimony was consistent, testifying that Black communities in South Metro Atlanta are "middle class, upper middle class, professional, college educated. A lot of families, single families." Sept. 11 AM Tr. 1309:25-1310:4.

262. Mr. Cooper also testified that other traditional districting criteria informed his configuration of Illustrative House District 74, including "look[ing] at municipal boundaries" (Sept. 5 AM Tr. 122:23) and adhering to one person one vote (id. at 122:22-23).

iv. Illustrative House District 117

263. The Illustrative House Plan also includes an additional Black-majority district, Illustrative House District 117, in an area that includes adjacent portions of South Henry County around Locust Grove and a portion of Spalding County, including much of Griffin, Spalding

County's seat and largest city, which is majority-Black. Alpha Ex. 1, at 71, ¶ 198; see also id. at 664, Ex. AC-2.



264. Illustrative House District 117 is 54.64% BVAP. Alpha Ex. 1, at 539, Ex. AA-1.

265. The 2021 Enacted House Plan also constructs House District 117 out of adjacent portions of South Henry and Spalding Counties. But the 2021 Enacted Plan divides the Black population in the area between Enacted House Districts 117 and 134, which have BVAPs of 36.6% and 33.6%, respectively. Alpha Ex. 1, at 428-429, Ex. Z-1.

266. The Court finds that Illustrative House District 117 complies with traditional districting principles and represents a balanced approach to those principles.

267. Illustrative House District 117 is compact. In terms of metrics, Illustrative House District 117 is almost identically compact (Reock 0.41 and Polsby-Popper 0.26) as compared to Enacted House District 117 (Reock 0.41 and Polsby-Popper 0.28). Alpha Ex. 1, at 686, 695, Ex. AG-1, Ex. AG-2.

268. Again, the Defendant's own mapping expert agreed that Illustrative House District 117 and Enacted House District 117 are both fairly compact. Sept. 13 PM Tr. 2051:20-2052:1. ("Q. And illustrative 117 and enacted 117 are similarly compact? A. On compactness scores or just looking at it? Q. Both. A. I mean, it's hard to say whether it would be that way on compactness scores. But looking at it, they're both fairly compact, yes. They're not a great distance between anything.").

269. Illustrative House District 117 unites communities that are geographically proximate to one another. Mr. Cooper testified that "everyone" in Illustrative House District 117 "lives close by." Sept. 5 AM Tr. 123:17. Again, Defendant's mapping expert agreed, testifying that Griffin and Locust Grove are "close." Sept. 12 PM Tr. 1794:23 (Morgan).

270. When specifically asked about the connection between Griffin and Locust Grove, Mr. Cooper testified that "they are in an exurban area of Metro Atlanta." Sept. 5 PM Tr. 277:25.

271. Further Mr. Cooper noted that the area has a "somewhat younger population" (Sept. 5 AM Tr. 123:24) and has a similar Black labor force participation rate. Alpha Ex. 1, at 87-88, ¶ 198.

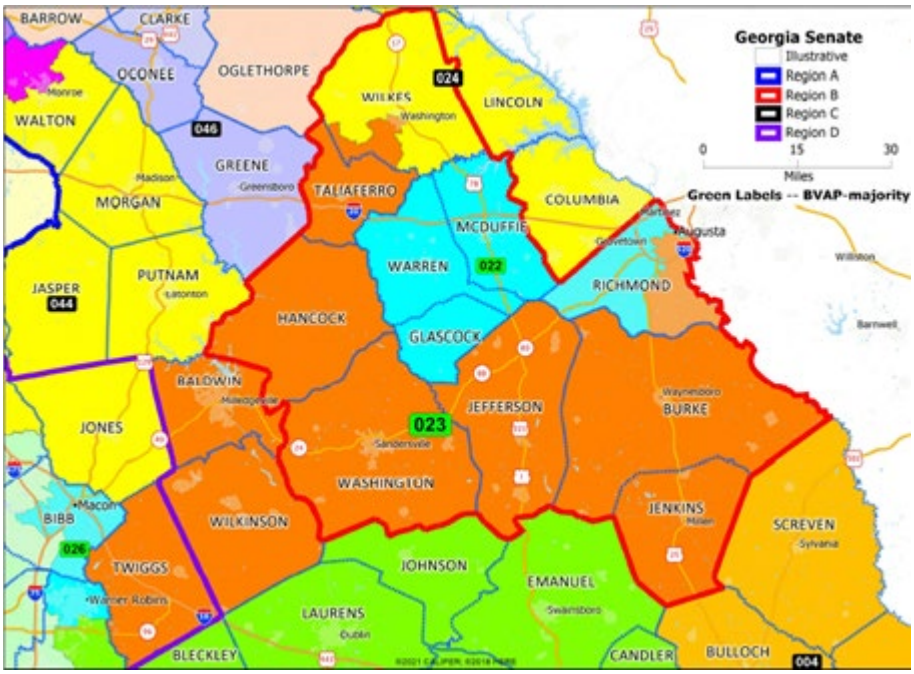
272. Mr. Lofton's testimony was consistent with respect to the proximity and connections between the communities in Illustrative House District 117. For example, he testified about the shared commercial centers used by residents of the area, such as Tanger Outlets, and about how Highways 138 and 155 are important transportation corridors that unite the district. Sept. 11 AM Tr. 1308:20-1209:8.

b. Eastern Black Belt

i. Illustrative Senate District 23

273. The Illustrative Senate Plan includes a new majority-Black Senate District, Illustrative Senate District 23, in the eastern end of Georgia's Black Belt. Alpha Ex. 1, at 49, ¶ 108. The district is oriented East-West

(like the Black Belt itself) and unites a swath of predominantly rural counties in the region. Id. at 304, Ex. R-2.



274. Illustrative Senate District 23 is 50.21% BVAP. Alpha Ex. 1, at 227, Ex. O-1. Senate District 23 under the 2021 Enacted Senate Plan is also located primarily in the region identified by Mr. Cooper as the Eastern Black Belt. Id. at 49, ¶ 107. However, Enacted Senate District 23 is drawn running North-South, across the Black Belt, with a BVAP under 36%. Id. at 49, ¶ 107.

275. The Court finds that Illustrative Senate District 23 complies with traditional districting principles and represents a balanced approach to those principles.

276. Illustrative Senate District 23 is compact. Compared to Enacted Senate District 23, Illustrative Senate District 23 is identical on both measures of compactness: Enacted and Illustrative Senate District 23 have a Reock score of 0.37 and a Polsby-Popper score of 0.16. Alpha Ex. 1, at 307, Ex. S-1 & 321, Ex. S-3.

277. With respect to geographic compactness, Defendant's own mapping expert conceded that Enacted Senate District 23, which he testified adheres to traditional districting principles, is about 120 miles long, comparable to if not longer than Illustrative District 23. Sept. 13 PM Tr. 2035:22-23 (Morgan). He agreed that Senate districts in this area are likely to be geographically large because the counties in the area are fairly rural and have smaller populations. Id. at 2024:2-2025:8. As Defendant's expert conceded, however, it is "fair to say" that there is simply a large Black population across this entire area. Id. at 2030:23-2036:23.

278. With respect to subdivision splits, Illustrative Senate District 23 is constructed almost entirely out of whole counties and Mr. Cooper testified he sought to keep counties whole. Sept. 5 AM Tr. 119:4-13.

279. Both Enacted Senate District 23 and Illustrative Senate District 23 split 2 counties each: Enacted Senate District 23 splits Columbia and Richmond Counties, while Illustrative Senate District 23 splits Wilkes and Richmond Counties. Sept. 5 AM Tr. 119:4-13 (Cooper).

280. Moreover, with respect to the boundary lines in Wilkes County, Mr. Cooper offered detailed testimony regarding the traditional districting principles that he considered in drawing that line. In particular, Mr. Cooper testified that, due to population deviation limits and the county's shape, Wilkes County had to be split. Sept. 5 PM Tr. 259:6-21; Alpha Ex. 1, at 50, fig. 19B.

281. To split Wilkes County, Mr. Cooper followed a recently enacted county commission line that demarcates one of the commission districts in Wilkes County. Sept. 5 AM Tr. 119:19-120:4; Alpha Ex. 1, at 50, ¶ 109, & fig. 19B. He then followed that line "up to the town of Washington, and then used the municipal boundary for part of the district line. . . [o]n the west end" of the district. Sept. 5 AM Tr. 119:19-120:4; Alpha Ex. 1, at 50, ¶ 109, & fig. 19B.

282. Defendant's mapping expert initially characterized Mr. Cooper's split of Wilkes County as "racial sorting" (Sept. 13 PM Tr. 2036:10-14 (Morgan)) but later admitted he had not seen that Mr. Cooper was

following county commission boundaries and conceded that using county commission lines resulted in portions of the lowest BVAP precinct in the county to be included in Illustrative Senate District 23. Id. at 2037:2-2040:8.

283. Mr. Cooper also identified commonalities between the communities connected in Illustrative Senate District 23. As noted, many of the counties that are included in Illustrative Senate District 23 are part of both the Central Savannah River Area Regional Commission and the Black Belt as defined by the GBPI. Alpha Ex. 1, at 13-14, ¶ 27; Sept. 5 AM Tr. 117:20-118:10 (Cooper). The district also includes additional counties, such as Baldwin, Twiggs, and Wilkinson, that are also part of the Black Belt. Alpha Ex. 1, at 13-14, ¶ 27 & 26, ¶ 59.

284. Mr. Cooper also noted that there are transport links tying together the area, including a planned Interstate Highway route that will run East-West across the Black Belt, whose completion will create another important shared interest among residents of Illustrative Senate District 23. Sept. 5 AM Tr. 261:17-263:1.[4]

285. Mr. Cooper's analysis of ACS data also shows that the counties that were drawn together in Illustrative Senate District 23 share socioeconomic commonalities. For example, a similarly significant proportion of Black residents across the Illustrative Senate District 23 counties have incomes that fall below the poverty line (ranging from

[4] The 2021 Infrastructure Investment and Jobs Act (H.R. 3684), through an amendment sponsored by Senators Raphael Warnock and Ted Cruz, designates an expansion of Interstate 14 across Georgia. As a result of H.R. 3684, the planned Interstate 14 will connect communities within Illustrative Senate District 23. The Court may take judicial notice of facts related to the expansion because they are "not subject to reasonable dispute," and "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). The Court denied Plaintiffs' pre-trial motion for judicial notice of this fact because it concluded that "the proper foundation ha[d] not been laid to show relevance." Doc. No. [291], at 4. Mr. Cooper's testimony provides the requisite foundation; as Mr. Cooper testified, the planned route signals yet another shared interest among residents of Illustrative Senate District 23 and goes directly to the community of interests that tie those residents together.

20.1% of the Black population to 38.4% of the Black population.). Alpha Ex. 1, at 58, ¶ 129.

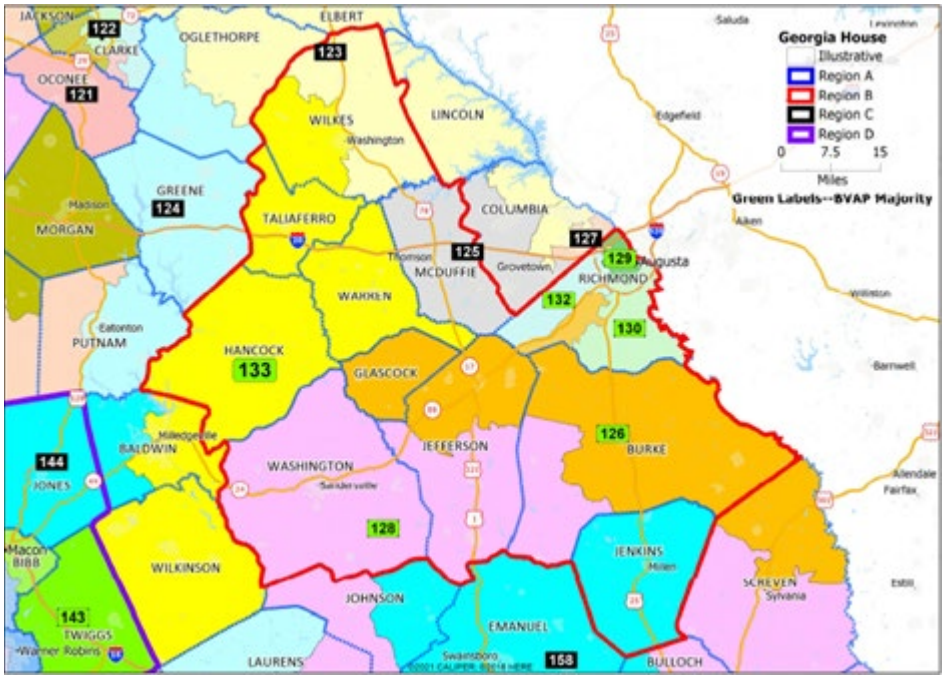
286. The extensive testimony of Dr. Diane Evans,[5] who lives in Jefferson County in the heart of Illustrative Senate District 23, confirms that communities in the district share numerous interests. Dr. Evans testified that Black residents in the areas covered by Illustrative Senate District 23 attend the same houses of worship and share church leadership. Sept. 7 AM Tr. 627:19-628:6. She testified that areas covered by Illustrative Senate District 23 share common interests in church, sports, and farming, and have similar policy concerns, for example with respect to high school dropout rates and education. Id. at 625:3-8, 629:22-630:13.

287. Dr. Evans also testified that residents of this portion of the Black Belt will travel to the most proximate cities, in particular Burke County and Milledgeville, for vegetables or significant commercial needs, and that Augusta has the only major medical center in the area. Sept. 7 AM Tr. 628:15-19, 630:17-631:4, 653:20-25.

[5] The Court granted Plaintiffs' motion to incorporate Dr. Evans's testimony as part of the Alpha Phi Alpha record. Sept. 7 AM Tr. 633:18-634:10.

ii. Illustrative House District 133

288. The Illustrative House Plan includes a new majority-Black House District, Illustrative House District 133, in Eastern Black Belt area. Alpha Ex. 1, at 74, ¶ 169 & fig. 31; see also id. at 672, Ex. AD-2.



289. Illustrative House District 133 is 51.97% BVAP. Alpha Ex. 1, at 539, Ex. AA-1.

290. The Court finds that Illustrative House District 133 complies with traditional districting principles and represents a balanced approach to those principles.

291. The district is sufficiently compact. In terms of metrics, Illustrative House District 133 has a 0.26 Reock and 0.20 Polsby-Popper (both scores are above the minimum Reock and Polsby-Popper score in the Enacted and Illustrative House Plans). Alpha Ex. 1, at 684, Ex. AG-1; see also id. at 682, Ex. AG-1 & 691, Ex. AG-2.

292. The district is constructed out of whole counties with the exception of Wilkes and Baldwin Counties on either end of the district. Alpha Ex. 1, at 74, ¶ 169 & fig. 31.

293. With respect to the boundary lines in Baldwin and Wilkes Counties, Mr. Cooper offered detailed testimony regarding the traditional districting principles that he considered in drawing that line. In Wilkes County, Mr. Cooper testified that he kept the City of Washington whole, and otherwise followed county commission and precinct lines. Sept. 5 AM Tr. 126:13-127:2; Alpha Ex. 1, at 77, ¶ 173 & fig. 31.

294. Mr. Cooper also gave detailed testimony regarding the boundary lines of Illustrative House District 133 in Baldwin County. There, Mr. Cooper testified that his configuration of Illustrative House District 133 avoided incumbent parings. Sept. 5 AM Tr. 125:21-22 ("[t]here is an incumbent who lives in Baldwin County, and so I left that incumbent in House District 133, so that they would not have to run against another incumbent in 144").

295. He also testified that in drawing the lines around Milledgeville, he had to balance multiple competing redistricting principles, and chose to split VTDs and municipal lines in order to maintain the compactness of the district, in light of the odd, non-compact shape of Milledgeville's municipal lines. Sept. 5 AM Tr. 125:7-126:12.

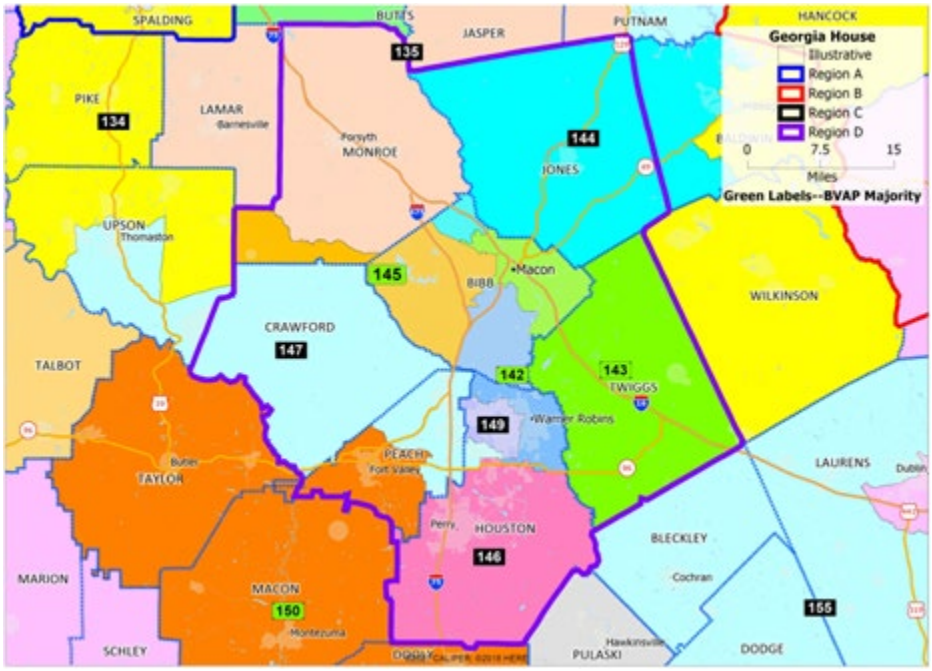
296. Defendant's mapping expert, although he initially criticized Mr. Cooper's configuration of Baldwin County as "racial sorting," agreed that following Milledgeville's municipal lines would have made the district less compact compared to Mr. Cooper's configuration. Sept. 13 PM Tr. 2052:22-2054:16 (Morgan). He also agreed that, contrary to his initial characterization, Mr. Cooper had included lower BVAP VTDs in the County in Illustrative House District 133, and placed higher BVAP VTDs in the County outside of Illustrative House District 133. Id. at 2052:22-2054:2.

297. In addition to uniting Black Belt counties, Mr. Cooper testified that his configuration of Illustrative House District 133 connects counties with shared socioeconomic characteristics, such as education and poverty levels. Alpha Ex. 1, at 88, ¶ 199; Sept. 5 AM Tr. 124:15-125:1.

c. Metropolitan Macon

i. Illustrative House District 145

298. The Illustrative House Plan includes a new majority-Black House District (Illustrative House District 145), anchored in Macon and combined with the southern part of Monroe County. Alpha Ex. 1, at 82-83, 680.



299. The BVAP of Illustrative House District 145 is 50.2%. Alpha Ex. 1, at 83.

300. The Court finds that Illustrative House District 145 complies with traditional districting principles and represents a balanced approach to those principles.

301. Illustrative House District 145 is compact. Mr. Cooper testified that the district is compact. Sept. 5 PM Tr. 167:9-12. Defendant's mapping expert agreed that Illustrative House District 145 is sufficiently compact. Id. at 2062:18-2063:2 (Morgan). In terms of metrics, Illustrative House District 145 is less compact than Enacted House

District 145 under the Reock metric, but more compact under the Polsby-Popper metric. DTX 2, at 26.

302. Defendant's expert did not mention this district in his report discussing the Illustrative Plans. Sept. 13 AM Tr. 1923:10-15 (Morgan). On the stand, he criticized the Illustrative House Plan for splitting Bibb County four ways, but acknowledged that the 2021 Enacted House Plan does the same thing. Id. at 2063:7-12.

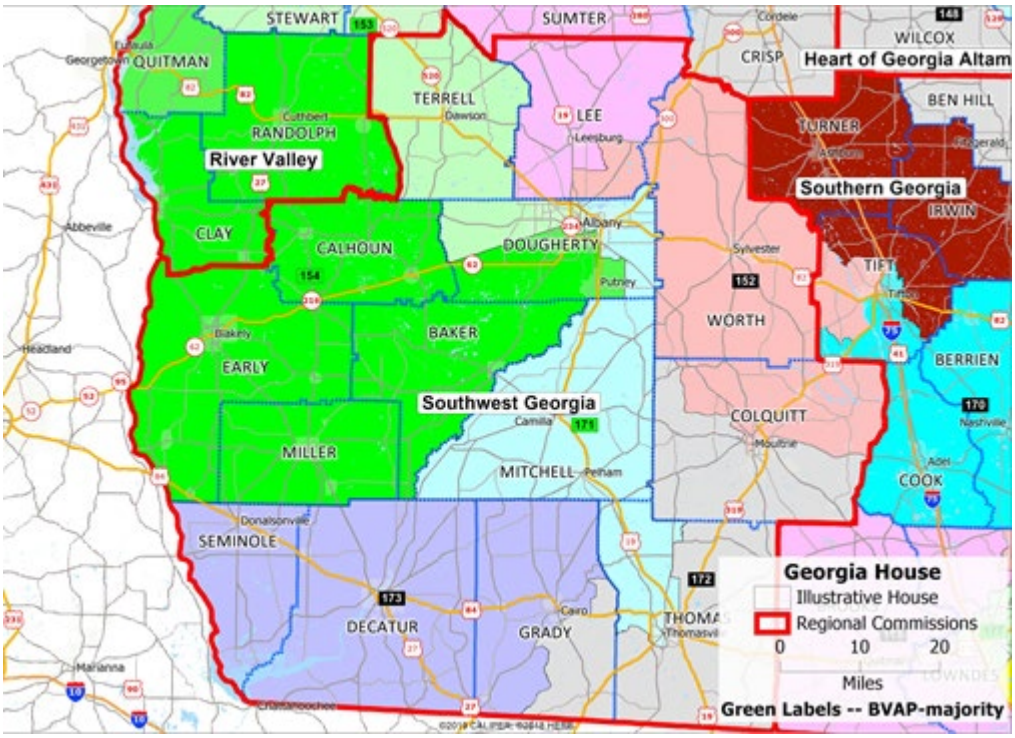
303. Mr. Cooper also described the various redistricting principles that played into his configuration of this district. He testified that Illustrative House District 145 stays entirely within the Macon-Bibb MSA. Sept. 5 PM Tr. 166:19-20. He testified that he considered the location of incumbents in configuring the district, including in Monroe County. Id. at 166:25-167:8. He testified that in Monroe County he followed County and VTD lines. Id. at 167:10-12.

304. Mr. Cooper's report also demonstrated commonalities shared by the communities included in Illustrative House District 145. About 91% of all persons and 96% of Black persons in Illustrative House District 145 are Macon-Bibb residents. Alpha Ex. 1, at 89. One-third of the Black population and nearly half (47.5%) of Black children in Macon-Bibb live in poverty. Id. By contrast, 11.6% of the White population in Macon-Bibb and 14.1% of White children live in poverty. Id.

d. Southwest Georgia

i. Illustrative House District 171

305. The Illustrative House Plan includes an additional Black-majority district, Illustrative House District 171, in Southwest Georgia. Alpha Ex. 1, at 66, 78, 618.



306. Illustrative House District 171 has a BVAP of 58.06%. Alpha Ex. 1, at 107. The district includes all of Mitchell County, and parts of Dougherty and Thomas Counties. Doc. No. [280], at 76, ¶ 293.

307. Enacted House District 171 includes all of Mitchell and Decatur Counties, and parts of Grady County, running from the Dougherty-Mitchell line to the far-Southwest corner of the State at Lake Seminole. Alpha Ex. 1, at 78.

308. The Court finds that Illustrative House District 171 complies with traditional districting principles and represents a balanced approach to those principles.

309. Notably, Mr. Cooper explained that he was "fairly confident" from the outset that another majority-Black House district could be drawn in this area, because there was already a majority-Black Senate District, Senate District 12, drawn there under the 2021 Enacted Plan. Sept. 5 AM Tr. 127:11-25. Mr. Cooper thought this would be possible because a Senate District is almost exactly three times the size of a House District, and yet the area in which 2021 Enacted Senate District 12 was drawn contained only two majority-Black House districts. Id. at 127:19-25.

310. With respect to traditional districting principles, Illustrative House District is sufficiently compact. Defendant has not challenged the compactness of the district, and Defendant's mapping expert conceded that some of the 2021 Enacted House Plan districts in the same area are geographically larger than Illustrative House District 171. Sept. 13 PM Tr. 2042:2-4 (Morgan).

311. With respect to respecting political subdivisions, Mr. Cooper testified that the Illustrative Plan reduces the number of times that Dougherty County, which contains the majority-Black city of Albany, is split, from four to three. Sept. 5 AM Tr. 128:8-17; Alpha Ex. 1, at 79.

312. Mr. Cooper offered extensive testimony regarding the connections between the communities included in Illustrative House District 171, and the Court also received documentary evidence on point. Mr. Cooper pointed out that US-19 and the historic Dixie Highway run as a corridor through Mitchell County between Albany and Thomasville. Alpha Ex. 1, at 80. The communities along that corridor, such as Albany, Camilla, Pelham, Meigs, and Thomasville, work together under the auspices of the Southwest Georgia Regional Commission, including to designate the Dixie Highway as a state-recognized scenic byway. Sept. 5 AM Tr. 128:18-129:19; Alpha Ex. 54 (Corridor Management Plan) (hereinafter "Alpha Ex. 54"); Alpha Ex. 325 (Designation of Historic Dixie Highway Scenic Byway) (hereinafter "Alpha Ex. 325").

313. Mr. Cooper testified further about the connection between Thomasville and Albany: "there are commonalities between the Black

population in Thomasville and the Black population in Albany. The two towns are only about 60 miles apart. It takes you about an hour to get there along Highway 9. They're in the same high school football leagues." Sept. 5 AM Tr. 128:8-129:9.

314. Bishop Reginald T. Jackson of the AME Church also testified that Dougherty, Mitchell, and Thomas Counties—all included in Illustrative House District 171—share certain similarities, including more "rural and agrarian" communities, similar education attainment levels, and income levels "at the lower end of middle class." Sept. 6 AM Tr. 382:18-384:2.

315. Further evidencing the connections between the communities in Illustrative House District 171, Plaintiff Janice Stewart lives in Thomasville, but attends church at Saint Peter AME Church in Camilla, Georgia, in Mitchell County. Doc. No. [280], at 42, ¶¶ 64, 80-81.

G. Defendant's Expert Testimony

316. Defendant offered John Morgan as a Gingles 1 expert. Sept. 12 AM Tr. 1748:9-16.

317. Defendant's fact witness, Gina Wright, drew the 2021 Enacted Plans but did not proffer any expert opinions at trial. Sept. 12 AM Tr. 1677:7-9. Ms. Wright further agreed that another mapper could have drawn reasonably compact districts differently than the Enacted Plans, including in South Metro Atlanta, Eastern Georgia, the Macon area, and Southwest Georgia. Id. at 1678:8-19.

a. Mr. Morgan's Testimony

i. Mr. Morgan's Previous Redistricting Work

318. Mr. Morgan's background mainly involves partisan work. One federal court referred to Mr. Morgan as "a national Republican operative," and his firm, Applied Research Coordinates, has been referred to by its own business partners as a "top Republican map drawing firm." Sept. 13 PM Tr. 2098:3-7, 2098:17-23.

319. Mr. Morgan's previous redistricting work includes drawing or otherwise consulting or assisting with at least five redistricting plans that have been struck down as racial or partisan gerrymanders, including state legislative plans in New Mexico, Virginia, North Carolina, and Ohio. Sept. 13 PM Tr. 2101:7-2108:15; see Maestas v. Hall, 274 P.3d 66 (2012); Bethune Hill v. Va. State Bd. of Elections, 326 F. Supp. 3d 128 (E.D. Va. 2018); Covington v. North Carolina, 316 F.R.D. 117 (M.D.N.C 2016); Ohio A. Philip Randolph Inst. v. Householder, 373 F. Supp. 3d 978 (S.D. Ohio 2019); League of Women Voters of Ohio v. Ohio Redistricting Comm'n, 192 N.E.3d 379 (Ohio 2022).

320. Mr. Morgan has previously testified in federal court three times as a fact or expert witness, including about plans that he drew. In none of those instances was he found to be wholly credible. Sept. 13 PM Tr. 2111:22-25.

ii. January 23, 2023 Report

321. In this trial, and unlike at the preliminary injunction hearing, Mr. Morgan acknowledged the previous adverse credibility findings against him. However, Mr. Morgan's opinions, especially with respect to Mr. Cooper's Illustrative Plans, cannot be considered credible.

322. Notably, in drafting his January 23, 2023, rebuttal report, Mr. Morgan only "skimmed" Mr. Cooper's report. Sept. 13 AM Tr. 1958:16-1961:8. Mr. Morgan claimed otherwise until confronted with his sworn deposition testimony saying exactly that. Id. at 1961:1-9.

323. Mr. Morgan's failure to engage with Mr. Cooper's own description of how he drew his plans was brought into sharp relief when Mr. Morgan was presented with a graphic from page 51 of Mr. Cooper's report and stated that he had never seen it before. Sept. 13 PM Tr. 2037:2-2038:13.

324. In any case, the opinions Mr. Morgan did express regarding the effect of "racial considerations" on the Illustrative Plans were ambiguous, and his objective analysis almost entirely confirms Mr. Cooper's.

325. Mr. Morgan did not state anywhere in his January report that he considered the redistricting guidelines issued by the State of Georgia in comparing Mr. Cooper's plans and the Enacted Plans. Sept. 13 AM Tr. 1961:25-1962:19.

326. Nor did Mr. Morgan contend in his report that Mr. Cooper's Illustrative Plans fail to comply with traditional districting principles. Sept. 13 AM Tr. 1963:17-20.

327. Mr. Morgan did not look at metro area splits or socioeconomic factors in comparing the Illustrative and Enacted Plans. Sept. 13 AM Tr. 1963:1-7.

328. Mr. Morgan conceded that the metrics he did examine for Mr. Cooper's Illustrative Senate Plan and the Enacted Senate Plan are very similar. Sept. 13 AM Tr. 1963:1-7.

329. For example, Mr. Morgan affirmed that Mr. Cooper's Illustrative Senate Plan has fewer split counties, total county splits, municipal splits, and populated VTD splits than the Enacted Plan. Sept. 13 AM Tr. 1964:8-1965:23.

330. Mr. Morgan also conceded that Mr. Cooper's Illustrative Senate Plan is similarly compact overall to the Enacted Senate Plan, has higher minimum compactness scores, and a similar population deviation range as compared to the Enacted Senate Plan. Sept. 13 AM Tr. 1966:2-22.

331. Mr. Morgan affirmed Mr. Cooper's Illustrative House Plan has fewer county splits and populated VTD splits than the Enacted House Plan. Sept. 13 AM Tr. 1967:13-23. Mr. Morgan also conceded that Mr. Cooper's Illustrative House Plan is similarly compact overall to the Enacted House Plan, has higher minimum compactness scores, and a

similar population deviation range as compared to the Enacted House Plan. Id. at 1967:24-1969:18.

332. Mr. Morgan's objective analysis thus confirms Mr. Cooper's assessment that the Illustrative Plans are comparable to or better than the 2021 Enacted Plans.

333. The opinions Mr. Morgan expressed regarding the effect of "racial considerations" on the Illustrative Plans were ambiguous and not well supported, and the Court does not find the analysis Mr. Morgan offered to support those opinions credible.

334. For example, with respect to the Illustrative Senate Plan, Mr. Morgan chose to compare the compactness of Enacted Senate Districts 10, 16, 34, and 44 and Illustrative Senate Districts 10, 16, 28, and 34. DTX 2 at 10. This set of Senate districts was the only one that Mr. Morgan compared. Sept. 14 AM Tr. 1973:3-1988:7; DTX 22. That Mr. Morgan confined his analysis to just one set of districts that he personally selected severely limits the potential probative power of such a comparison.

335. In any case, when questioned, Mr. Morgan admitted that the sets of districts he chose to compare are not congruent, and conceded that this lack of congruence makes the comparison that he did not particularly useful. Sept. 14 AM Tr. 1974:19-1978:25. On further questioning, Mr. Morgan also conceded that the set of Illustrative Senate districts that he chose to highlight actually has a higher mean Reock score than that of the set of Enacted districts he chose (i.e., the Illustrative set he picked is more compact, at least by that measurement). Sept. 13 AM Tr. 1974:5-1978:23.

336. Mr. Morgan's analysis of the Illustrative House Plans was to similar effect. He reported the compactness scores from the same numbered districts in the Illustrative House and 2021 Enacted House Plans, regardless of whether their constituent or geographic overlap made them a good comparator. Sept. 13 PM Tr. 2041:7-12; see also id. at 2041:19-2042:1. Mr. Morgan did not know the extent to which, for example, House District 171 in the Illustrative Plan overlaps with

House District 171 in the Enacted Plan, such that it would make sense to compare them head-to-head. Id. at 2041:13-17. This renders the head-to-head comparisons Mr. Morgan reports, many of which show Mr. Cooper's districts to be more compact than the comparator district from the 2021 Enacted House Plan, of limited, if any, probative value.

337. Similar to the Senate Plans, Mr. Morgan also compared the compactness of one handpicked set of House districts between the Illustrative and Enacted House Plans (House Districts 69, 73, 74 and 77), which analysis he claimed could "show instances that [] can be illustrative of these techniques of elongating the districts and their effect on compactness." Sept. 13 PM Tr. 2046:4-9. But Mr. Morgan admitted that if he had chosen different sets of districts in the same region, the set of Illustrative House districts would actually be more compact. Id. at 2043:3-2049:19. Indeed, he was shown on the stand three examples of sets where that was the case, and did not dispute that choosing those sets would have changed the result of his analysis. Id. at 2047:4-2049:1. Again, Mr. Morgan's analysis, relying entirely on a single handpicked example for his conclusion, is not credible.

338. Mr. Morgan also claimed that there were instances in which Mr. Cooper united counties or VTDs unrelated to the creation of a majority Black district. E.g., Sept. 13 AM Tr. 1992:12-1993:12. But, in the end, he only identified one county in the Illustrative House Plan where he could show this was the case. Sept. 12 PM Tr. 1788:2-23; DTX 2, at 43. For all the other counties that Mr. Cooper united, Mr. Morgan offered no testimony ruling out whether changes to districts neighboring the new Black-majority district allowed Mr. Cooper to unite those counties. Sept. 13 AM Tr. 1990:5-1993:12, Sept. 13 PM Tr. 2055:10-2059:20 (discussing Cooper's unification of Clarke, Jackson, and Coffee Counties in the Illustrative Senate Plan, and of McDuffie, Jones, Oconee, Cook, and Ben Hill Counties in the Illustrative House Plan).

339. Otherwise, Mr. Morgan relied on racial shading maps. Mr. Morgan acknowledged that his shading maps do not show municipalities, or

roads, or numerous other features that are necessary to see to understand the configuration of a legislative district. Sept. 13 AM Tr. 1971:11-1972:16. Mr. Morgan also acknowledged that his shading maps showed that Mr. Cooper included lower BVAP areas and excluded higher BVAP areas in the new majority-Black Illustrative districts, which is inconsistent with Mr. Morgan's characterization of "racial splits." E.g., Sept. 13 PM Tr. 2053:20-2054:8. In any event, because Mr. Morgan failed to engage with the reasons Mr. Cooper gave for drawing his districts, and because Mr. Cooper did not himself use such racial shading maps, Mr. Morgan's analysis based on those maps is of very limited, if any, value. E.g., id. at 2054:18-23.

iii. December 5, 2022 Report

340. Mr. Morgan also submitted another report, which he discussed in his testimony, in which he purported to draw his own illustrative Senate and House plans. DTX 1, at 3. Mr. Morgan agreed that these plans were created before he had ever seen Mr. Cooper's Illustrative Plans. Sept. 13 PM Tr. 2064:24-2065:9. Accordingly, Mr. Morgan's illustrative plans have no direct bearing on any assessment of the Illustrative Plans.

341. Mr. Morgan claims that the plans he drew are "race blind." Sept. 13 PM Tr. 2065:12-16. Based on the evidence, the Court cannot credit that claim. Mr. Morgan testified that he knows which areas in Georgia have large Black populations, such as South Dekalb County, an area where Mr. Morgan's purportedly "race blind" plans include new districts that are 90%-plus BVAP. Sept. 13 PM Tr. 2071:7-2072:12. It is not credible that Mr. Morgan, who conducted no computational analysis to draw these maps, but personally drew them with knowledge of Georgia's racial demographics, did not understand the likely consequences of his line-drawing decisions. See, e.g., id. at 2074:1-5.

342. The Court also finds that Mr. Morgan's maps do not comply with traditional districting principles or the State's own guidelines—a finding that Defendant does not appear to contest. Mr. Morgan did not consider whether the illustrative plans he drew comply with

Georgia's redistricting guidelines. Sept. 13 PM Tr. 2069:6-18. Mr. Morgan did not consider municipal splits, run any reports on municipalities, nor did he consider socioeconomic factors "in a statistical or quantitative" manner. Id. at 2067:4-19. Mr. Morgan also did not consider incumbents or avoiding incumbent pairings in drafting his illustrative plans. Id. at 2078:19-23.

343. Mr. Morgan's maps eliminate three majority-Black Senate districts and 14 majority-Black House districts as compared to the 2021 Enacted Plans. Sept. 13 PM Tr. 2073:3-2076:7. From this, Mr. Morgan suggests that conclusions may be drawn about the effect of "racial considerations" on the construction of the 2021 Enacted Plans. Sept. 13 PM Tr. 2076:8-10. But setting aside the problems already discussed with Mr. Morgan's exercise, and even assuming that it might be relevant in a Section 2 case to consider the effect of "racial considerations" on the challenged plan, the Court still cannot credit Mr. Morgan's conclusion.

344. Race was not the only factor that Mr. Morgan purported not to consider in constructing his illustrative plans, and thus he was not able to distinguish between "racial considerations" and other considerations that he also purported to ignore. Sept. 13 PM Tr. 2091:3-22. As noted, Mr. Morgan did not consider incumbents or avoiding incumbent pairings in drafting his illustrative plans. Sept. 13 PM Tr. 2078:19-23. Mr. Morgan's plans paired 17 incumbents in the Senate, and 74 in the House—over a third of each chamber. DTX 1, at 17, 36. Mr. Morgan acknowledged that unpairing those incumbents would have had a significant effect on the plans that he drew. Sept. 13 PM Tr. 2079:2-7; 2084:21-24. To similar effect, Mr. Morgan purported not to consider continuity of district representation. Id. at 2067:22-24. And Mr. Morgan agreed that considering continuity with past districting plans "would have ... had an impact on the [illustrative] plans." Id. at 2085:18-21. Mr. Morgan also agreed that communities of interest factors that he did not consider when he was drawing his plan, constituent feedback that the State received during the districting process, political directives, the desires of legislators,

and individual balancing decisions of different map drawers could all have had an effect. Id. at 2089:5-2091:2.

345. In the end, Mr. Morgan conceded that he did not know whether the claimed effect, if any, from "racial considerations" on the Enacted Plans that he purported to observe was greater than the effect from considering incumbent pairings, or considering district continuity, or preserving district cores, and or considering communities of interest factors that were left out of Mr. Morgan's illustrative plans. Sept. 13 PM Tr. 2091:14-2092:14; see also id. at 2089:5-2091:2.

346. Nor did Mr. Morgan know whether a plan that did consider avoiding incumbent pairings, continuity of representation, and communities of interest factors that he had left out would have had more Black-majority districts. Sept. 13 PM Tr. 2093:3-8.

347. Accordingly, even if Mr. Morgan's illustrative plans were actually race-blind, and even if they had been constructed consistent with the State's own guidelines and traditional districting principles, they would not credibly support the conclusions regarding the effects of "racial considerations" that Mr. Morgan claims to draw from them.

III. Gingles Precondition 2: Political Cohesion of Black Voters

348. Plaintiffs proffered Dr. Lisa Handley as an expert in racial polarization analysis and the analysis of minority vote dilution and redistricting. See Sept. 7 PM Tr. 856:16-19.

A. Qualifications

349. Dr. Handley has 40 years of experience as a voting rights and redistricting expert. See Sept. 7 PM Tr. 855:10-11.

350. Dr. Handley holds a Ph.D. in political science from George Washington University. See Sept. 7 PM Tr. Tr. 854:20-22. She has taught political science courses at both the graduate and undergraduate level at several universities. Alpha Ex. 5 (Handley Report) (hereinafter "Alpha Ex. 5"), at 81-89 (App. E); Doc. No. [134], at 188. Dr. Handley has provided election assistance to numerous

countries, including to various post-conflict countries through the United Nations. See Alpha Ex. 5, at 2, 84; Doc. No. [134], at 188.

351. Dr. Handley has published widely on the topic of redistricting and minority vote dilution, has advised scores of jurisdictions and other clients on minority voting rights and redistricting-related issues. See Alpha Ex. 5, at 3, 85-89; Sept. 7 PM Tr. 855:11-25; Doc. No. [134], at 188.

352. Dr. Handley has performed racial bloc voting analyses hundreds of times over the course of her career, including on behalf of jurisdictions defending Section 2 cases, such as Virginia, Alaska, Arizona, and Florida. Sept. 7 PM Tr. 856:1-3, 9-19; see also Alpha Ex. 5, at 2 (listing Arizona, Colorado, and Michigan as examples).

353. Dr. Handley has been accepted as an expert witness in litigation involving voting rights and redistricting scores of times, and courts have routinely credited and relied on her expert testimony. Sept. 7 PM Tr. 855:16-18; 856:1-8. E.g., Doc No. [134], at 188-190 (accepting Dr. Handley as an expert and noting she "has routinely been qualified as an expert in cases where she used the same methodology she employed here"); Robinson v. Ardoin, 605 F. Supp. 3d 759, 840 (M.D. La.) ("Dr. Handley was tendered and accepted, based on Defendants' stipulation" and her "conclusions were not seriously disputed at the hearing" as "Defendants' expert Dr. Alford testified that he found no errors in [her] work."); United States v. Vill. of Port Chester, 704 F. Supp. 2d 411, 427, 441 (S.D.N.Y. 2010) (relying on Dr. Handley as an expert and noting that "[t]he methods employed by Dr. Handley" including ecological inference analysis "have been accepted by numerous courts in voting rights cases.").

354. The Court accepted, and Defendant did not object to, Dr. Handley as being qualified to testify as an expert in racial polarization analysis and analysis of minority vote dilution and redistricting. Sept. 7 PM Tr. 861:8-12.

355. The Court finds Dr. Handley credible, her analysis methodologically sound, and conclusions reliable. The Court credits Dr. Handley's testimony and conclusions.

356. At the live hearing, the Court carefully observed Dr. Handley's demeanor, particularly as she was cross-examined and as she answered questions from the Court. Dr. Handley was forthright and straightforward in answering questions and explaining her methodology and conclusions. Indeed, upon overnight evaluation of Dr. Handley's direct examination, Defendant's counsel stated that he significantly shortened his cross examination. Sept. 8 Tr. 934:5-10. She provided careful and deliberate explanations of her opinions and measured, thoughtful responses to questions from defense counsel and the Court. The Court observed no internal inconsistencies in her testimony, no appropriate question that she could not or would not answer, and no reason to question the veracity of her testimony. Thus, this Court credits that testimony and the reliability of Dr. Handley's conclusions.

357. Defense counsel asked Dr. Handley a series of questions about the court's evaluation of her evidence in Alabama State Conf. of Nat'l Ass'n for Advancement of Colored People v. Alabama, 612 F. Supp. 3d 1232, 1282 (M.D. Ala. 2020). While that court "accept[ed] the results of the statistical analyses of the elections Dr. Handley analyzed," it found that "the strength of Plaintiffs' case is weakened by the absence in the record of statistical analyses" of specific elections and those where the Black-preferred candidate was White. Id. Here, Defendants have not raised specific elections that Dr. Handley omitted, and this Court is unaware of any specific elections absent from Dr. Handley's analysis that would impact the accuracy or weight of her conclusions. As such, this Court gives full weight to Dr. Handley's analysis and does not find any absence in the record of statistical evidence tending to undermine her conclusions. This Court also notes that the defendants in the Alabama State Conf. case did not contest Dr. Handley's conclusions and in fact conceded the second and third Gingles preconditions in plaintiffs' favor. Id. at 1281-1282.

B. Analysis

358. To determine whether voting was racially polarized, Dr. Handley analyzed voting patterns by race in seven areas of Georgia where Mr. Cooper's Illustrative State Senate and House plans create more majority BVAP districts than the adopted State Senate and House plans. Sept. 7 PM Tr. 861:21-25; Alpha Ex. 5, at 2; Doc. No. [280], ¶ 307.

359. As part of that analysis, she also considered whether Black voters had the opportunity to elect candidates of their choice in these areas under the Illustrative Plans as compared to the Enacted Plans. See Sept. 7 PM Tr. 862:22-863:5; Alpha Ex. 5, at 2, 12.

360. Dr. Handley stated that these seven areas in Georgia are where "districts that offered Black voters opportunities to elect their candidates of choice could have been drawn and were not drawn when you compare the illustrative to the adopted plan." Sept. 7 PM Tr. 861:21-25. Dr. Handley named these seven areas the Eastern Atlanta Metro Region, the Southern Atlanta Metro Region, East Central Georgia with Augusta, the Southeastern Atlanta Metro Region, Central Georgia, Southwest Georgia, and the Macon Region. See Alpha Ex. 5, at 8-9; Sept. 7 Tr. 869:13-25.

361. The first area Dr. Handley analyzed—the Eastern Atlanta Metro Region—encompasses Mr. Cooper's Illustrative State Senate Districts 10, 17, 43; adopted State Senate Districts 10, 17, 43; and Dekalb, Henry, Morgan, Newton, Rockdale, and Walton counties. Doc. No. [280], at 80, ¶ 309; Alpha Ex. 5, at 8, 17-18.

362. The second area—the Southern Atlanta Metro Region—encompasses Mr. Cooper's Illustrative State Senate Districts 16, 28, 34, and 39; adopted State Senate Districts 16, 28, 34, and 44; and Clayton, Coweta, Douglas, Fayette, Heard, Henry, Lamar, Pike, and Spalding Counties. Doc. No. [280], at 80, ¶ 310; Alpha Ex. 5, at 8, 19-20.

363. The third area—the East Central Georgia Region—encompasses Mr. Cooper's Illustrative State Senate Districts 22, 23, 26, and 44; adopted State Senate Districts 22, 23, 25, and 26; and Baldwin, Bibb, Burke,

Butts, Columbia, Emanuel, Glascock, Hancock, Henry, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, McDuffie, Monroe, Morgan, Putnam, Richmond, Screven, Taliaferro, Twiggs, Walton, Warren, Washington, Wilkes, and Wilkinson Counties. Doc. No. [280], at 80, ¶ 311; Alpha Ex. 5, at 9, 21-22.

364. The fourth area—Southeastern Atlanta Metro Region—encompasses Mr. Cooper's Illustrative State House Districts 74, 75, 78, 115, 116, 117, 118, 134, and 135; adopted State House Districts 74, 75, 78, 115, 116, 117, 118, 134, and 135; and Butts, Clayton, Fayette, Henry, Jasper, Lamar, Monroe, Pike, Putnam, Spalding, and Upson Counties. Doc. No. [280], at 80, ¶ 312; Alpha Ex. 5, at 9, 23-24.

365. The fifth area—Central Georgia—encompasses Mr. Cooper's Illustrative State House Districts 128, 133, 144, and 155; adopted State House Districts 128, 133, 149, and 155; and Baldwin, Bibb, Bleckley, Dodge, Glascock, Hancock, Jefferson, Johnson, Jones, Laurens, McDuffie, Taliaferro, Telfair, Twiggs, Warren, Washington, Wilkes, and Wilkinson Counties. Doc. No. [280], at 81, ¶ 313; Alpha Ex. 5, at 9, 26-27.

366. The sixth area—Southwest Georgia—encompasses Mr. Cooper's Illustrative State House Districts 152, 153, 171, 172, and 173; adopted State House Districts 152, 153, 171, 172, and 173; and Colquitt, Cook, Decatur, Dougherty, Grady, Lee, Mitchell, Seminole, Stewart, Terrell, Thomas, Tift, Webster, and Worth Counties. Doc. No. [280], at 81, ¶ 314; Alpha Ex. 5, at 9, 28-29.

367. The seventh area—the Macon Region—encompasses Mr. Cooper's Illustrative State House Districts 142, 143, and 145; adopted State House Districts 142, 143, and 145; and Bibb, Crawford, Houston, Peach, and Twiggs Counties. Doc. No. [280], at 81, ¶ 315; Alpha Ex. 5, at 9, 30-31.

368. Dr. Handley employed three commonly used, well-accepted statistical methods to conduct her racially polarized voting analysis: homogeneous precinct analysis, ecological regression, and ecological inference ("EI"). Sept. 7 PM Tr. 864:17-21, 868:10-12; Alpha Ex. 5, at 3-

4; Doc. No. [280], at 79, ¶ 308. With these three statistical methods, she calculated estimates of the percentage of Black and White voters who voted for candidates in recent statewide general elections and state legislative general elections in the seven areas. Sept. 7 PM Tr. 863:21-864:25, 862:22-863:5.

369. Homogeneous precinct analysis and ecological regression have been used for approximately 40 years. Sept. 7 PM Tr. 864:17-20. These analytic tools were employed by the plaintiffs' expert in Gingles and were accepted by the Supreme Court. Alpha Ex. 5, at 4; Thornburg v. Gingles, 478 U.S. 30, 52–53, 80 (1986).

370. While EI is a more recently developed technique, experts tend to agree that ecological inference produces the "best, most accurate estimates." Sept. 7 PM Tr. 868:16-19. EI has been accepted in "numerous district court proceedings[.]" Alpha Ex. 5, at 4.

371. Dr. Handley used two forms of EI called "King's EI" and "EI RxC". Sept. 7 PM Tr. 873:18-21. Alpha Ex. 5, at 4-5. Defendant's expert Dr. John Alford agrees that EI RxC is "the best of the statistical methods for estimating voting behaviors." Sept. 14 AM Tr. 2215:23-25.

372. Dr. Handley uses homogeneous precinct analysis and ecological regression to check the estimates produced by EI. Sept. 7 PM Tr. 868:7-9. When "they all come up with very similar estimates," Dr. Handley testified that she can be confident in those estimates. Id.

373. Dr. Alford has "no concerns with [Dr. Handley's] use of EI RxC in her most recent [December 23, 2022] report." Sept. 14 AM Tr. 2216:1-3. He "[does not] question her ability," and agrees that "her new report, most recent report, relies on methods that . . . are acceptable." Id. at 2220:21, 2216:13-17.

374. Dr. Alford has "no concerns about the data that went into Dr. Handley's statistical analysis in this case[.]" Sept. 14 AM Tr. 2221:5-7.

375. Dr. Handley evaluated 16 recent (2016-2022) general and runoff statewide elections, including for U.S. Senate, Governor, School

Superintendent, Public Service Commission, and Commissioners of Agriculture, Insurance, and Labor. Alpha Ex. 5, at 6; Doc. No. [280], at 81-82, ¶¶ 316-317.

376. She also looked at 54 recent (2016-2022) state legislative elections in the areas of interest, including 16 state senate contests and 38 state house contests. Sept. 7 PM Tr. 890:2-12; Alpha Ex. 5, at 7-8; Doc. No. [280], at 83, ¶ 324.

377. All 2022 state legislative contests in the Enacted Plans identified as districts of interest were analyzed, even if the contest did not include at least one Black candidate. Alpha Ex. 5, at 7-8. In addition, because there has only been one set of state legislative elections (2022) under the Enacted Plans, Dr. Handley also analyzed biracial state legislative elections conducted between 2016 and 2020 in the state legislative districts under the previous state house and state senate plans that are located within the seven areas of interest. Id.

378. Dr. Handley also examined 11 statewide Democratic primaries. Sept. 7 PM Tr. 879:25-880:2. She examined those because "we have a two-part election system here and you have to make it through the Democratic primary to make it into the general election" and, in some jurisdictions, primaries are the operative barrier for Black-preferred candidates, so Dr. Handley "would always look at both." Id. at 892:22-893:8. With regard to the areas of interest in this litigation, Dr. Handley concluded that the Democratic primaries were "not a barrier" for Black-preferred candidates to win elections, and Dr. Handley rested her opinions finding racially polarized voting in the areas of interest on the general elections. Id. at 894:13-22. Dr. Handley did not evaluate whether Democratic primaries are the barrier to electing Black-preferred candidates outside the areas of interest. Id. at 894:23-895:1.

379. Dr. Handley focused on elections that include at least one Black candidate, an approach that multiple courts have endorsed in other cases, because these are the most probative for measuring racial polarization. Sept. 7 PM Tr. 871:3-6, 872:11-14; see also id. at 871:10-14 ("If I have enough contests that include Black candidates, I focus on

those, because the courts have made it clear and because we want to make sure that Black voters are able to elect Black candidates of choice and not just white candidates of choice, if that's what they choose to do."); Robinson, 605 F. Supp. 3d at 801 (crediting Dr. Handley's opinion that "courts consider election contests that include minority candidates to be more probative than contests with only White candidates, because this approach recognizes that it is not sufficient for minority voters to be able to elect their preferred candidate only when that candidate is White"); United States v. City of Eastpointe, 378 F. Supp. 3d 589, 610–11 (E.D. Mich. 2019) ("These [white-only] elections are, however, less probative because the fact that black voters also support white candidates acceptable to the majority does not negate instances in which a white voting majority operates to defeat the candidate preferred by black voters when that candidate is a minority."); United States v. City of Euclid, 580 F. Supp. 2d 584, 598–99 (N.D. Ohio 2008) ("These contests are probative of racial bloc voting because they . . . featured African–American candidates.").

380. Courts, including the Eleventh Circuit, as well as Dr. Alford, have agreed with Dr. Handley's approach. Davis v. Chiles, 139 F.3d 1414, 1418 n.5 (11th Cir. 1998) ("[E]vidence drawn from elections involving black candidates is more probative in Section Two cases[.]"); Wright v. Sumter Cty. Bd. of Elections & Registration, 301 F. Supp. 3d 1297, 1313 (M.D. Ga. 2018) ("Wright I") ("While still relevant, elections without a black candidate are less probative in evaluating the Gingles factors."), aff'd, 979 F.3d 1282 (11th Cir. 2020); see Sept. 7 PM Tr. 871:5-6; Sept. 14 AM Tr. 2222:11-15.

381. However, Dr. Handley does not assume the race of the minority-preferred candidate. Sept. 7 PM Tr. 871:16-25 ("I only want to make sure that Black voters had the option to vote for Black candidates if they so wish. And, again, as I pointed out, that's not always the case. For example, in the Ossoff Democratic primary, that was not the candidate of choice. I think there were two Black candidates and neither of them were the candidates of choice.").

382. While most of the elections Dr. Handley examined were biracial elections—i.e., elections involving both Black and White candidates (Alpha Ex. 5, at 6)—Dr. Handley also analyzed elections involving candidates of the same race. Dr. Handley evaluated the 2020 U.S. Senate general election and 2021 U.S. Senate runoff election with Jon Ossoff, in which both candidates were White. Sept. 7 PM Tr. 870:19-871:2. She also evaluated the 2022 general election for US Senate with Raphael Warnock and Herschel Walker, in which both candidates were Black. Sept. 7 PM Tr. 874:8-10; Alpha Ex. 5, at 33-54 (App. A). She also analyzed state legislative contests that involved candidates of the same race. See Sept. 7 PM Tr. 889:25-890:6; Sept. 14 AM Tr. 2223:18-21 (Alford); Alpha Ex. 5, at 55-62 (App. B).

383. Dr. Handley analyzed the general and runoff elections involving Jon Ossoff and another White candidate because the Democratic primary election Ossoff won involved Black candidates. In that primary, Black voters "had the option to vote for Black candidates, but did not. They clearly preferred the White candidate." Sept. 7 PM Tr. 870:23-25.

384. Dr. Handley determined that an election was racially polarized if, "the election outcome would be different if Black voters and White voters voted separately." Sept. 7 PM Tr. 863:14-17. She has consistently applied this definition of racially polarized voting in her previous work as a racially polarized voting expert. Id. at 863:18-20.

385. In the general elections for all seven areas, Dr. Handley found that "voting was very polarized" by race, (Sept. 7 PM Tr. 889:1-2), meaning that, in each of the seven areas, Black voters were very cohesive in supporting their preferred candidates," and "white voters were cohesively bloc voting against Black-preferred candidates." Sept. 8 AM Tr. 940:1-7, 940:25-941:4; Alpha Ex. 5, at 9-10, 32.

386. In every statewide general election that Dr. Handley analyzed, Black voters were "very cohesive" in supporting their preferred candidates in each of the seven areas evaluated. Sept. 7 PM Tr. 889:7-8. Indeed, racial polarization was stark, with the vast majority of Black voters supporting one candidate and the vast majority of White voters

supporting the other candidate. See id. at 862:7-14, 892:10-14; Alpha Ex. 5, at 9-10.

387. That Black voters in the seven areas of interest are politically cohesive is not contested. In fact, Defendant stipulated that in the 16 recent statewide general and general runoff elections from 2016-2022, Black voters were "highly cohesive" in their support for their preferred candidate. Doc. No. [280], at 82, 84, ¶¶ 320 ("In these 16 statewide general and general runoff elections from 2016-2022, Black voters were highly cohesive in their support for their preferred candidate."), 330 ("In the seven areas of interest, Black voters were very cohesive in supporting their preferred candidates in general elections for statewide offices."). As Dr. Handley concluded and Defendant stipulated, Black-preferred candidates typically received 96.1% of the Black vote in statewide races in these areas and only 11.2% of the White vote. Alpha Ex. 5, at 10; Doc. No. [280], at 82, ¶¶ 321, 322.

388. Dr. Handley's analysis of state legislative general elections in the areas of interest also found starkly racially polarized voting. Sept. 7 PM Tr. 862:4-6; Alpha Ex. 5, at 10. As with the statewide general elections, "Black voters were very cohesive in support of their preferred candidates and white voters bloc voted against these candidates." Sept. 7 PM Tr. 890:18-21.

389. Again, this is not contested. Defendant stipulated that, in state legislative general elections, Black voters were highly cohesive in their support for their preferred candidate. Doc. No. [280], at 83, 84, ¶¶ 326 ("In these 54 state legislative elections, Black voters were highly cohesive in their support for their preferred candidates."), 335 ("In the seven areas of interest, Black voters exhibit cohesive support for a single candidate in state legislative general elections.").

390. 53 out of the 54 state legislative elections analyzed, or 98.1%, were starkly racially polarized, with Black candidates receiving a very small share of the White vote and the overwhelming support of Black voters. See Sept. 7 PM Tr. 890:16-21; Alpha Ex. 5, at 10. As Dr. Handley concluded and Defendant's stipulated, on average, over 97% of Black voters supported their preferred Black state senate candidates and

over 91% supported their preferred Black state house candidates. Alpha Ex. 5, at 10; Doc. No. [280], at 83, ¶ 327.

391. Defendant's expert, Dr. Alford, agreed "with [Dr. Handley's] analysis that Black voters in general elections in the areas of Georgia that she analyzed are very cohesive in their support for a single preferred candidate." Sept. 14 AM Tr. 2224:14-18; see also id. at 2225:5-9 ("in the general elections that Dr. Handley analyzed across the areas of interest in Georgia . . . large majorities of Black and white voters are supporting different candidates[.]"); see also DTX 8, at 6.

392. Defendant has further stipulated that in the seven areas of interest, "large majorities of white and Black voters supported different candidates in general elections for statewide offices." Doc. No. [280], at 84, ¶ 334.

393. The Court finds that Black voters in the seven areas of Georgia that Dr. Handley analyzed are highly cohesive in supporting a single preferred candidate.

IV. Gingles Precondition 3: Success of White Bloc Voting

394. Dr. Handley concluded that the starkly racially polarized voting in the areas that she analyzed "substantially impedes" the ability of Black voters to elect candidates of their choice to the Georgia General Assembly unless districts are drawn to provide Black voters with this opportunity. See Alpha Ex. 5, at 32; Sept. 7 PM Tr. 892:15-21.

395. Specifically, in the seven areas of interest, White voters consistently bloc voted to defeat the candidates supported by Black voters. See Alpha Ex. 5, at 32. Indeed, Dr. Handley testified that, in general elections, due to White bloc voting, candidates preferred by Black voters were consistently unable to win elections and will likely continue to be unable to win elections outside of majority-Black districts in the areas she analyzed. See Sept. 7 PM Tr. 890:16-21 (noting that in 53 out of 54 state legislation contests, "Black voters were very cohesive in support of their preferred candidates and white voters bloc voted against these candidates); cf. Sept. 7 PM Tr. 863:9-11 ("In

each of the areas, the districts that provided Black voters with an opportunity to elect were districts that were at least 50 percent Black in voting age population.").

396. Dr. Handley found that White voters voted as a bloc against Black-preferred candidates in all the 16 general elections that she analyzed. Alpha Ex. 5, at 9; Sept. 7 PM Tr. 862:4-14, 877:14-21. As Dr. Handley concluded and Defendant stipulated, Black-preferred candidates typically received only 11.2% of the White vote. Alpha Ex. 5, at 10; Doc. No. [280], at 82-83, ¶¶ 321, 322.

397. Similarly, in the state legislative elections Dr. Handley analyzed, the Black-preferred candidate on average secured the support of less than 10.1% of White voters in Senate races and 9.8% of White voters in House races. Alpha Ex. 5, at 10; Doc. No. [280], at 82, ¶ 328.

398. As with the political cohesiveness of Black voters, this pattern of White bloc voting against Black-preferred candidates is not contested. In fact, Defendant stipulated that White voters were "very cohesive" in their support for their preferred candidates in both statewide and general elections, Doc. No [280], at ¶¶ 332, 336, and that the candidates preferred by White voters in the seven areas of interest are voting against the candidates preferred by Black voters. Doc. No. [280], at ¶¶ 331, 333, 337.

399. Defendant's expert, Dr. Alford, similarly agreed that "with small exceptions, white voters are highly cohesive" in "the general elections that Dr. Handley analyzed across the areas of interest in Georgia," (Sept. 14 Tr. 2224:25-2225:4; DTX 8, at 6), and that, in these general elections, "large majorities of Black and white voters are supporting different candidates" (Sept. 14 AM Tr. 2225:5-9).

400. Due to the low level of White support for Black-preferred candidates, Dr. Handley found that blocs of White voters in the areas of interest were able to consistently defeat Black-preferred candidates in state legislative general elections, except where the districts were majority Black. Alpha Ex. 5, at 10, 32; Sept. 7 PM Tr. 890:16-21, 891:5-7 ("Black-

preferred Black candidates were successful only in districts that were majority Black in the elections that I looked at.").

401. As Dr. Handley testified and Defendant stipulated, all but one of the successful Black state legislative candidates in the contests that Dr. Handley analyzed were elected from majority Black districts—the one exception being a district that was majority minority in composition. Doc. No. [280], at ¶ 329; Alpha Ex. 5, at 10; Sept. 7 PM Tr. 891:13-21.

402. Dr. Handley also evaluated whether Black voters had the opportunity to elect candidates of their choice under the Illustrative districts drawn by Mr. Cooper as compared to the districts in the Enacted Plans. Doc. No. [134], at 203; Sept. 7 PM Tr. 862:22-863:11. She did so by looking individually at the performance of Illustrative and Adopted districts in overlapping geographic areas in and around the new Black-majority districts in the Illustrative Plans. Sept. 7 PM Tr. 869:7-25.

403. Defendants did not contest Dr. Handley's evaluation and Dr. Alford did not evaluate whether Black voters had the opportunity to elect candidates of choice under the Illustrative districts drawn by Mr. Cooper as compared to the districts in the Enacted Plans. Sept. 14 AM Tr. 2227:2-8 (Alford) ("Q. . . . [I]n your report in this case, you've not analyzed whether any state legislative district under the illustrative or enacted plans that are at issue in this case, create an opportunity for Black voters to elect the candidate of their choice; right? A. I did not look at -- I didn't do any performance analysis."); see also generally DTX 8.

404. Dr. Handley considered the district's demographic composition (i.e., its BVAP) and used recompiled election results with official data from 2018, 2020, and 2021 statewide election contests to determine whether Black voters have an opportunity to elect their candidates of choice in the newly proposed districts in both the Illustrative and Enacted Plans. Sept. 7 PM Tr. 897:25-898:12, 900:18-23; Alpha Ex. 5, at 12-13. Where there was a competitive 2022 election contest in an Enacted state legislative district of interest, Dr. Handley used that information

to assess whether the Enacted district offered Black voters an opportunity to elect candidates of choice. Alpha Ex. 5, at 12; Sept. 7 PM Tr. 889: 12-17, 890:2-6.

405. Recompiled elections analysis has been accepted by courts for the purpose of evaluating the opportunity to elect given to Black voters under a districting plan. Sept. 7 PM Tr. 897:9-24; 898:13-18 (Handley).

406. For purposes of her recompiled elections analysis, Dr. Handley calculated a "General Election" or "GE" effectiveness score, which averaged the vote share of eight Black-preferred candidates in prior statewide elections in each of the districts in the Illustrative Plans and the Enacted Plans in the areas of focus. Sept. 7 PM Tr. 899:8-11; Alpha Ex. 5, at 13. "A score of less than .5 means that the average vote share that these eight Black-preferred Black candidates received in the district is less than 50%." Alpha Ex. 5, at 13; see also Sept. 7 PM Tr. 905:1-5 (Handley) (noting that Illustrative Senate district 23 is a Black opportunity district because the GE score is above .5).

407. Dr. Handley also assessed how Black-preferred candidates would fare in Democratic primaries by using seven recent statewide Democratic primaries to construct a Democratic primary effectiveness score, or "DPR." Alpha Ex. 5, at 13; Sept. 7 PM Tr. 899:15-18. The primaries selected were ones between 2016 and 2020 in which Black voters supported the Black candidate. Alpha Ex. 5, at 13.

408. Based on her analysis of GE scores, DPR scores, 2022 election results, and the composition of the district (the percent BVAP), Dr. Handley concluded that in each of the seven areas of interest, the only districts that provided Black voters with an opportunity to elect were districts that were at least 50 percent Black in voting age population. Sept. 7 PM Tr. 863:6-11, 901:17-22; Alpha Ex. 5, at 14.

409. Dr. Handley also found that Black voters would have a greater opportunity to elect their candidates of choice in the Illustrative districts than the Enacted districts in each area of interest, with each of those areas offering at least one additional opportunity district, and

one area offering two additional districts. Alpha Ex. 5, at 14-16; Sept. 7 PM Tr. 863:1-5.

410. In the Eastern Atlanta Metro Region, the Enacted Senate Plan includes two districts that offer Black voters an opportunity to elect their preferred candidates, whereas the Illustrative Plan offers three. Alpha Ex. 5, at 15; Sept. 7 PM Tr. 901:10-903:23 (Handley) ("Under the illustrative State Senate plan, there is an additional district that provides Black voters with an opportunity to elect their candidate of choice. That's District 17.").

411. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAP, Dr. Handley concluded that the additional Black-majority district in the Illustrative Plan in this area, Illustrative Senate District 17, had GE and DPR scores well above .5 (.654 and .659, respectively), and a BVAP of 62.5%, and thus would provide Black voters with an opportunity to elect. Sept. 7 PM Tr. 903:6-12; Alpha Ex. 5, at 18.

412. By contrast, the Enacted Senate District 17 does not provide an opportunity to elect for Black voters, with a GE score of only .366 and a BVAP of 32%. Sept. 7 PM Tr. 901:22-24; 902:14-24 (Handley); Alpha Ex. 5, at 18. In fact, in the 2022 election in Enacted Senate District 17, the White-preferred candidate defeated the Black-preferred candidate with 61.6% of the vote. Alpha Ex. 5, at 18, 56.

413. In the Southern Atlanta Metro Region, the Enacted Senate Plan includes two districts that offer Black voters an opportunity to elect their preferred candidates, whereas the Illustrative Plan offers three. Alpha Ex. 5, at 15.

414. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAPs, Dr. Handley concluded that the three Black majority districts in the Illustrative Plan in this area, Senate Districts 16, 28, and 34, had GE scores well above .5 (.662, .588, and .881 respectively), DPR scores well above .5 (.637, .626, and .641, respectively), and BVAPs of 56.5%, 51.3%, and 77.8% respectively, and thus would provide Black voters with an opportunity to elect.

415. By contrast, only two Senate Districts in the Enacted Plan would provide Black voters with an opportunity to elect, with Enacted Senate Districts 16 and 28 having GE scores well below .5 (.325 and .295, respectively) and BVAPs of 22.7% and 19.5%. Alpha Ex. 5, at 20. In fact, in the 2022 election, the White-preferred candidate in Enacted Senate District 16 defeated the Black-preferred candidate with 68.2% of the vote. Alpha Ex. 5, at 20, 56. In 2022, in Enacted Senate District 28, a White candidate was elected uncontested. Id.

416. In the East Central Georgia region, the Illustrative Senate Plan includes three districts that offer Black voters an opportunity to elect their preferred candidates, whereas the Enacted Plan offers two. Alpha Ex. 5, at 15; Sept. 7 PM Tr. 903:24-905:10 (Handley).

417. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAP, Dr. Handley concluded that the additional Black-majority district in the Illustrative Plan in this area, Illustrative Senate District 23, had GE and DPR scores above .5 (.524 and .608, respectively) and a BVAP of 50.2%, and thus would provide Black voters with an opportunity to elect. Alpha Ex. 5, at 22.

418. By contrast, the Enacted Senate District 23 does not provide an opportunity to elect for Black voters, with a GE score of only .392 and a BVAP of 35.5%. In fact, the 2022 election in Enacted District 23, a White candidate was elected uncontested. Alpha Ex. 5, at 22.

419. Senate District 22 is a Black opportunity district in both the Enacted Plan and the Illustrative Plan, Sept. 7 PM Tr. 904:8-22 (Handley), with a 50.4% BVAP and a GE score of .591 in the Illustrative Plan, Alpha Ex. 5, at 22.

420. Senate District 26 is a Black opportunity district in both the Enacted Plan and the Illustrative Plan, with a 52.8% BVAP and a GE score of .613 in the Illustrative Plan. Alpha Ex. 5, at 22.

421. In the Southeastern Atlanta Metro region, the Enacted House Plan includes four districts that offer Black voters an opportunity to elect

their preferred candidates, whereas the Illustrative Plan offers six. Alpha Ex. 5, at 15.

422. Specifically, taking into account the 2022 election results, the GE and DPR scores, and district BVAPs, Dr. Handley concluded that the additional Black-majority districts in the Illustrative Plan in this area, Illustrative House Districts 74 and 117, had GE scores above .5 (.684 and .593, respectively), DPR scores well above .5 (.654 and .625, respectively), and a BVAP of 61.5% and 54.6%, respectively, and thus would provide Black voters with an opportunity to elect. Alpha Ex. 5, at 25.

423. By contrast, the Enacted House Districts 74 and 117 do not provide an opportunity to elect for Black voters, with GE scores well below .5 (.351 and .436, respectively) and BVAPs of 25.5% and 36.6%, respectively. Alpha Ex. 5, at 25. In fact, in the 2022 election in Enacted Districts 74 and 117, the White-preferred candidate defeated the Black-preferred candidate. Alpha Ex. 5, at 24, 58.

424. In the Central Georgia region, the Enacted House Plan includes one district that offers Black voters an opportunity to elect their preferred candidates, whereas the Illustrative Plan offers two. Alpha Ex. 5, at 15, 27.

425. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAP, Dr. Handley concluded that the additional Black-majority district in the Illustrative Plan, House District 133, had GE and DPR scores well above .5 (.543 and .607, respectively) and a BVAP of 52%, and thus would provide Black voters with an opportunity to elect. Alpha Ex. 5, at 27.

426. By contrast, the Enacted House District 133 does not provide an opportunity to elect for Black voters, with a GE score of only .434 and a BVAP of 36.8%. Alpha Ex. 5, at 27. In fact, in the 2022 election in Enacted House District 133, the White-preferred candidate defeated the Black-preferred candidate with 57.5% of the vote. Id.; Alpha Ex. 5, at 58.

427. In the Southwest Georgia region, the Enacted State House Plan includes one district that offers Black voters with an opportunity to elect their preferred candidates, whereas the Illustrative Plan offers two. Alpha Ex. 5, at 15.

428. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAP, Dr. Handley concluded that the additional Black-majority district in the Illustrative Plan in this area, Illustrative House District 171, had GE and DPR scores well above .5 (.549 and .645 respectively) and a BVAP of 58.1%, and thus would provide Black voters with an opportunity to elect. Alpha Ex. 5, at 29.

429. By contrast, the Enacted House District 171 does not provide an opportunity to elect for Black voters, with a GE score of only .361 and a BVAP of 39.6%. Alpha Ex. 5, at 29. In the 2022 election in Enacted House District 171, a White candidate won the election uncontested. Id.

430. In the Macon Region, the Enacted State House Plan includes two districts that offer Black voters an opportunity to elect their preferred candidates, whereas the Illustrative Plan offers three. Alpha Ex. 5, at 16.

431. Specifically, taking into account the 2022 election results, the GE and DPR scores, and the district BVAP, Dr. Handley concluded that the additional Black-majority district in the Illustrative Plan in this area, House District 145, had GE and DPR scores well above .5 (.538 and .619, respectively), and a BVAP of 50.2%, and thus would provide Black voters with an opportunity to elect. Alpha Ex. 5, at 31.

432. By contrast, the Enacted House District 145 does not provide an opportunity to elect for Black voters, with a GE score of only .398 and a BVAP of 35.7%. In the 2022 election in Enacted House District 145, a White candidate ran unopposed. Alpha Ex. 5, at 31.

433. "Because voting is starkly polarized in general elections," Dr. Handley concluded that "without drawing districts that provide Black voters with an opportunity to elect, districts in the areas

examined will not elect Black-preferred candidates." Sept. 7 PM Tr. 906:2-8.

V. Totality of the Circumstances

A. Plaintiffs' Senate Factor Experts

434. Plaintiffs' expert Dr. Adrienne Jones is an assistant professor of political science at Morehouse University. Sept. 8 PM Tr. 1144:21-22.

435. Dr. Jones holds a Ph.D. in political science from City University of New York. Sept. 8 PM Tr. 1144:25-1145:3.

436. Dr. Jones wrote her dissertation and two peer reviewed articles on the Voting Rights Act. Sept. 8 PM Tr. 1145:10-13, 1148: 15-20.

437. Dr. Jones studies Black political development, including the history of discrimination against Black voters. Sept. 8 PM Tr. 1146:11-16.

438. Dr. Jones previously testified and was qualified as a Senate Factor expert witness in this Court in Fair Fight Action, Inc. v. Raffensperger, No. 1:18-cv-5391-SCJ (N.D. Ga. 2021). Sept. 8 PM Tr. 1144:12-18.

439. The Court accepted Dr. Jones as an expert being qualified to testify as an expert on historical analysis, including recent history of voter suppression. Sept. 8 PM Tr. 1157:22-1158:5, 1166:23-1167:7.

440. The Court finds Dr. Jones credible, her methodology of historical review to be sound, and conclusions reliable. The sources and methods employed in her report are consistent with standard practice in her field of political science. Sept. 8 PM Tr. 1147:16-1148:13, 1159:14-1160:22. Accordingly, the Court credits Dr. Jones's testimony and conclusions.

441. Plaintiffs' expert Dr. Jason Morgan Ward has been a professor of history and at Emory University since 2018. Sept. 11 AM Tr. 1331:1-4.

442. Dr. Ward received his Ph.D., M.Phil, and M.A. in history from Yale University, and his undergraduate degree in history with honors from Duke University. Sept. 11 AM Tr. 1330:17-19.

443. Dr. Ward wrote his dissertation on civil rights and racial politics during the mid-20th century. Sept. 11 AM Tr. 1330:20-24.

444. Dr. Ward has published numerous peer-reviewed publications and two books about the history of racial politics and violence in the South, including Georgia. Sept. 11 AM Tr. 1332:17-1333:10; Alpha Ex. 4 (Ward Report) (hereinafter "Alpha Ex. 4"), at 28-29.

445. Dr. Ward has taught courses on the history of the modern United States, civil rights, race and politics, political violence and extremism, including courses that cover the history of racial politics in Georgia. Sept. 11 AM Tr. 1331:2 —1332:16.

446. In preparing his report, Dr. Ward relied on sources and methodologies that he would typically employ as a historian undertaking a historical analysis. Sept. 11 AM Tr. 1335:17-1336:3. The Court accepted, and Defendant did not object to, Dr. Ward being qualified to testify as an expert in the history of Georgia and the history of racial politics in Georgia. Sept. 11 AM Tr. 1333:17-19, 1335: 3-7.

447. The Court finds Dr. Ward credible, his methodology for historical analysis sound, and his conclusions reliable. Accordingly, the Court credits Dr. Ward's testimony and conclusions.

448. Dr. Orville Vernon Burton, who testified as an expert for the Pendergrass and Grant Plaintiffs at trial and whose testimony was incorporated into the Alpha Phi Alpha Plaintiffs' case, has been qualified as an expert in numerous voting rights cases since 1980. Sept. 11 PM Tr. 1412:3-18, 1417:25-1418:23, 1464:11-25.

449. Dr. Burton is a professor of history at Clemson University. He received his Ph.D. in American History from Princeton University and his undergraduate degree from Furman University. He has earned a lifetime achievement award from the Southern Historical Association. Sept. 11 PM Tr. 1417:6-19.

450. In preparing his report and testimony, Dr. Burton relied on sources and methodologies that he would employ in undertaking historical analysis as a historian and social scientist. Sept. 11 PM Tr. 1426:1-25.

451. The Court accepted, and Defendant did not object to, Dr. Burton being qualified to testify as an expert on the history of race discrimination and voting. Sept. 11 PM Tr. 1419:14-17, 1424:3-9.

452. The Court finds Dr. Burton credible, his methodology for historical analysis sound, and his conclusions reliable. Accordingly, the Court credits Dr. Burton's testimony and conclusions.

453. Plaintiffs' expert Dr. Traci Burch has been an associate professor of political science at Northwestern University and a research professor at the American Bar Foundation since 2007. Sept. 8 AM Tr. 1035:4-9.

454. Dr. Burch received her Ph.D. in government and social policy from Harvard University, and her undergraduate degree in politics from Princeton University. Sept. 8 AM Tr. 1034:19-1035:3.

455. Dr. Burch has published numerous peer-reviewed publications and a book on political participation, including publications focusing on Georgia, and she teaches several courses related to voting and political participation. Sept. 8 AM Tr. 1036:12-18, 1037:15-1038:2.

456. Dr. Burch has received several prizes and awards, including national prizes, for her book and her dissertation. Sept. 8 AM Tr. 1037:2-14. She has served as a peer reviewer for flagship scholarly journals in her field of political science. Sept. 8 AM Tr. 1036:19-24.

457. Dr. Burch's research and writing involves conducting data analysis on voter registration files and voter turnout data. Sept. 8 AM Tr. 1038:8-1039:1.

458. Dr. Burch has previously testified in court as an expert in six other cases, including voting rights cases where she offered expert testimony relating to a Senate Factor or the Arlington Heights framework. Sept. 8 AM Tr. 1039:4-1040:23. Dr. Burch was qualified to

serve as an expert in all of the cases in which she has testified in court. Sept. 8 AM Tr. 1040:24-1041:1.

459. In preparing her report, Dr. Burch relied on sources and methodologies that are consistent with her work as a political scientist. Sept. 8 AM Tr. 1047:23-1048:9; Alpha Ex. 6, at 4.

460. The Court accepted, and Defendant did not object to, Dr. Burch as being qualified to testify as an expert in political science, political participation and barriers to voting. Sept. 8 AM Tr. 1041:25-1042:2, 1046:9-13.

461. The Court finds Dr. Burch credible, her methodology sound, and her conclusions reliable. Accordingly, the Court credits Dr. Burch's testimony and conclusions.

462. Defendant did not proffer expert testimony to rebut the testimony of Plaintiffs' Senate Factor experts, with the exception of Dr. Alford's testimony as it relates to Senate Factor Two.

B. Senate Factor One: Georgia Has A History Of Voting-Related Discrimination Against Black Voters.

463. The first Senate Factor is "the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process". Thornburg v. Gingles, 478 U.S. 30, 36–37 (1986).

464. Defendant's counsel admitted that "Georgia obviously has a long history of official racial discrimination." Sept. 5 AM Tr. 47:10-11.

465. Georgia's long history of state-sanctioned discrimination against its Black citizens has specifically targeted their ability to vote and otherwise participate in the political process. Alpha Ex. 4, at 3.

466. This state-sanctioned discrimination has extended beyond the adoption of facially discriminatory laws to include harassment, intimidation, and violence. Alpha Ex. 4, at 3.

467. Dr. Ward testified "there's a long history in modern Georgia of voter discrimination, dilution, intimidation and violence. And. . . that pattern and that history is very often related to either the presence of Black political power or the threat of the reemergence of Black political power and influence." Sept. 11 AM Tr. 1336:16-24.

468. Dr. Ward explained that, throughout Georgia's history, "voter intimidation and racial violence tends to increase in moments where there is a demonstrable level of Black political participation and demonstrable Black political power and influence. But that violence can also emerge in periods where, through racial appeals, political leaders are making the argument that . . . there is a threat that Black political power may reemerge or that Black voting may again become a threat that has to be neutralized or diluted." Sept. 11 AM Tr. 1337:9-20.

469. "Georgia's history of discrimination 'has been rehashed so many times that the Court can all but take judicial notice thereof. Generally, Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.'" Wright I, 301 F. Supp. 3d at 1310 (quoting Brooks v. State Bd. of Elections, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994)), aff'd, 979 F.3d 1282 (11th Cir. 2020).

470. Before the emancipation of enslaved Black Georgians and the extension of civil rights via the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution, Georgia had barred all Black men from voting and holding office. Alpha Ex. 4, at 6; Sept. 11 PM Tr. 1431:13-17 (Burton) ("[D]uring that period[,] Georgia wrote its ... 1865 Constitution. And, of course, only white males were enfranchised. But they went even further to write into the Constitution that African-Americans could not be elected to the office.").

471. Following the end of the civil war and emancipation, enfranchisement and Constitutional amendments enabled Black Georgians "to not

only vote, but and elect Black candidates to office." Sept. 11 AM Tr. 1337:21-1338:5 (Ward).

472. Black voters "mobilized rapidly" but were "immediately met with resistance by the white Democratic opposition in Georgia." Sept. 11 AM Tr. 1338:4-7 (Ward).

473. Georgia's White legislators voted to reject the Fourteenth and Fifteenth Amendments and to expel Georgia's newly elected Black Republican legislators from the General Assembly. Alpha Ex. 4, at 6.

474. The White opposition's resistance to Black political participation was "very often . . . expressed through harassment and violence." Sept. 11 AM Tr. 1338:6-10 (Ward).

475. At this time, the newly established Ku Klux Klan engaged in a spree of political assassinations and massacres of Black Georgians and their White allies. Alpha Ex. 4, at 6.

476. One notable incident of racial violence is the Camilla Massacre, when as many as a dozen Black participants in a political rally and parade in Camilla, Georgia were killed by White attackers. Alpha Ex. 4, at 6.

477. The Camilla Massacre intimidated many Black voters from going to the polls in subsequent elections. Alpha Ex. 4, at 6.

478. The Camilla Massacre "is an exemplar of the patterns of violence that took place during reconstruction early and often in the case of Georgia," where "armed whites who were opposed to Black politics and Republican power in Georgia confront" Black political gatherings to intimidate Black voters and attack those who were willing to publicly support the party. Sept. 11 AM Tr. 1338:14-1339:4 (Ward).

479. Dr. Ward testified that such incidents of violence and intimidation dramatically depressed Black political participation in Georgia. Sept. 11 AM Tr. 1339:5-11.

480. By 1871, White Democrats had retaken control of the Georgia General Assembly, reinstituted an annual poll tax, and voted to remove the

Republican Governor, functionally ending political Reconstruction in Georgia. Sept. 11 PM Tr. 1432:16-1433:6 (Burton); Alpha Ex. 4, at 6-8.

481. In 1873, Georgia passed a law allowing local election supervisors to close their registration rolls to new applicants except during those times when Black farmers were too busy to register, such as planting or harvest time. Alpha Ex. 2 (Jones Report) (hereinafter "Alpha Ex. 2"), at 29.

482. When Georgia ratified a new State Constitution in 1877, it enacted a cumulative poll tax and wrote racial segregation into law. Alpha Ex. 4, at 8; Sept. 11 PM Tr. 1433:1-17 (Burton). The cumulative poll tax "required voters to show they had paid past as well as current poll taxes," and has been described by one historian as the "most effective bar to Negro suffrage ever devised." Alpha Ex. 2, at 9.

483. Dr. Jones testified that the Georgia implemented the cumulative poll tax the same year that it implemented a new constitution because the state's political leaders wanted to "mak[e] sure that the citizenry could vote, but that the Black voters could not be heard from[.]" Sept. 8 PM Tr. 1162:6-9.

484. Historians and legal experts have noted that in the years after the Civil War, Georgia had the most systematic and thorough system of all states of denying its Black citizens the right to vote. Alpha Ex. 2, at 7.

485. In 1900, the Georgia Democratic party adopted White primaries, effectively eliminating the participation of Black voters in Georgia politics in what had once again become a one-party state. Alpha Ex. 4, at 9.

486. All White primaries continued until 1946, several years after they were struck down by the Supreme Court in 1944. Alpha Ex. 2, at 10 (citing Smith v. Allwright, 321 U.S. 649 (1944)); King v. Chapman, 62 F. Supp. 639 (M.D. Ga. 1945), aff'd, 154 F.2d 460 (5th Cir. 1946)); Alpha Ex. 4, at 15.

487. In 1908, Georgia passed the so-called "Disenfranchising Act," adding a literacy test requirement for voting to its state constitution, with "grandfather" clauses that exempted White registrants from the test if their ancestors had served in the Civil War, and a "good character" clause that empowered the local registrar to exempt more White citizens. Alpha Ex. 4, at 10.

488. The Supreme Court stated in South Carolina v. Katzenbach, 383 U.S. 301 (1966), that Georgia's literacy test and grandfather clause were "specifically designed to prevent Negroes from voting."

489. Georgia also adopted a "County Unit" voting system, which "extremely malapportioned" the state, effectively giving White, rural populations control of the state, at the expense of Black, urban populations, and severely limiting the ability of Black Georgians to elect a candidate of their choice. Sept. 11 PM Tr. 1434:14-19 (Burton); Sept. 11 AM Tr. 1356:10-22 (Ward).

490. By 1960, Fulton County was the most underrepresented county in its state legislature of any county in the United States. DeKalb County was in third place. Sept. 11 PM Tr. 1433:24-1434:8 (Burton); Grant Ex. 4, at 32.[6]

491. The County Unit System, which governed until it was struck down in 1963 by the Supreme Court in Gray v. Sanders, 372 U.S. 368, 381 (1963), has been described by a federal court as "employed to destroy

[6] During trial, the parties proposed that if the testimony of an expert witness offered in one of the three cases is admitted into another case, that expert's report would also be incorporated only to the extent that the expert testified at trial on that section of the report. See Day 6 AM Tr. 1590:16-21 (Mr. Tyson: "So I guess maybe a way to do it, Your honor, is to the extent a witness testified about some piece of their report, you can consider that part of the report. But to the extent their testimony did not address some component of their report, you would not include that part of the report in that case. That would be something I'd offer."); Id. at 1591:2-3 (Ms. Khanna: "I think that makes a lot of sense, Your Honor."). The Court adopted this proposal. Id. at 91:18-19 (The Court: "As long as [the expert] testified about it, even if it's in the report, then it's all set.").

black voting strength." Alpha Ex. 2, at 12 (quoting Busbee v. Smith, 549 F. Supp. 494, 499 (D.D.C. 1982), aff'd, 459 U.S. 1166 (1983)).

492. After White primaries were struck down in 1944, "officials and political leaders see that there is a challenge to white supremacy and Black exclusion from politics," which led to "the reemergence of those patterns of violence and intimidation, but also more subtle, bureaucratic challenges to Black voter mobilization." Sept. 11 AM Tr. 1341:7-20 (Ward).

493. These bureaucratic challenges to Black political participation included "challenge forms . . . that you could use to challenge a Black voter individually and specifically for attempting to register or attempting to vote" and voter purges, which Georgia's local registrars used to reject and strike over 12,000 voters from the voting rolls. Sept. 11 AM Tr. 1341:21-1342:22 (Ward).

494. Between 1965-1981, the United States Department of Justice ("DOJ") objected to 266 voting changes submitted for preclearance from Georgia—almost 1/3 of DOJ's objections to voting practices submitted for preclearance from all states during that time period. Alpha Ex. 2, at 8–9.

495. Georgia has consistently opposed federal voting rights legislation, opposing the passage of the Voting Rights Act of 1965 ("VRA"), suing to strike down the VRA, refusing to comply with the VRA for years after its passage, and as recently as 2006, opposing the VRA's reauthorization. Alpha Ex. 2, at 8.

496. As Georgia's traditional means of disenfranchising its Black citizens have been outlawed, Georgia has simply updated its methods. Even many years after the passage of the Voting Rights Act, Georgia still had enormous disparities in the proportions of its Black and White citizens that were registered to vote. Sept. 11 PM Tr. 1438:4-1439:11. (Burton); Alpha Ex. 2, at 8.

497. This ongoing disparity was due to the continuing context of racial violence and intimidation in the state, as well as many

disenfranchisement techniques that Georgia continued to use without complying with the preclearance requirement under the Voting Rights Act. Sept. 11 PM Tr. 1439:5-11 (Burton); Alpha Ex. 2, at 8–9.

498. Between 1965 and 1967, Georgia submitted only one of its hundreds of voting law changes to the DOJ for preclearance. Alpha Ex. 2, at 8.

499. Dr. Ward testified "that modern Georgia politics is racial, but it's also spatial . . . there have long been strategies and policies that seek to inflate or deflate political power and voting power by where one lives," noting that "the old way of doing that, the county unit system, was invalidated in the civil rights era" but this was "very quickly replaced by a number of strategies that have a spatial dilution component . . . that are targeting people by where they live." Sept. 11 AM Tr. 1346:2-11.

500. One tactic Georgia has continually used to minimize the voting power of its Black citizens is redistricting. From 1971, the first redistricting cycle covered by the Voting Rights Act, to 2001 the DOJ objected to every one of Georgia's redistricting plans. Sept. 11 PM Tr. 1471:10-13 (Burton); Alpha Ex. 2, at 15–16.

501. In 2015, the Georgia General Assembly undertook mid-decade redistricting. Henry County's House District 111 was redistricted to decrease the Black share of the voting age population by "just over 2%," or 948 people, which "likely changed the outcome of the 2016 election" because without the change, the district "would have become significantly more diverse." Alpha Ex. 2, at 16 (quoting Georgia State Conf. of NAACP v. Georgia, 312 F. Supp. 3d 1357, 1363 (N.D. Ga. 2018)).

502. In 2016, the White Republican in House District 111, Brian Strickland, defeated Black Democratic challenger, Darryl Payton by just 950 votes. Alpha Ex. 2, at 16.

503. And in 2018, the U.S. Commission on Civil Rights determined that Georgia was the only state that was still using the five most common

restrictions that impose difficulties for minority voters as of 2018. Sept. 11 PM Tr. 1441:25-1442:12 (Burton); Grant Ex. 4, at 48-49.

504. Those tactics include voter ID laws, proof of citizenship requirements, voter purges, cutting opportunities for early voting, and widespread polling place closures. Sept. 11 PM Tr. 1441:25-1442:12 (Burton). Those strategies will be discussed in more length under Senate Factor Three.

505. This Court has previously found that this factor "weighs decisively in Plaintiffs' favor." Doc. No. [134], at 209.

C. Senate Factor Two: Voting in Georgia is Extremely Polarized Along Racial Lines.

506. The second Senate Factor is "the extent to which voting in the elections of the state or political subdivision is racially polarized." Gingles, 478 U.S. at 37. As already discussed above, Dr. Handley's analysis and Defendant's own stipulations demonstrate that voting in Georgia and in the seven areas at issue is starkly racially polarized. See supra Parts III, IV.

a. Plaintiffs' Expert Testimony

507. Dr. Handley, Dr. Burton, Dr. Jones, and Dr. Ward all testified about the extent to which voting in Georgia is racially polarized. See Sept. 7 PM Tr. 862:4-6 (Handley: "The general elections, both the statewide and the state legislative elections in the seven areas that I examined was starkly polarized, starkly racially polarized."); Alpha Ex. 5, at 9-10; Sept. 11 PM Tr. 1429:7-10 (Burton: Racial bloc voting and "its continued strong pattern of white voters not voting for candidates of choice of the Black citizens and voters and that Black voters tended to vote differently than white voters."); Sept. 8 PM Tr. 1169:19-22 (Jones: "We're a racially polarized state, Judge. And the parties are racially polarized."); Sept. 11 PM Tr. 1343:16-17 (Ward: racial polarization has "been the predominant trend through political eras and political cycles.").

508. This finding is reinforced by the fact that courts have repeatedly recognized the high degree of racially polarized voting in Georgia.

See, e.g., Georgia State Conf. of NAACP, 312 F. Supp. 3d at 1360 ("[V]oting in Georgia is highly racially polarized."); Wright v. Sumter Cty. Bd. of Elections & Registration, 979 F.3d 1282, 1306 (11th Cir. 2020) ("Wright II") (noting "the high levels of racially polarized voting" in Sumter County).

509. That voting in Georgia is racially polarized was further corroborated by the chair of the Senate committee who drew the Enacted Senate Plan. He conceded, "based on the pattern of Georgia, that we do have racially polarized voting in Georgia." November 4, 2021 Meeting of Senate Committee on reapportionment & Redistricting, Hearing on S.B. 1EX, 2021 Leg., 1st Special Sess. (2021) (statement of Senator John F. Kennedy, chairman, S. Comm. Reapp. & Redis. At 1:00:44 – 1:01:01), https://www.youtube.com/watch?v=RhQ7ua0db9U.

510. As Dr. Handley found and Defendant's own stipulations demonstrate, this starkly racially polarized voting is also present in the seven areas of interest. See Sept. 7 PM Tr. 862:4-6; Alpha Ex. 5, at 9-10; Doc. No. [280], at ¶ 334.

511. Complementing this evidence of racially polarized voting, Plaintiffs also presented additional quantitative and qualitative evidence demonstrating that race drives these voting patterns. As discussed above, Dr. Handley analyzed eleven recent statewide Democratic primary elections in each of the seven areas of interest. Sept. 7 PM Tr. 879:25-880:2, 894:23-895:1; Alpha Ex. 5, at 7.

512. Dr. Handley did not analyze Republican primaries, Sept. 7 PM Tr. 894:3-4, because an "overwhelming majority" of Black voters who participate in primaries cast their ballots in Democratic primaries so "Democratic primaries are far more probative than Republican primaries in ascertaining the candidates preferred by Black voters." Alpha Ex. 5, at 7; see also Sept. 7 PM Tr. 894:5-12 ("Because less than 5 percent of Black voters who choose to vote in a primary actually choose to vote in the Republican primary," typically one would not "find[] the Black-preferred candidates in the Republican primary."); DTX 8, at 8 (Alford acknowledging low number of Black voters). In addition, Dr. Handley testified that "the very low number of Black

voters participating [in the Republican primaries] meant that the estimates would be very unreliable." Sept. 7 PM Tr. 894:5-12.

513. Although there is no requirement that a plaintiff claiming minority vote dilution present evidence drawn from primary elections, such evidence is especially useful in teasing out the relationship between racial polarization and partisan polarization—and Dr. Alford testified to this. Sept. 14 AM Tr. 2234:1-4 (Alford: "But, yeah, the Democratic primary or the Republican primary provides an opportunity to see how voters are voting when that party cue at the candidate level is removed, and I think it's valuable."); id. 2232:3-4 ("[W]ith the technique that we have here, partisanship can't explain the defeat of a candidate.").

514. Dr. Handley found that in the seven areas she analyzed, 55.8% of the Democratic primaries analyzed were racially polarized. Alpha Ex. 5, at 11; Sept. 7 PM Tr. 880:7-11, 881:13-18 (testifying that majority of Democratic primaries she analyzed were racially polarized).

515. For example, in the 2018 Democratic primary for Commissioner of Insurance, in the Eastern Atlanta Metro region the White candidate received 86.1% of the White vote and the Black candidate received 74.2% of the Black vote. Alpha Ex. 5, at 64. Dr. Alford characterized this as racially polarized. Sept. 14 PM Tr. 2236:2.

516. Similarly, in the 2018 Democratic primary for the 2018 Democratic runoff election for School Superintendent, in the Eastern Atlanta Metro region the White candidate received 71.9% of the White vote and the Black candidate received 69.6% of the Black vote. Alpha Ex. 5, at 65.

517. Although Dr. Handley acknowledged that "Black and white voters were less cohesive" in the Democratic primary, this was to be expected since "candidates are so much more similar than they are in general elections." Sept. 7 PM Tr. 895:14-17. This was also the case because in a majority of the primaries there were more than two candidates. Id. at 895:17-18.

518. In evaluating whether the primary elections were racially polarized, Dr. Handley relied primarily on the EI RxC point estimate, which is the best estimate. Sept. 7 PM Tr. 868:13-19; Sept. 8 AM Tr. 941:9-13. She also relied on the EI 2x2, ecological regression, and homogenous precinct analyses because when the estimates are similar, she can be more confident in the estimates produced. Sept. 7 PM Tr. 868:6-9; Sept. 8 AM Tr. 941:14-20.

519. Defendant and Dr. Alford provide no evidence to the contrary. By definition, partisan affiliation cannot explain polarized election outcomes when Democrats run against other Democrats. Sept. 7 PM Tr. 881:13-21. Accordingly, Dr. Handley's findings of racial polarization within Democratic Party primaries are especially probative in dispelling the argument that Georgia's stark racial polarization reduces to partisanship.

520. Moreover, for the non-polarized Democratic primaries that were examined, a "strong majority" of these primaries were not polarized because "the Black voters supported the white candidate rather than because the white voters supported the Black candidate." Sept. 7 PM Tr. 880:17-20 (Handley). Over 67% of the Democratic primary contests that were not polarized were not polarized because Black voters supported the white candidate preferred by White voters. Alpha Ex. 5, at 11. Only 14.3% of White voters supported Black-preferred Black candidates in the Democratic primary election contests analyzed. Id. That indicates (as Dr. Handley testified) that even in non-polarized primaries, race affects voter behavior. Id. at 884:15-24 (testifying that even in a non-polarized primary, "race is still playing a role" in a voter's decision).

521. In addition to the empirical evidence supplied by the Democratic primary contests analyzed by Dr. Handley, Plaintiffs' experts consistently testified that, in Georgia, partisanship cannot be separated from race—and that race has been the most consistent and longstanding driver of voting behavior and partisan affiliation.

522. Dr. Handley testified that Black and White voters have, for over decades, realigned their partisan affiliations based on the parties'

positions with respect to racial equality and civil rights. See Sept. 7 PM Tr. 885:1-25. See also Alpha Ex. 10, at 4 ("Researchers have traced Southern realignment—the shift of white voters from overwhelming support for the Democratic party to nearly equally strong support for the Republican party—to the Democratic party's support for civil rights legislation beginning in the 1960s.").

523. Dr. Burton testified that in the 1960s there was a "huge shift of African-Americans from the party of Lincoln, the Republican party, to the Democratic party and the shift of white conservatives from the Democratic party to the Republican party." Sept. 11 PM Tr. 1445:4-7.

524. As Dr. Handley testified, race informs the decision for White voters to vote Republican and Black voters to vote Democrat, and "social scientists have known this for a long time." Sept. 7 PM Tr. 884:22-25; see also id. at 885:10-25 (The Court: "Up until about 1960s Blacks voted heavily Republican . . . And then you had the 1964 Civil Rights Act pass and they more [or] less kind of did a flip. Blacks started voting, well, Democratic, and whites started voting Republican."); id. at 876:12-17 (Dr. Handley: "[R]ace impacts the decision on who you're going to vote for, what party you're going to support. [T]o say that it is party instead of race is ignoring the fact that actually race explains party in part.").

525. This trend is not new. Indeed, Dr. Ward testified that race has consistently been the best predictor of partisan preference since the end of the Civil War. Alpha Ex. 4, at 3; Sept. 11 AM Tr. 1343:14-25. Dr. Ward explained that racially polarized voting has "been the predominant trend through political eras and political cycles" and even though "Black party preference has shifted dramatically from reconstruction to the present, [] more often than not, that party preference is dramatic and demonstrable." Sept. 11 AM Tr. 1343:17-25; Alpha Ex. 4, at 3.

526. Dr. Burch's testimony regarding political science studies of the Black Belt is consistent: "living in Black belt areas with . . . legacies of slavery predict white partisan identification and racial attitudes." Alpha Ex. 6, at 41.

527. Dr. Ward described how the composition and positions of political parties in Georgia were forged in response to the history of Black political participation. Alpha Ex. 4, at 3, 19-20.

528. The dramatic upsurge in Black voter registration following the VRA "fractured and transformed the state's Democratic Party," and it "revived and reshaped an increasingly competitive Republican Party." Alpha Ex. 4, at 19. Georgia's "New Guard" Republicans concluded they could "get along without the block [sic]," a euphemism for Black voters, and offset votes lost among rapidly increasing Black registrants by wooing conservative white Democrats. Id. at 19-20. For example, Fulton County's Fletcher Thompson, one of the first Republicans to win election to the Georgia Senate, took his fight against the "forced racial balance" to Congress, while DeKalb's Ben Blackburn pledged to protect the suburbs from "the welfare mother with her numerous kids" who "might be moved in next door" by federal public housing initiatives. Id. at 20.

529. Dr. Jones further testified that, because partisan affiliations have shifted, while racial division between Black and White voters has remained constant, partisanship cannot explain the lack of political opportunity for Black Georgians. Sept. 8 PM Tr. 1204:18-1205:8 ("even where Republicans are not the majority party during the . . . period of history, we had the same kind of phenomena").

530. As Dr. Burton explained, in Georgia, both parties over time have sought to disenfranchise Black voters: "every time that Black citizens made gains in some way or another or were being successful," "the party in power in the state, whether it's Democrat or Republican, found ways or came up with ways to either disenfranchise, but particularly dilute" or "make less effective the franchise of Black citizens" rather than White citizens. Sept. 11 PM Tr. 1428:9-21.

531. Dr. Burton called it "striking" that this pattern continued "no matter who was in charge, whether it was Democrats or Republicans." Id. at 1428:22-24.

532. Dr. Ward and Dr. Jones' historical testimony demonstrates that, while partisan affiliations have shifted over time, racial division and polarization in Georgia has been a constant.

533. As Dr. Jones testified, whether it is the Southern Democrats or the Republican Party after 1965, the parties have been "defining themselves by race" and "mobilizing and energizing voters using that racial division." Sept. 8 PM Tr. 1170:17-1171:1.

534. Political parties in Georgia are thus, historically and today, largely divided by race. Alpha Ex. 2, at 47.

535. As Dr. Jones explained in her report, since 1908, when the last Black person to be elected as part of the Reconstruction era left office, the Republican Party has only elected two Black people to the Georgia Assembly. Alpha Ex. 2, at 47. A mere 0.5% of Republican Party elected officials have been Black. Alpha Ex. 2, at 47.

536. Up until 1963, the Democratic Party had never elected a Black member to the Georgia Assembly. Alpha Ex. 2, at 47. Between 2000 and 2020, 59% of Democratic Party elected officials were Black. Alpha Ex. 2, at 47.

537. The 2020 election shows this racial division in parties continues for state legislative races: Of the 138 seats that the Republicans secured, 0 were won by Black legislators; of the 99 the Democratic party secured, 68 of them went to Black candidates. Alpha Ex. 2, at 47.

538. Dr. Jones and Dr. Burton also explained how the continuing use of racial appeals evidence the way that race is used to construct and reinforce partisan lines and drive voting behavior.

539. Dr. Jones testified that racial appeals "help voters to self-select" and signal that "if they're white voters, that they should be voting for the Republican party[.]" Sept. 8 PM Tr. 1200:10-13.

540. Even an election between two Black candidates is no exception to the persistent use of racial appeals in Georgia. As Dr. Jones explained, "it was really important for Herschel Walker to use racial appeals in his

campaign" as a "dark-skinned Black person," because Walker needed "to distinguish himself" as the "standard bearer for…white voters," in contrast to a Black candidate like Senator Raphael Warnock, whom Walker characterized as excessively "complaining about racism in the modern day." Sept. 8 PM Tr. 1198:1-1199:10; see Alpha Ex. 266. Walker's campaign advertisement therefore sought to draw on White voters' "exasperation with the problems of slavery or the problem of Jim Crow or talking about racism and it being a continued problem." Sept. 8 PM Tr. 1198:1-1199:10. Ads like those are "aim[ed] at white voters," in part "to make sure that white voters understand that Herschel Walker is their candidate." Id. 1199:12-1200:13.

541. Dr. Burton described that over time, "race and partisanship" in Georgia have developed in a manner where "one group of a political party decided to use race and to use coded words, in particular, to get the former confederacy, to white people, desert the Democratic party and become part of the Republican party." Sept. 11 PM Tr. 1496:17-1497:1.

542. Even if a voter were more inclined to vote for one party over another, as Dr. Burton stated, the racial appeals "certainly reinforces it[.]" Sept. 11 PM Tr. 1456:14.

543. "It's not a pretty picture" and "it's not something that's pleasant," but "it reinforces those negative stereotypes of African-Americans that go back, not just into Reconstruction, but into slavery itself, to reenforce that is a reason that you don't want someone." Sept. 11 PM Tr. 1456:14-21 (Burton).

544. These racial appeals have been "very effective in making the political parties into what they are today" and "the old confederacy has helped to explain partisanship and race[.]" Sept. 11 PM Tr. 1456:22-25 (Burton).

545. Dr. Handley testified that the racial attitudes between the two parties have historically been quite different, Sept. 7 PM Tr. 884:22-885:9, and this trend continues to this day, Sept. 7 PM Tr. 886:3-7.

546. This trend is "reflected in attitudes about things like affirmative actions and racial justice. There is a decided difference between the two parties." Sept. 7 PM Tr. 886:4-7 (Handley).

547. Dr. Handley described "several examples of differences in racial attitudes between Democrats and Republicans," including: "(1) the need for increased attention to the history of slavery and racism (Republicans are far more likely than Democrats to say increased attention to these issues is bad for the country); (2) the need to ensure equal rights for all Americans (Republicans overwhelmingly think only a little (47%) or nothing (30%) needs to be done to ensure equal rights for all Americans; Democrats (74%) agree that a lot more needs to be done to achieve racial equality[)]; and (3) the progress made thus far towards racial equality (Republicans (71%) are much more likely than Democrats (29%) to say the nation has made a lot of progress toward racial equality over the past half-century)." Alpha Ex. 10, at 4.

548. Dr. Burton also explained that the Democratic party has recently been "highly supporting what the NAACP sees as the issues that are most important to minorities, particularly African-Americans" and the Republican party has not. Sept. 11 PM Tr. 1460:11-15. That conclusion was based on his analysis of a NAACP report card of positions that both parties have taken on issues linked to race. Id. at 1458:14-1459:2. The NAACP, Dr. Burton explained, is "probably the largest and most important group representing particularly African-Americans." Id. at 1458:24-25.

549. Dr. Burton explains that "the significant impact race has on the state's partisan divides is made readily apparent when one considers the opposing positions that members of Georgia's Democratic and Republican parties take on issues inextricably linked to race." Grant Ex. 4, at 74 (section of Dr. Burton's report accompanying trial testimony).

b. Plaintiffs' Lay Testimony

550. Plaintiffs' fact witness testimony further illustrates that race drives partisan preference, because Black voters, like all communities of

voters, tend to support candidates who vote in their interests on the issues that are important to them.

551. For example, Bishop Jackson testified that Black voters "like everybody else in this state, want to vote in their best interests" and that "their best interest depends upon who the candidates are, their position on the issues." Sept. 6 AM Tr. 389:18-21. He testified that he did not believe the presumption that Black voters "automatically vote Democratic" to be necessarily true nor appropriate. Id. at 389:14-17.

552. Similarly, Dr. Diane Evans, when asked why she aligned herself with the Democratic Party, testified that she believes "everyone should have a fair chance to be able to marry the person they want to marry," that "women should get equal pay to men," and that she sees fewer problems related to racial issues within the Democratic Party than within the Republican Party. Sept. 7 AM Tr. 641:22-642:19.

c. Defendant's Expert Testimony

553. Against Plaintiffs' evidence of racially polarized voting, Defendant offered the testimony of Dr. John Alford.

554. Dr. Alford agreed that Black and White voters cohesively support different candidates in general elections in the seven areas of interest. Sept. 14 AM Tr. 2225:5-9.

555. Dr. Alford, moreover, did not dispute the extensive, consistent testimony demonstrating from history and political context that race (rather than mere partisanship) drives the racially polarized voting patterns observed in Georgia. Dr. Alford acknowledged that polarization can reflect both race and partisanship, and that it is possible "for political affiliation to be motivated by race." Sept. 14 AM Tr. 2240:19-22.

556. Dr. Alford further agreed that it was his view that voters are not "necessarily voting for the party" but rather "they're voting for a person that follows their philosophy or they think is going to respond to their needs." Sept. 14 AM Tr. 2183:4-8.

557. Dr. Alford agreed that "people are voting by race because they have a common interest" and "that common interest goes to whoever is representing that philosophy." Sept. 14 AM Tr. 2185:15-19.

558. Nevertheless, Dr. Alford makes the alternative and unsupported claim that the polarization between Black and White voters is "partisan polarization." Specifically, Dr. Alford claims that the "partisan general election analysis report by . . . Dr. Handley show[s] that Black voters cohesively support Democratic candidates" and "white voters cohesively vote for Republican candidates[.]" DTX 8, at 9.

559. However, despite concluding in his report that polarization is on account of party, not race, see DTX 8, at 9, Dr. Alford admitted that he does not offer an opinion on the cause of Black voters' behavior. Nor could he. Dr. Alford testified that "ecological and highly abstract data, cannot demonstrate [causation] in sort of its natural form" and that "scientific causation in the social sciences is very difficult to establish." Sept. 14 AM Tr. 2226:8-9, 16-17. He further agreed that "because of those limitations, [he had] not offered an opinion in this case as to the cause of Black voters' behavior." See Sept. 14 Tr. 2226:23-2227:1.

560. Dr. Burton confirmed that "One cannot as a scientific matter separate partisanship from race in Georgia." Sept. 11 PM Tr. 1466:13-1467:4.

561. Moreover, Dr. Alford's speculative claim about the role of partisanship is contradicted by Dr. Handley's analysis of eleven recent statewide Democratic primaries — intra-party contests in which party cannot motivate voter behavior—a majority of which were polarized. See supra Part III.

562. Although Dr. Alford suggested at trial that partisanship could play a role in Democratic primaries, see Sept. 14 AM Tr. 2230:8-14, this is contradicted by his own statements that racially polarized voting in primaries cannot be explained by partisan affiliation. Indeed, Dr. Alford has also consistently opined that partisanship cannot explain polarization in primary elections. See Feb. 11, 2022, PI Hearing Tr.

172:13-16 ("partisanship cannot explain the defeat of [a candidate] in primary"); Perez v. Pasadena Indep. Sch. Dist., 958 F. Supp. 1196, 1225 (S.D. Tex. 1997) ("Dr. Alford testified that an analysis of primary elections is preferable to general elections because primary elections are nonpartisan and cannot be influenced by the partisanship factor."), aff'd, 165 F.3d 368 (5th Cir. 1999); Lopez v. State of Texas, No. 2:16-CV-00303 (S.D. Tex.), Feb. 14, 2018 Tr. 264:16-18 ("Q Do you agree that partisanship cannot explain the defeat of minority candidates in primaries as a general proposition? A The ballot does not provide a partisan signal, so the partisan identification of a candidate in the election can't explain the success or the defeat.").

563. Although Dr. Alford claims that the lack of variation in Black and White support for candidates of different races is more consistent with partisan polarization than racial polarization, see Sept. 14 AM Tr. 2180:5-18, he ignores Dr. Handley's analysis of the degree of Black voters' support for Black candidates and White voters' support for White candidates in the Democratic primaries she analyzed, which demonstrated that White voters are far less likely to support Black-preferred Black candidates than Black-preferred White candidate. See Alpha Ex. 5, at 11.

564. Dr. Alford did not analyze any Democratic primaries. Sept. 14 AM Tr. 2217:4-6. Indeed, Dr. Alford did not perform his own analysis of the elections that Dr. Handley analyzed. See generally DTX 8; Sept. 14 AM Tr. 2217:12-14 (Alford) (agreeing that he is "relying on the statistical analysis done by the plaintiffs' experts").

565. The sum total of Dr. Alford's analysis in this case is an EI analysis of one election—the 2022 Republican Senate primary--in just one of Dr. Handley's regions—the Eastern Atlanta Metro region. See Alpha Ex. 8, at 9. He otherwise "rel[ied] on the statistical analysis done by the plaintiffs' experts." Sept. 14 AM Tr. 2217:12-14.

566. Dr. Alford admitted that he did not do the statistical analysis of even this one election himself. Sept. 14 AM Tr. 2217:15-18 (admitting that "the programming and analysis was performed by Dr. Randy Stevenson at Rice University."). Dr. Alford admitted that he did not

think this EI analysis exercise "adds anything beyond what we can see" "from just the election results themselves." Sept. 14 Tr. 2237:6-7.

567. Nor did Dr. Alford perform any homogenous precinct or ecological regression analyses of either the general or primary elections that Dr. Handley analyzed. See Sept. 14 AM Tr. 2216:18-24, 2216:25-2217:3.

568. This Court finds Dr. Alford's opinions unpersuasive and accordingly gives them little weight, as many courts have previously done.

569. Dr. Alford simply does not have the same level of experience and expertise regarding the statistical methods at issue here; he has never published a paper on racially polarized voting, has never published any peer-reviewed articles using the ecological inference method, and has never written about Section 2 of the Voting Rights Act in an academic publication. Sept. 14 AM Tr. 2211:14-2212:6. He works mostly for government entities or defendants that have been affiliated with the Republican party. Id. at 2212:9-14.

570. And Dr. Alford has never submitted an expert report concluding that there was racially polarized voting in the area he analyzed. Sept. 14 AM Tr. 2214:11-15.

571. Moreover, this is not the first time Dr. Alford has proffered theories that were rejected by courts. See, e.g., Sept. 14 AM Tr. 2247:22-2249:6 (citing Robinson, 605 F. Supp. 3d at, 840-41 ("The Court finds that Dr. Alford's opinions border on ipse dixit. His opinions are unsupported by meaningful substantive analysis and are not the result of commonly accepted methodology in the field.")); Sept. 14 AM Tr. 2245:8-13 (citing NAACP, Spring Valley Branch v. E. Ramapo Cent. Sch. Dist., 462 F. Supp. 3d 368, 381 (S.D.N.Y. 2020) ("[Dr. Alford's] testimony, while sincere, did not reflect current established scholarship and methods of analysis of racially polarized voting and voting estimates."), aff'd sub nom. Clerveaux v. E. Ramapo Cent. Sch. Dist., 984 F.3d 213 (2d Cir. 2021)); Sept. 14 AM Tr. 2245:19-2246:1 (citing Flores v. Town of Islip, 382 F. Supp. 3d 197, 233 (E.D.N.Y. 2019) ("Dr. Alford maintains that at least 80% of the white majority in Islip must vote against the Hispanic-preferred candidate for the white bloc

vote to be sufficient. This theory has no foundation in the applicable caselaw.")); Lopez v. Abbott, 339 F. Supp. 3d 589, 609 (S.D. Tex. 2018) ("While Dr. Alford suggested that cohesion levels of 60-70% were too low to be significant, he did not articulate any factual or methodological reason for his opinion and he agreed that Hispanics voted cohesively for their preferred candidate. His testimony that over 70% was required for compliance with Gingles is not corroborated in the briefing."); Sept. 14 AM Tr. 2245:15-18 (citing Patino v. City of Pasadena, 230 F. Supp. 3d 667, 709-13 (S.D. Tex. 2017) (finding in favor of Plaintiffs as to Gingles' second and third prongs, contrary to Dr. Alford's testimony on behalf of the Defendant jurisdiction), stay denied pending appeal, 667 F. App'x 950 (5th Cir. 2017) (per curiam)); Sept. 14 AM Tr. 2246:8-22 (citing Montes v. City of Yakima, 40 F. Supp. 3d 1377, 1401-07 (E.D. Wash. 2014) (same)); Sept. 14 AM Tr. 2247:6-14 (citing Benavidez v. Irving Indep. Sch. Dist., No. 3:13–CV–0087–D, 2014 WL 4055366, at *11-13 (N.D. Tex. Aug. 15, 2014) (same)); Sept. 14 AM Tr. 2247:15-21 (citing Fabela v. City of Farmers Branch, No. 3:10–CV–1425–D, 2012 WL 3135545, at *8-13 (N.D. Tex. Aug. 2, 2012) (same)); Sept. 14 AM Tr. 2246:25-2247:5 (citing Benavidez v. City of Irving, 638 F. Supp. 2d 709, 722-25, 731-32 (N.D. Tex. 2009) (same)); Sept. 14 AM Tr. 2246:2-7 (citing Texas v. U.S., 887 F. Supp. 2d 133, 146-47 (D.D.C. 2012) (critiquing Dr. Alford's approach because he used an analysis that "lies outside accepted academic norms among redistricting experts," and instead relying heavily on Dr. Handley's testimony)).

572. The trial record does not support a factual finding that partisanship rather than race explains the racially polarized voting patterns in Georgia or the lack of political opportunities that flow from that polarization. Rather, the Court finds that, based on the empirical, historical, and contemporary contextual evidence presented, voting in Georgia and the areas of interest are starkly polarized by race, and that these racially polarized patterns, which cannot be explained by mere partisan affiliation, are better explained by the influence of race and racial politics and attitudes.

573. This Court has previously found that the second Senate Factor "weighs in Plaintiffs' favor." Doc. No. [134], at 21.

D. Senate Factor Three: Use of Voting Practices or Procedures That May Enhance The Opportunity For Discrimination

574. The third Senate Factor is "the extent to which the state or political subdivision has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group." Gingles, 478 U.S. at 37.

575. Georgia has an extensive history of employing voting procedures and practices that increase the opportunity for discrimination against Black voters, including in the areas at issue in this case. Sept. 8 PM Tr. 1161:6-10; 1171:14-25 (Jones).

576. As Dr. Jones explained, there are many different methods states have used that have the effect of discriminating against Black voters, and Georgia has used all of them. Sept. 8 PM Tr. 1162:12-14.

577. When previous methods are no longer useful in disenfranchising Black voters, Georgia has selected new ones. Sept. 8 PM Tr. 1164:24–1165:4 (Jones).

578. This Court previously found that "this factor weighs in Plaintiffs' favor." Doc. No. [134], at 211.

a. At Large Elections

579. Georgia permits local jurisdictions to use at-large voting systems. Alpha Ex. 2, at 10-11.

580. At-large voting systems can unlawfully dilute the voting strength of Black voters, and have been held to do so, including in Fulton County, Sumter County, and Fayette County, among others. See, e.g., Wright I, 301 F. Supp. 3d at 1326, aff'd, 979 F.3d 1282, 1287, 1297-98, 1311 (11th Cir. 2020); Ga. State Conf. of NAACP v. Fayette Cty. Bd. of Comm'rs, 118 F. Supp. 3d 1338, 1339 (N.D. Ga. 2015) ("Fayette I"); Pitts v.

Busbee, 395 F. Supp. 35, 40–41 (N.D. Ga. 1975), vacated on other grounds sub nom. Pitts v. Cates, 536 F.2d 56 (5th Cir. 1976).

581. After the U.S. Supreme Court outlawed white-only primaries, many Georgia jurisdictions predominantly shifted to at-large elections to prevent Black voters from electing their candidates of choice. Alpha Ex. 2, at 10.

582. At-large voting was used in areas at issue in this case include for county commission (including Burke, Morgan, Newton, Sumter, Richmond and Henry Counties), boards of education (including Henry and Mitchell counties), and cities (including Waynesboro, Americus, and Covington) elections—none of which had been precleared by the Department of Justice. Alpha Ex. 2, at 11.

583. At-large voting systems continue to unlawfully dilute Black voting strength and have been struck down under the Voting Rights Act, including in areas at issue in this case, in just the last decade. See, e.g., Wright I, 301 F. Supp. 3d at 1326, aff'd, 979 F.3d 1282, 1287, 1297–98, 1311 (11th Cir. 2020); Fayette I, 118 F. Supp. 3d at 1339.

584. For example, when the Sumter County School Board became majority Black for the first time in 2010, the General Assembly approved a change proposed by the lame duck School Board that would reduce the size of the Board from nine members to seven, and make two of the seats on the Board at-large seats. Alpha Ex. 2, at 19.

585. The district court found that the new at-large seats and the packing of Black voters into two districts diluted Black voting strength in violation of Section 2 of the VRA, and the Eleventh Circuit affirmed in 2020. Alpha Ex. 2, at 19.

b. Majority Vote and Number Posts Requirements

586. Georgia uses majority vote and number posts requirements in elections for statewide and local offices. Alpha Ex. 2, at 14.

587. A champion for enacting a majority vote requirement, Georgia state legislator Denmark Groover, was reported to have explained that "a

majority vote would again provide protection which he said was removed with the death of the county unit system, indicating it would thwart election control by Negroes and other minorities." Alpha Ex. 2, at 12-13.

588. Before the Senate Rules Committee, Groover explained a majority vote requirement was necessary because, "We have a situation when the federal government interceded to increase the registration of Negro voters." Alpha Ex. 2, at 13.

589. Cities across Georgia adopted majority vote requirements during the 1960s and 1970s, including cities in the areas of focus of this case, including Augusta, Athens, Camilla, Cochran, Crawfordville, Lumber City, Madison, and Waynesboro. Alpha Ex. 2, at 13.

590. Federal courts have recognized in the past and continue to recognize in recent years that majority vote and number posts requirements can limit the ability of Black voters to elect a candidate of their choice. See, e.g., Solomon v. Liberty Cty. Comm'rs, 221 F.3d 1218, 1222, 1235 (11th Cir. 2000) (en banc) ("'the majority vote requirement…can enhance the possibility of discrimination against black voters in Liberty County'") (citation omitted); City of Rome v. United States, 446 U.S. 156, 184 (1980); Rogers v. Lodge, 458 U.S. 613, 627 (1982).

591. As the DOJ explained in 2000, "Minority candidates who are forced into head-to-head contests with white candidates in [a] racially polarized voting environment are more likely to lose than would be the case under . . . a plurality vote requirement." Alpha Ex. 2, at 14.

c. Disproportionate Voter Registration Burdens

592. Georgia's implementation of its voter verification registration program beginning in 2008 has been shown to have a disproportionate impact on Black Georgians. Alpha Ex. 2, at 24-26.

593. In 2009, the DOJ objected to the program based on a finding that it was "error-laden," and that the "impact of these errors falls disproportionately on minority voters," specifically, "the different

rate at which African American applicants are required to undertake an additional step before becoming eligible voters is statistically significant." Alpha Ex. 2, at 24.

594. While Georgia did revise its verification process, data provided by the Secretary of State's office for July 2013 through July 2016 showed that Georgia's revised voter verification registration program led to Black voter applicants being negatively impacted at eight times the rate of white voter applicants. Alpha Ex. 2, at 24-25.

595. In fact, the Secretary of State's former General Counsel acknowledged during his testimony at trial that those who failed this voter verification registration program were "overwhelmingly Black applicants." Sept. 14 AM Tr. 2297:21-23 (Germany).

596. In 2010, an investigation revealed that Georgia was failing to offer voter registration services through it's the public assistance offices as required under the National Voter Registration Act. Alpha Ex. 2, at 31.

597. This failure disproportionately affected Black Georgians who were more likely to be in poverty (average percentage of Black households in poverty in Georgia in 2010 was roughly 26.4% compared to 11.5% of white households), and disproportionately more likely to participate in public assistance programs, (82.1% of Temporary Assistance for Needy Families (TANF) recipients in Georgia were Black compared to 15.3% of white Georgians, in 2008-2009). Alpha Ex. 2, at 31.

598. A federal district court recently observed that the Georgia General Assembly "has been proactive in implementing procedures to register voters through offices that do not provide public assistance" and that the state "seems to favor a less inclusive group of eligible citizens for voter registration." Ga. State Conf. of NAACP v. Kemp, 841 F. Supp. 2d 1320, 1332 (N.D. Ga. 2012).

599. Georgia's manipulation of voter registration opportunities—in addition to the state-sanctioned discriminatory practices discussed in

Senate Factor One—has disproportionately prevented Black Georgians from participating in the political process.

d. Voter Purges

600. Georgia also has a history long track record that stretches into present day of purging voters from registration records in order to suppress the Black vote. Alpha Ex. 2, at 26-27.

601. In the early 1900s, Georgia enacted the "Challenge Law," which required voter registration books to be open to allow any citizen to challenge for any reason a person's ability to vote. Sept. 11 PM Tr. 1439:5-11 (Burton); Grant Ex. 4, at 21-22.

602. This law was passed specifically to intimidate Black citizens, and discourage them from registering to vote, and it remains largely unchanged to this day. Sept. 11 PM Tr. 1439:5-11 (Burton); Grant Ex. 4, at 21.

603. In 1946, in the first election after the all-White primary was struck down, former Georgia Governor Eugene Talmadge urged supporters to challenge whether Black voters were properly qualified, and mailed thousands of mimeographed challenge forms to supporters, which lead to massive purges of Black voters across the state. Alpha Ex. 2, at 26-27.

604. In 1955, a United States District Court judge found that Black citizens in Randolph County had been unlawfully purged in 1954. Alpha Ex. 2, at 27.

605. The purges in Randolph County were successful in preventing hundreds of Black voters from participating in the September 1954 Democratic primary and the November general election. Alpha Ex. 2, at 27.

606. Voter purges have continued to impact Georgians in recent years. Between 2012 and 2016, Georgia purged 1.5 million voters, twice the number removed between 2008 and 2012. Alpha Ex. 2, at 26.

607. An additional half a million voters were removed from Georgia's registration records in a single day in 2017, which "may represent the largest mass disenfranchisement in U.S. history." Alpha Ex. 2, at 26.

608. In 2016, the majority-White County Board of Elections and Registration of Hancock County, one of the counties in the areas at issue in this case, challenged the legality of 187 voters, nearly all Black, on the basis of the challenges based on "unsubstantiated 'third party' allegations about individual residents." Alpha Ex. 2, at 27.

e. Limiting Voting Opportunities

609. Between 2012 and 2018, Georgia closed 214 voter precincts, which reduced the number of precincts in many majority-minority neighborhoods. Alpha Ex. 2, at 29.

610. In five counties with such closures, the Black turnout rate dropped from over 60% in 2008 (Bacon with 65.33%; Habersham with 75.91%; Lowndes with 77.50%; Lumpkin with 61.36%; and Franklin with 61.89%) to under 50% in 2020. Alpha Ex. 2, at 29-30.

611. As Dr. Burton corroborated, closing of polling places widely disadvantages Black voters. Sept. 11 PM Tr. 1440:24-1441:24 (Burton).

612. During the 2020 election Black voters were able to overcome tactics to minimize minority access in prior years and accessed the polls in record numbers —given a particular confluence of unique factors. Alpha Ex. 2, at 34.

613. The state expanded in particular absentee vote by mail as part of an effort to ensure that voters had access to the polls despite the global Coronavirus pandemic. Alpha Ex. 2, at 34.

614. Absentee ballot applications were mailed to every active, registered voter for the primary elections, and third-party groups were allowed to provide absentee ballot applications to voters by request. Alpha Ex. 2, at 34.

615. Drop boxes were plentiful, especially in metropolitan Atlanta, and located outside of polling locations to allow voters to drop absentee ballots 24-7. Alpha Ex. 2, at 34.

616. Additionally, voters were mobilized by the uniquely high-profile nature of the elections. Alpha Ex. 2, at 34–35.

617. In March 2021, the Georgia General Assembly passed S.B. 202. S.B. 202, among other provisions, requires voters seeking absentee ballots to provide personal identifying information, shortens the duration for applying for ballots, and shortens the period in which to return applications. Alpha Ex. 2, at 36.

618. These restrictive requirements on absentee voting will disproportionately impact Black voters, who used absentee voting more than White voters in Georgia during the last election. Alpha Ex. 2, at 36.

619. In November 2020, 29.27% of Black voters cast an absentee ballot, compared to 23.88% of White voters, and in the January 2021 general election runoff, 27.65% of Black voters cast an absentee ballot, compared to 21.72% of White voters. Alpha Ex. 2, at 36.

620. S.B. 202 also caps the number of ballot drop boxes and requires precincts to maintain drop boxes indoors. Alpha Ex. 2, at 36; Sept. 11 PM Tr. 1503:21 (Dr. Burton: "Since SB 202, you have reduced – not just reduced, significantly reduced the number of polling . . . I think that the buses for the mobile units are no longer available at all." Q: "Are you referring to ballot drop boxes?" Dr. Burton: "Ballot drop boxes, yes. Sorry. Thank you.").

621. In the 2020 election, in the four core Atlanta Metro counties, DeKalb, Fulton, and Gwinnett, 56% of absentee ballot voters, or 305,000 of 547,000, used drop boxes. Sept 11 PM Tr. 1443:17-20 (Burton); Grant Ex. 4 at 53.

622. After SB 202, the number of drop boxes in those four counties was estimated to drop from the 111 available in the 2020 election to 23,

with the estimated number of drop boxes in Fulton County going from 38 to 8. Sept 11 PM Tr. 1443:17-20 (Burton); Grant Ex. 4 at 54.

E. Senate Factor Four: Georgia Does Not Use Slating Processes For General Assembly Elections

623. The fourth Senate Factor is whether "there is a candidate slating process, whether the members of the minority group have been denied access to that process." Gingles, 478 U.S. at 37.

624. There is no slating process involved in Georgia's state legislative elections, so this factor is not relevant to this case.

F. Senate Factor Five: Black Voters Today Suffer From the Vestiges of Georgia's Centuries of Discrimination Which Hinder Political Participation

625. The fifth Senate Factor is "the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process." Gingles, 478 U.S. at 37.

626. The Alpha Plaintiffs presented an expert report and testimony on Senate Factor Five from Dr. Burch. To reach a conclusion with respect to Senate Factor Five, Dr. Burch conducted a literature review of "whether and which factors affect voter turnout," then "analyzed data and also looked at reports and other scholarly literature to talk about whether there were racial disparities along those dimensions," and finally "did research on both historical as well as contemporary data and reports and literature to discuss some of the differences in treatment, both by the State and markets and other kinds of factors that would lead to those kinds of disparities." Sept. 8 AM Tr. 1053:19-1054:8.

627. In preparing her report, Dr. Burch relied on sources and methodologies that are consistent with her work as a political scientist. Sept. 8 AM Tr. 1047:23-1048:9; Alpha Ex. 6, at 4.

628. Dr. Burch concluded, "there are sizable racial disparities in each of the areas of life that I studied between Black and white Georgians and that those racial disparities occur in areas of life that have been shown in the political science literature to affect voting and voter turnout." Dr. Burch also found that "those gaps are partly the result of historical and contemporary discrimination." Sept. 8 AM Tr. 1053:10-16. The areas of life that Dr. Burch analyzed are interrelated "and can combine in ways that exacerbate … the whole can be more than the sum of its parts." Id. at 1055:21-1056:15.

629. As a result of Georgia's long history of discriminating against Black residents in nearly every aspect of daily life, the Black community in Georgia suffers socioeconomic disparities that impairs their ability to participate in the political process. Alpha Ex. 6, at 13-16.

630. Black Georgians suffer disparities in socioeconomic status, including in the areas of education, employment, and income. Alpha Ex. 6, at 13-21.

631. As Defendant acknowledged, with respect to "[s]ocioeconomic disparities[,] I don't think you'll find a lot of disagreement from the parties here. The census numbers are what they are." Sept. 5 AM Tr. 49:4-6. According to Census estimates, the unemployment rate among Black Georgians is 8.7% and the unemployment rate among white Georgians is 4.4%. Doc. No. [280], at 85, ¶ 342.

632. According to Census estimates, the rate of Black Georgians living below the poverty line is 21.5% and the rate of White Georgians living below the poverty line is 10.1%. Doc. No. [280], at 86, ¶ 344. Black Georgians also receive SNAP benefits at a higher rate than White Georgians, with 22.7% of Black Georgians receiving SNAP benefits compared to 7.7% of white Georgians. Id. at 86, ¶ 345.

633. According to Census estimates, 13.3% of Black adults in Georgia lack a high school diploma, compared to 9.4% of White adults in Georgia. Doc. No. [280], at 86, ¶ 346. 35% of White Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24% of Black Georgians over the age of 25. Id. at 86, ¶ 347.

634. Georgia operated a system of separate and unequal public education for White and Black students until well into the 1970s, long after the Supreme Court's decision in Brown v. Board of Ed. of Topeka, 347 U.S. 483 (1954). Alpha Ex. 6, at 17. As of 2007, 109 of 180 school districts in Georgia had been involved in litigation involving school desegregation. Alpha Ex. 6, at 17.

635. Georgia's history of *de jure* segregation in education affects socioeconomic and political equality today. Educational segregation continues to affect the lives of Black Georgians. There are still members of the current electorate in Georgia who were educated in segregated schools. Sept. 8 AM Tr. 1059: 20-24 (Burch) ("My parents graduated from a segregated high school in the 1970s. So I think that that definitely has an effect on even the current electorate to the extent that there are still people in the electorate who were educated under that segregated, separate and not equal system."); Alpha Ex. 6, at 18 (more than one-third of Georgia's current electorate was of school age when Georgia still enforced segregation in public schools).

636. Black students continue to grow up under conditions of educational segregation, and racial gaps persist along various metrics, including reading proficiency, math proficiency, and attainment of bachelor's degrees and postgraduate degrees. Alpha Ex. 6, at 19; Sept. 8 AM Tr. 1058:14-25 (Burch) ("So with respect to education, I show in my report that educational attainment is much higher for white Georgians than Black Georgians. So I have—in Figure 8 I show that white Georgians—a higher percentage of white Georgians have a bachelor's degree than Black Georgians. And it's also the issue that a higher percentage of Black Georgians have not graduated from high school. So educational attainment for white Georgians is much higher. There are also disparities among current students. For instance, there's a test score gap in reading and math between Black and white students in Georgia.").

637. These educational disparities affect political participation, with the highest turnout occurring among people with the most education. Alpha Ex. 6, at 16.

638. In addition to educational disparities, Black Georgians face racial discrimination in employment even in the absence of a criminal background, and are nearly twice as likely to be unemployed compared to White Georgians. Alpha Ex. 6, at 19-21; Sept. 8 AM Tr. 1060:9-15 (Burch) ("So I analyzed data from the CDC that looks at perceptions of discrimination. And Black Georgians are much more likely to report that they experienced employment discrimination because of their race at work than white Georgians. And there are also – I also discuss that there are thousands of filings for racial employment discrimination with the EEOC.").

639. Black Georgians also tend to fare worse in terms of financial resources compared to white Georgians. The median income for Black Georgian households is about $25,000 less than that of White Georgian households, and Black Georgians experience poverty rates more than double those of White Georgians. Alpha Ex. 6, at 19; Sept. 8 AM Tr. 1059:2-6 (Burch) ("So Black poverty is more than twice that of white poverty rate – the white poverty rate in Georgia. And the median household income for Black Georgia households is about $25,000 less than the median household income for white Georgians.").

640. Voters with greater resources, including financial resources, are more likely to vote. Sept. 8 AM Tr. 1054:22-1055:20 (Burch); Alpha Ex. 6, at 13-15.

641. There are racial gaps in involuntary residential mobility for Georgians, with Black Georgians more vulnerable to evictions and foreclosures due to racial discrimination. Alpha Ex. 6, at 21-22.

642. Such residential mobility increases the administrative burdens faced by Black Georgians in maintaining voter registration by meeting residency requirements. Alpha Ex. 6, at 21.

643. Racial residential segregation is a persistent feature of several cities and metropolitan areas in Georgia, including Atlanta, Augusta, and Albany, and reflects Georgia's long history of racial discrimination in housing and lending. Alpha Ex. 6, at 23; Sept. 8 AM Tr. 1066:8-11 (Burch) ("When you look at these 1934 maps that I've included of

Augusta, the same neighborhoods that are marked as hazardous because of race in the 1930s … still have high social vulnerability today.").

644. Racial residential segregation matters in the context of voting because segregated Black areas have less access to public goods such as polling places or transportation that might matter for voting. Alpha Ex. 6, at 21.

645. Racial residential segregation also affects health outcomes. Alpha Ex. 6, at 31; Sept. 8 AM Tr. 1056:8-10 (Burch).

646. Black Georgians fare worse than White Georgians in terms of various health outcomes, such as infant mortality, hypertension, diabetes, obesity, overall mortality rates, and cancer. Alpha Ex. 6, at 31; Sept. 8 AM Tr. 1063:22-1064:7 (Burch).

647. Black Georgians between the age of 19-64 years old are more likely to lack health insurance than White Georgians in the same age demographic, which affects access to health care and health outcomes. Alpha Ex. 6, at 32; Sept. 8 AM Tr. 1064:11-16 (Burch) ("So there are several factors that are operating today that lead to those disparities. And one is lack of access to healthcare. And so more Black Georgians say that they don't see a doctor when they need to because of cost than White Georgians. Also Black Georgians have higher rates of lacking health insurance than White Georgians.").

648. Other studies show that discrimination is itself associated with poor health. Sept. 8 AM Tr. 1064:17-24 (Burch) ("There have been several long-term research studies that show that the experience of discrimination itself is associated with poor health in rural counties in Georgia. And there's also been issues with respect – that research has shown related to access to primary care and other physicians and lack of access to those doctors in certain communities of Black – in certain Black communities.").

649. These health conditions affect the ability of Black Georgians to overcome the costs or physical obstacles of voting. Alpha Ex. 6, at 31;

Sept. 8 AM Tr. 1056:20-1057:4 (Burch) ("So there have been quite a few studies that show both general health and also disability status. Those can make it difficult for people to vote for a number of reasons. And depending on what kind of illness it is, people may have mobility issues, they may have difficulty with cognitive functioning. They may also have issues, for instance, if they're. . . paying for a lot of medication or unable to work, again, that pathway could be operating through making their income less, so they have less money to spend on defraying the costs of voting.").

650. Black Georgians also disproportionately bear the brunt of the consequences of the state's criminal justice system. Sept. 8 AM Tr. 1064:25-1065:9 (Burch) ("Black Georgians are [] disproportionately more likely to be arrested than White Georgians and also make up a disproportionate share of people being supervised by the Georgia Department of Corrections, either in prison or on probation or parole in the community."); Alpha Ex. 6, at 33-35.

651. This disparity is a result of discrimination in policing, sentencing, and other stages of the justice system. Sept. 8 AM Tr. 1065:10-23 (Burch) ("[T]here's definitely research that shows the impact of racial and ethnic discrimination on outcomes in the criminal justice system.... And in my own work, where I looked at sentencing practices in Georgia, I found that I was unable to explain . . . fully the gap between Black and White Georgians using legally relevant factors …."); Alpha Ex. 6, at 35.

652. Increased contact with the criminal justice system decreases voter turnout through demoralizing effects on the Black community and voter mobilization efforts. Alpha Ex. 6, at 33, 35; Sept. 8 AM Tr. 1057:18-21 (Burch) ("So traffic stops or arrests or your experience in court can also lead to stigma or financial burdens and considerations that make it more difficult for people to participate in politics.").

653. The disproportionate impact of Georgia's criminal justice system on Black Georgians has roots in the Reconstruction era, when the Georgia General Assembly passed "Black Codes" to control and target newly freed slaves. Alpha Ex. 6, at 34.

654. Contact with the criminal justice system in Georgia can also directly result in disenfranchisement, as "Georgia has a felony disenfranchisement law which prevents people from voting while they're serving a felony conviction." Sept. 8 AM Tr. 1057:13-16 (Burch); Alpha Ex. 6, at 33.

655. All of these disparities between Black and White Georgians—with respect to income, employment, education, health, housing, and interactions with the criminal justice system—lead to differences in voter turnout between Black and White Georgians because they affect people's ability to bear the costs of voting. Sept. 8 AM Tr. 1055:4-10 (Burch) ("[R]ational choice theory basically argues something pretty simple: That people undertake actions based on whether they think that the benefit of undertaking the action will outweigh its cost. And each of these areas tends to affect voter turnout, mainly to the extent that they affect people's ability to bear the costs of voting."); Sept. 11 PM Tr. 1438:14-18 (Burton) ("I believe I have in my report where the social scientists point out how education, transportation, all of those things, whether you rent or own a home, correlate, in fact, with voting.").

656. All these racial disparities in various areas of life are vestiges of Georgia's long history of discrimination against its Black residents, and these interfere with Black Georgians' ability to effectively participate in the political process today. Alpha Ex. 6, at 4-5; Sept. 8 AM Tr. 1058:6-9 (Burch) ("As I discuss in my report, for each of these dimensions there are aspects of both historical and contemporary discrimination at play that can affect these disparities.").

657. But Georgia's history of discrimination has not just ceased. As Dr. Burch explained, "there are very clear indicators that the past still operates among us." Sept. 8 AM Tr. 1066:4-5. There is also contemporary discrimination that contributes to these racial disparities. Id. at 1065:24-1066:24 ("[B]oth kinds of historical and contemporary factors are at play here").

658. These racial disparities contribute to the turnout gap between Black and White voters in Georgia. Sept. 8 PM Tr. 1140:4-7 (Burch) ("Q:

And, in your opinion, are the racial disparities that you've discussed and observed in Georgia contributing to a turnout gap? A: Yes.").

659. There is a sizable turnout gap in Georgia, with White voters more likely to vote than Black voters. Sept. 8 AM Tr. 1053:3-5 (Burch) ("There is a sizable turnout gap between Black and White voters. And White voters vote more than Black voters in Georgia."); Alpha Ex. 6, at 5 ("There is a large racial gap in turnout, such that White Georgians are more likely to vote than Black Georgians. This gap is consistently large across multiple ways of measuring turnout, and exists also in the particular geographic areas at issue in this litigation.").

660. These turnout gaps are also consistent with gaps discussed in the political science literature from prior elections in Georgia. Sept. 8 PM Tr. 1137:1-3 (Burch) ("The voter turnout that I calculated is consistent with patterns that they show in that article. And I believe they analyzed from 2012 to 2018.").

661. Dr. Burch explained that a gap in voter turnout existed between Black and White Georgians, for both the 2020 and 2022 general elections, no matter whether turnout was calculated as a percentage of registered voters or total voting age population, and whether one looks to non-Hispanic Black Alone voters, or non-Hispanic Black Alone or in Combination voters.

662. For the 2020 general election, Dr. Burch calculated voter turnout gaps in which White voter turnout was between 11.6 and 13.7 percentage points higher than Black voter turnout, depending on the precise calculation used. Sept. 8 AM Tr. 1051:7-18 (Burch) ("So if we look at Black alone or in combination as the blue bar in the first leftmost column, you'll see the turnout was 53.7 percent. But looking at White alone, non-Hispanic voting age population, that turnout was 67.4 percentage points. That's a pretty big 13.7 percentage point turnout gap. If you calculate that denominator differently, either 11.6 percent – you see – you still see a sizable gap of 11.6 percentage points if you just use Black alone versus White, non-Hispanic voting age population. And, again, even using just the Secretary of State's data

on registered voters, you see a 12.6 percentage point gap in turnout in 2020."); Alpha Ex. 6, at 6-7.

663. For the 2022 general election, Dr. Burch calculated voter turnout gaps in which White voter turnout was between 11.1 and 13.3 percentage points higher than Black voter turnout, depending on the precise calculation used. Sept. 8 AM Tr. 1052:6-13 ("So 2022, this table replicates that of the table I just showed you and explained for 2020. And in this case, you can still see turnout gaps that are roughly of the – of similar magnitude. There's a 12 – there's a 12 percentage point gap between Black and White voters when Black voters are measured as Black alone or in combination non-Hispanic. If you measure it differently, the gaps either range from 11.1 percent to 13.3 percent – percentage points."); Alpha Ex. 6, at 10.

664. Dr. Burch also calculated the turnout gap between Black and White voters for the seven areas that Dr. Handley evaluated. See Alpha Ex. 6, at 62-68; Alpha Ex. 5, at 8-9. Dr. Burch determined that turnout gaps also persisted across the county clusters at issue in this case for both 2020 and 2022 general election data. Sept. 8 AM Tr. 1051:22-1052:2 (Burch) ("So with respect to the county clusters, I saw a pretty sizable turnout gap in 2020 for almost all of the county clusters that I analyzed no matter how I calculated it. And I think the lowest gap was I think – in 2020 was 8.9 percentage points. So even with those county clusters it was a sizable gap."); id. at 1052: 16-18 ("Again, in 2022, we still see gaps even in all of the turnout clusters – in all of the county clusters, Black voters still vote less than White voters in those clusters."); Alpha Ex. 6, at 7-10 (2020), 11-13 (2022).

665. The turnout gaps persist despite the voting rules that Georgia has implemented. Sept. 8 PM Tr. 1139:24-1140:3 (Burch) (Q: And, again, you discussed a lot of different voting rules with Ms. LaRoss. Are all your conclusions in your report regarding the turnout gap, are all those true, even given that various rules are in effect for White and Black Georgians? A. Yes."); id. at 1115:21-1116:10 (Burch) ("So the things that I calculated are true regardless of the ... voting regime").

666. Dr. Burch's analysis showed that the turnout gaps cannot be explained by voters' choices. Alpha Ex. 6, at 16 (Table 1); Sept. 8 PM Tr. 1126:19-1127:5 (Table 1 "shows you that it's not about the personal choices of voters. Because, again, here you're seeing that Black voters are outvoting White voters at many different levels. But the problem, again, isn't the level at which they're voting at any given educational attainment, it's that more Black people are concentrated in these lower turnout educational attainment levels … which is really what's accounting for that turnout gap."), id. at 1127:6-14; Sept. 8 AM Tr. 1061:2-1062:14.

G. Senate Factor Six: Overt and Subtle Racial Appeals Are Common In Georgia Politics

667. The sixth Senate Factor is "whether political campaigns have been characterized by overt or subtle racial appeals." Gingles, 478 U.S. at 37.

668. Historically and in recent years, both overt and subtle racial appeals have been used prevalently in political campaigns in Georgia. Alpha Ex. 2, at 37-44; Alpha Ex. 4, at 9-10, 20-21, 24-26.

669. Prior to 1966, every Georgia governor ran on a platform that included racist, anti-Black appeals. Alpha Ex. 2, at 37.

670. Former governor and first-term U.S. Senator Richard Russell said in 1936 that "it is a disgrace that some should constantly seek to drag the negro issue into our primaries, where as a matter of fact they do not in any way participate and cannot." Alpha Ex. 4, at 14.

671. Former Georgia House Speaker Fred Hand spoke of targeting the "ignorant bloc vote" in reference to Black voters. Alpha Ex. 4, at 18.

672. Over time, candidates shifted from overt to more subtle racial appeals. As Dr. Burton explained, political campaigns in the 1980s and 1990s frequently used racially coded terms – including "welfare queen," "strapping young buck," "busing," and "law and order," -- as part of the Southern Strategy to realign the parties after passage of

the Voting Rights Act. Sept. 11 PM Tr. 1447:24-1148:16. The adoption of coded language was a deliberate strategy to invoke and reinforce racial tropes while creating a defense against accusations of racism. Alpha Ex. 2, at 37; Sept. 11 PM Tr. 1455:18-1457:6 (Burton).

673. Richmond County legislator Sue Burmeister claimed in 2005 that Black voters in her district's Black-majority precincts only showed up when they were "paid to vote." Alpha Ex. 4, at 24.

674. Dr. Ward explained that such "explicit references to Black politics being corrupt, being volatile, being venal, those types of appeals have been made since before African Americans were enfranchised." Sept. 11 AM Tr. 1349:24-1350:11.

675. During the 2009 gubernatorial campaign, former congressman Nathan Deal ridiculed criticism of voter ID measures as "the complaints of ghetto grandmothers who didn't have birth certificates." Alpha Ex. 4, at 24-25.

676. In 2014, DeKalb County representative Fran Millar criticized Sunday voting near "several large African American mega churches," stating that he "would prefer more educated voters than a greater increase in the number of voters." Alpha Ex. 4, at 25.

677. In 2016, Douglas County Commissioner Tom Worthan, facing a Black female opponent, said that governments run by Black officials "bankrupt you," and that if a Black candidate were elected, he was "afraid he'd put a bunch of black[s] in leadership positions" that "they're not qualified to be in." Alpha Ex. 2, at 43.

678. State Senator Michael Williams, a former Forsyth County legislator who ran for Governor in 2018, toured the state in a "deportation bus" and pledged to "put [illegal immigrants] on this bus and send them home." Alpha Ex. 4, at 25 & n.70.

679. Williams also campaigned on protecting sculptures of Confederate soldiers at Stone Mountain. Alpha Ex. 4, at 25.

680. In 2018, a robo-call labelled Governor candidate Stacey Abrams as the "Negress Stacey Abrams" and "a poor man's Aunt Jemima." Alpha Ex. 2, at 38.

681. As Dr. Jones explained, this language invokes images of slavery and is an attack on Abrams's qualifications and electability. Sept. 8 PM Tr. 1195:9-1196:1 ("[T]his slide represents a robocall where Stacey Abrams was associated with slavery ideas. And Oprah, they're calling her a Negress, using sort of antiquated slave-associated language. . . . It's also very belittling. It's also associating Oprah as being problematic. Again, with these references to a poor man's Aunt Jemima. I mean, it's a little bit disconcerting to me that slavery or Aunt Jemima images are considered negative when it's - you know, there's been an entire group of people who have been degraded in the United States. But it is the case that to associate someone with being a part of that type of underclass is a subtle racial appeal to associate Stacey Abrams in this case with someone who is not qualified to run for office and Georgians should not trust to be the governor of the state of Georgia.").

682. In 2018, after photos surfaced of members of the New Black Panther Party marching in support of Abrams, Brian Kemp posted the photos on social media channels with the caption "How radical is my opponent? Just look at who is backing her campaign for governor," and urging followers to "RT [re-tweet] if you think Abrams is TOO EXTREME for Georgia!" Alpha Ex. 2, at 38.

683. As Dr. Jones explained in detailed testimony, this was an attempt to cast Abrams as violent and dangerous. Sept. 8 PM Tr. 1196:10-19 ("[H]istorically the Black Panthers have been considered problematic, revolutionary, perhaps communist or socialist, non-American, and so – and violent too. . . . And so here you see Brian Kemp attempting to associate Stacey Abrams, again, to undermine her, to raise racial ideas to make her campaign more problematic and to encourage people to not want to vote for Stacey Abrams because she's a Black woman.").

684. In a Facebook advertisement sponsored by then-Senator Kelly Loeffler's campaign, Rev. Raphael Warnock's skin color was artificially darkened. Alpha Ex. 2, at 39-40.

685. As Dr. Jones explained, the darkening of Warnock's skin color made him look more menacing and less electable. Sept. 8 PM Tr. 1188:11-18 ("[T]here is this idea that darker-skinned Blacks are more dangerous. Depicting Black people as darker evokes – or suddenly evokes this idea that Black people are more dangerous. And so we see, with this ad and others, the continued use of – sort of subtly bringing race into the equation so that voters are less trusting and a little bit wary about electing Black elected officials as opposed to their White opponents.").

686. The Loeffler campaign spent ten times as much money on the ads in which Warnock appeared darker than on the ads with Warnock's actual complexion. Alpha Ex. 2, at 39.

687. Another racially charged advertisement sponsored by the Loeffler campaign featured White children in school—stating Save the Senate Save America on top—juxtaposed with Warnock's image on top of footage of protests against police violence. Alpha Ex. 2, at 41; Alpha Ex. 31.

688. Dr. Jones explained in detail how this advertisement cast Warnock as dangerous and problematic. Sept. 8 PM Tr. 1193:20-1194:8. ("[T]his ad is juxtaposing a safe America against a dangerous Raphael Warnock . . . . [t]he idea here is to make voters less comfortable . . . and the ad goes on to darken the image [of], [and] associate Reverend Warnock with communism and protesting, [and] unrest.").

689. Dr. Jones further explained that even racial appeals from unsuccessful campaigns such as Senator Loeffler's 2020 campaign are relevant to her analysis because racial appeals motivate voters, cause them to "self-sort" along racial lines, and influence how voters think about candidates, regardless of the ultimate electoral outcome. Sept. 11 AM Tr. 1288:21-1289:4. They also suggest that political campaigns believe

that racial appeals continue to be effective in Georgia. Sept. 11 AM Tr. 1288:21-1289:4.

690. These are just a few examples of many political campaign ads that use racial appeals and represent a political environment in which racial appeals are pervasive. Alpha Ex. 2, at 41-44 (describing additional examples).

691. As these examples illustrate, racial appeals are far from a relic of the past. In fact, in recent years, racial appeals have become more overt, as Dr. Burton explained at trial. Sept. 11 PM Tr. 1430:4-16.

692. The Court has previously found "that Plaintiffs have presented sufficient evidence for this factor to weight in their favor." Doc. No. [134], at 217.

H. Senate Factor Seven: Black Georgians Are Significantly Underrepresented in Elected Office

693. The seventh Senate Factor is "the extent to which members of the minority group have been elected to public office in the jurisdiction." Gingles, 478 U.S. at 37.

694. Black people in Georgia remain underrepresented in public office, particularly in the elected offices and areas at issue in this litigation. Alpha Ex. 2, at 44-51.

695. In its entire history as a state, Georgia has sent only twelve Black members to Congress—eleven to the House of Representatives, and one, current Senator Raphael Warnock, to the Senate. Alpha Ex. 2, at 44; Doc. No. [280], at 86, ¶ 350.

696. From 1965 to the present, less than 20% of Georgia's total seats in Congress have been occupied by Black officials. Sept. 8 PM Tr. 1201:11-16 (Jones).

697. At the state level, only three Black people have been elected to non-judicial statewide office in Georgia, and Georgia has never had a

Black governor or lieutenant governor. Sept. 8 PM Tr. 1202:4-8 (Jones); Doc. No. [280], at 86, ¶ 349.

698. Black citizens are also underrepresented in Georgia's General Assembly. As of 2022, Black Senators make up 28.57% of the State Senate, and 30% of the State House. Alpha Ex. 2, at 45-46.

699. With Georgia now 33% Black, this means that Black Georgians are underrepresented in the State House by the equivalent of more than five State House seats, and several State Senate seats. Alpha Ex. 2, at 46.

700. Among Black candidates who were elected to the General Assembly in 2020, all were elected in districts where the percentage of registered voters who are White is under 54.9%, with the vast majority elected from districts where the percentage of registered voters who are White is under 40%. Alpha Ex. 2, at 46.

701. The lack of Black representation in the Georgia General Assembly is starkly evident in the districts at issue in this case. Enacted districts in the areas at issue in this case are made up of primarily geographical areas that have not elected a Black candidate to the General Assembly over the last two decades. Alpha Ex. 2, at 44; Sept. 8 PM Tr. 1209:22-1210:1 (Jones).

702. This includes House Districts 133, 134, 144, 145, 149, 171, 173, 74, 117, and 124, and Senate Districts 16, 17, and 23. Alpha Ex. 2, at 47-51.

703. The Court has previously found that based on the evidence presented, "this factor . . . weighs in Plaintiffs' favor." Doc. No. [134], at 218.

I. Senate Factor Eight: Georgia is Unresponsive to the Needs of Black Georgians

704. The eighth Senate Factor is "whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group." Gingles, 478 U.S. at 37.

705. Elected officials in Georgia have routinely ignored or failed to respond to the particularized needs of the Black community. Alpha Ex. 6, at 36.

706. As borne out by individual plaintiffs' own experiences, the Black community in Georgia has specific needs that differ from those of White Georgians. Doc. No. [275-4], at 4-6, Ex. D; Doc. No. [292], at 23-25 (Eric Woods Dep. Tr. 53:8-54:1) (identifying health care, education, and access to food); Doc. No. [275-4], at 2-3, Ex. D; Doc. No. [292], at 25 (Phil Brown Dep. Tr. 67:12-68:1) ("the black community has been overlooked when it comes to city, state, and county money. So there's a lot of needs in the black community.").

707. The longstanding and persistent gaps in socioeconomic status, education, residential conditions, involvement with the criminal justice system, and health outcomes between White and Black Georgians, see supra Part V(E), further demonstrate the lack of responsiveness of Georgia's public officials to the particularized needs of the Black community. Alpha Ex. 6, at 36; Sept. 8 PM Tr. 1097:21-1098:18 (Burch).

708. While persistent test score gaps and educational segregation continue to pose problems for Georgia's Black students, the State ranks 43rd in per pupil expenditures for public and elementary schools. Alpha Ex. 6, at 36.

709. Black Georgians have worse health outcomes and are less likely to have health insurance, yet the State has not accepted the federal Medicaid expansion. Alpha Ex. 6, at 36.

710. Felony disenfranchisement disproportionately prevents voting among Black Georgians, yet there has been no change to the law even after a bipartisan Georgia Senate panel studied the possibility of reinstating some voting rights. Alpha Ex. 6, at 36.

711. In yet another example of elected officials' failure to consider Black Georgians' particularized needs, the Georgia General Assembly passed S.B. 202 in March 2021. S.B. 202 instituted, among other things,

changes to election administration in counties with large Black communities. Alpha Ex. 2, at 35-37. It was unanimously decried by civil rights groups, civic institutions serving the Black community, and political leaders of the Black community as an unwarranted burden on the right to vote that will disproportionately fall upon Black voters. Id. at 36.

712. Sixty-five percent of Black Georgians disapproved of the passage of S.B. 202, with two-thirds of Black Georgia voters saying that the law would somewhat (20%) or greatly (47%) decrease their confidence in Georgia's election system. Alpha Ex. 6, at 36. Seventy percent of Black Georgians believed that the law was passed to make it more difficult for certain groups to vote, rather than to increase voter confidence. Id. at 36-37.

713. Black Georgians are also on average less satisfied with their public officials, policy outcomes, the direction of the State, and the public services they receive than are White Georgians. Alpha Ex. 6, at 36; Sept. 8 PM Tr. 1098:19-25 (Burch) ("I also looked at public opinion of Black Georgians, as well, and analyzed the ways that Black Georgians think about their elected officials. And it turns out that Black Georgians – I found that Black Georgians were less satisfied with their public officials, the direction of the State, and the quality of services that they received than White Georgians.").

714. The Court has previously found that based on the evidence presented, this factor "weighs in [Plaintiffs'] favor." Doc. No. [134], at 219.

J. Senate Factor Nine: Defendant's Justifications are Tenuous

715. The ninth Senate Factor is "whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous." Gingles, 478 U.S. at 37.

716. There is no substantial justification for Georgia's failure to draw additional majority-minority districts that could have been drawn using the 2020 Census data. Doc. No. [134], at 219 ("Defendants have

offered no justification for the General Assembly's failure to draw additional majority-Black legislative districts in the areas at issue in the pending cases").

717. The General Assembly instead drew new maps intending only to maintain existing majority-minority districts. The State admitted that "ultimately we have maps that are . . . similar to the plans that existed previously." Feb. 14 PM Tr. 153:14-16. When discussing the justification for the makeup of the proposed districts, the chair of the Senate committee who drew the Enacted Senate Plan described several Black-majority districts as "Voting Rights Act district[s]" and stated that if a district was previously a "Voting Rights Act district," then they "maintained it" as a Voting Rights Act district. November 4, 2021 Meeting of Senate Committee on Reapportionment & Redistricting, Hearing on S.B. 1EX, 2021 Leg., 1st Special Sess. (2021) (statement of Senator John F. Kennedy, Chairman, S. Comm. Reapp. & Redis. at 30:17–30:28; 31:57–32:12; 35:42–36:31; 36:59–37:09; 37:45–37:59; 38:10–38:40; 42:06–42:18), https://www.youtube.com/watch?v=RhQ7ua0db9U.

718. Ms. Wright's testimony confirms this point. Ms. Wright, who drew the Enacted Plans, testified for nearly two hours about the decisions she and the Georgia General Assembly made when configuring the 2021 Senate and House legislative districts. She never once mentioned complying with the Voting Rights Act as a factor. Ms. Wright also never mentioned any effort by the State to account for the tremendous growth in the Black population in Metro Atlanta or the increased concentration of Black voters in the Black Belt by drawing additional majority-Black districts. See Sept. 12 AM Tr. 1598:7-1692:25, 1708:1-1709:3 (Wright).

719. Georgia provided no real opportunity for Georgia's Black voters to meaningfully raise concerns with the new maps. Every town hall meeting convened by the State was held before the August 2021 release of the key Census data that Georgia used to draw the new maps, and several months before the maps were released to the public. Doc. No. [280], at 52, ¶¶ 139-40. Then, the State rushed

through the legislative process and passed the new Senate and House maps less than two weeks after they were first released to the public. Id. at 53, ¶¶ 143, 147. Not a single Black legislator voted in favor of the new maps. Id. at 54, ¶ 151.

720. The Court has previously found that "[t]his factor . . . weighs in Plaintiffs' favor." Doc. No. [134], at 219.

VI. Balance of Equities

721. Many witnesses at trial testified about the importance of voting in our democracy.

722. Reginald T. Jackson, bishop of the Sixth District, testified that the AME Church believes that "voting is the greatest right we have in this democracy." Sept. 6 AM Tr. 378:7-16.

723. Bishop Jackson testified that redistricting is important because the AME Church "believed, and still believe today, that the impact, the influence of Black voters in this state, through this redistricting, had been diminished." Sept. 6 AM Tr. 379:13-15.

724. Sherman Lofton, Jr., former State Director of Plaintiff Alpha Phi Alpha Fraternity Inc. testified that voting is "something that's central to our [Alpha Phi Alpha's] DNA." Sept. 11 AM Tr. 1317:5-6.

725. Mr. Lofton also testified that Plaintiff Alpha Phi Alpha "would like to see lines drawn in a way that, again, represent[s] what came out of the U.S. census data." Sept. 11 AM Tr. 1324:16-18.

726. Counsel for Defendant represented to the Court that a remedial plan could be implemented by election administrators if it was ordered into place by "late January, early February." Aug. 22 Telephone Conference Tr. 16:20.

PROPOSED CONCLUSIONS OF LAW

VII. Jurisdiction Is Proper

727. Jurisdiction in this court is proper. The Court previously determined that the text, legislative history, and cases interpreting § 2284(a) confirmed that a three-judge panel was not required in this case. Doc. No. [65].

728. Jurisdiction in this court is proper because Plaintiffs have standing. Each of the individual Plaintiffs is a resident in an underrepresented district. As such, each plaintiff has "suffered the personal harm of having their voting strength diluted on account of their race." Rose v. Raffensperger, 511 F. Supp. 3d 1340, 1351–52 (N.D. Ga. 2021).

729. The organizational plaintiffs have standing because each has individual members who would otherwise have standing to sue in their own right; they seek to protect interests are germane to the organization's purpose; and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. Hunt v. Washington State Apple Advert. Comm'n, 432 U.S. 333, 343 (1977).

VIII. Plaintiffs Have a Private Right of Action

730. Section 2 affords a private right of action to plaintiffs.

731. This Court previously concluded that lower courts have treated the question of whether the VRA furnishes an implied right of action under Section 2 as an open question. However, it acknowledged the recent trend of lower courts answering the open question in the affirmative. Doc. No. [65], at 33.

732. This Court found these decisions to be persuasive. Doc. No. [65], at 33.

733. This Court also drew guidance from the Supreme Court's opinion in Morse v. Republican Party of Virginia, 517 U.S. 186, 232 (1996), in which the Supreme Court stated: "Although § 2, like § 5, provides no

right to sue on its face, 'the existence of the private right of action under Section 2 . . . has been clearly intended by Congress since 1965.'" Id. (citing S. Rep. No. 97-417, at 30); Doc. No. [65], at 33.

734. This Court reasoned that the Supreme Court's precedent permits no other holding than one finding that Section 2 provides a private right of action. Doc. No. [65], at 34.

735. Recent decisions to the contrary do not call this ruling into question.

736. In particular, a district court in Arkansas State Conf. NAACP v. Arkansas Board of Apportionment, No. 4:21-cv-01239 (E. D. Ark. Feb. 17, 2022), ruled that cases under Section 2 may only be brought by the Attorney General of the United States. Arkansas State Conf. of NAACP, Doc. No. [100], at 41.

737. The court based its conclusion on reasoning that there is no express private right of action and judicially-inferred private rights of action are disfavored per Alexander v. Sandoval, 532 U.S. 275 (2001). Arkansas State Conf. NAACP, Doc. No. [100], at 17.

738. The court in Arkansas State Conf. NAACP disregarded Morse, concluding that its "approach to the private-right-of-action analysis does not survive Sandoval and its progeny." Arkansas State Conf. NAACP, Doc. No. [100], at 27.

739. However, the decision in Arkansas State Conf. NAACP is contrary to the weight of authority finding that Section 2 does afford plaintiffs a private right of action under Section 2 of the Voting Rights Act. See e.g., Ford v. Strange, 580 F. App'x 701, 705 n.6 (11th Cir. 2014) (unreported) (per curiam) (noting that "[a] majority of the Supreme Court" in Morse agreed that "section 2 . . . contains an implied private right of action"; OCA-Greater Houston v. Texas, 867 F.3d 604, 614 (5th Cir. 2017) (affirming that Section 2 contains a private right of action); Mixon v. Ohio, 193 F.3d 389, 398–99 (6th Cir. 1999) (same); Ala. State Conf. of NAACP, 949 F.3d 647, 652 (11th Cir. 2020) ("The VRA, as amended, clearly expresses an intent to allow private parties to sue the States.") cert. granted, judgment vacated sub nom. as moot

Alabama v. Alabama State Conf. of NAACP, 141 S. Ct. 2618 (2021); League of United Latin Am. Citizens v. Abbott, No. EP-21-CV-00259-DCG-JES-JVB, 2021 WL 5762035, at *1 (W.D. Tex. Dec. 3, 2021) (three-judge court) ("LULAC II") (denying motion to dismiss and holding that there is a private cause of action to enforce Section 2); Ga. State Conf. of the NAACP v. Georgia, 269 F. Supp. 3d 1266, 1275 (N.D. Ga. 2017) (three-judge court) (explaining that "Section 2 contains an implied private right of action"); Veasey v. Perry, 29 F. Supp. 3d 896, 905–07 (S.D. Tex. 2014) (detailing long history of "[o]rganizations and private parties" enforcing Section 2); Perry-Bey v. City of Norfolk, 678 F. Supp. 2d 348, 362 (E.D. Va. 2009) (holding that Section 2 "creates a private cause of action"); Caster v. Merrill, No. 2:21-CV-1536-AMM, 2022 WL 264819, at *81 (N.D. Ala. Jan. 24, 2022) ("Holding that Section Two does not provide a private right of action would work a major upheaval in the law, and we are not prepared to step down that road today."), aff'd sub nom. Allen v. Milligan, 599 U.S. 1, 143 S. Ct. 1487, 216 L. Ed. 2d 60 (2023).

740. Indeed, since the time of the district court's order in Arkansas State Conf. NAACP, courts have rejected its holding, instead following the Supreme Court's guidance and finding that there is a private right of action under Section 2. See, e.g., Coca v. City of Dodge City, No. 22-1274-EFM, 2023 WL 2987708, at *5 (D. Kan. Apr. 18, 2023), motion to certify appeal denied, No. 22-1274-EFM, 2023 WL 3948472 (D. Kan. June 12, 2023) ("In the end, the Court concludes that it has a choice before it.

741. Option one—adhere to the extensive history, binding precedent, and implied Congressional approval of Section 2's private right of action. Option two—conduct a searchingly thorough examination of Section 2's text, legislative history, and the Sandoval analysis in an attempt to predict the Supreme Court's future decisions. The Court chooses the former."); Robinson v. Ardoin, 605 F. Supp. 3d 759, 819 (M.D. La.) ("[I]t is undisputed that the Supreme Court and federal district courts have repeatedly heard cases brought by private plaintiffs under Section 2. Morse has not been overruled, and this Court will apply Supreme Court precedent. Defendants' private right of action

challenge is rejected.") cert. granted before judgment, 142 S. Ct. 2892, 213 L. Ed. 2d 1107 (2022), and cert. dismissed as improvidently granted, 143 S. Ct. 2654 (2023); Georgia State Conf. of NAACP v. Georgia, No. 121CV5338ELBSCJSDG, 2022 WL 18780945, at *7 (N.D. Ga. Sept. 26, 2022) ("For the reasons we have stated, we find sufficient evidence within the text and structure of the VRA to indicate that Congress has provided an implied private cause of action for Section 2 claims.").

742. Alexander v. Sandoval was decided after Morse. It would be strange if the holding in Sandoval, a case that did not involve the VRA, could retroactively override *Congress's* understanding of Section 2 of the VRA at the time it was enacted, as reflected in Morse. Certainly, the Supreme Court has not indicated as much, and that Court has made clear that it "does not normally overturn, or so dramatically limit, earlier authority sub silentio." Shalala v. Illinois Council on Long Term Care, Inc., 529 U.S. 1, 18 (2000). In fact, the Court only recently took up and decided on the merits a Section 2 case brought by private plaintiffs. See Allen, 599 U.S. 1.

743. The trial court decision in Arkansas State Conf. NAACP is not binding authority.

744. The Court will not reconsider its determination that Section 2 may be enforced by private plaintiffs based on an outlier decision from another district court.

IX. Alpha Plaintiffs Have Demonstrated That They Are Entitled to Declaratory and Permanent Injunctive Relief

A. Plaintiffs Have Prevailed on the Merits

745. Section 2 of the VRA renders unlawful any state "standard, practice, or procedure" that "results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color." 52 U.S.C. § 10301(a); see also Thornburg v. Gingles, 478 U.S. 30, 36 (1986).

746. The United States Supreme Court recently affirmed that the Thornburg v. Gingles framework that has governed violations of Section 2 of the VRA for nearly the last 40 years remains unchanged. See Allen, 599 U.S. at 19 ("Gingles has governed our Voting Rights Act jurisprudence since it was decided 37 years ago. Congress has never disturbed our understanding of § 2 as Gingles construed it. And we have applied Gingles in one § 2 case after another, to different kinds of electoral systems and to different jurisdictions in States all over the country.") (collecting cases).

747. Dilution of a minority community's voting strength violates Section 2 if, under the totality of the circumstances, the "political processes leading to nomination or election in the State . . . are not equally open to participation by members of [a racial minority group], . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." 52 U.S.C. § 10301(b); see also Gingles, 478 U.S. at 36.

748. "Dilution of racial minority group voting strength" in violation of Section 2 "may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority." Gingles, 478 U.S. at 46 n.11.

749. A Section 2 claim has two components. First, Plaintiffs must satisfy the three preconditions set forth in Thornburg v. Gingles, 478 U.S. 30, 49-50 (1986), by demonstrating that: (1) the minority group is "sufficiently large and geographically compact to constitute a majority in a single-member district" (Gingles 1); (2) the minority group is "politically cohesive" (Gingles 2); and (3) the majority votes "sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate" (Gingles 3). League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 425 (2006) ("LULAC") (quoting Gingles, 478 U.S. at 50-51); Allen, 599 U.S. at 18. Second, Plaintiffs must, under the totality of circumstances, demonstrate that the challenged districting scheme results in the abridgment of their right

to participate in politics on equal terms. See Georgia State Conf. of NAACP v. Fayette Cty. Bd. of Comm'rs, 775 F.3d 1336, 1342 (11th Cir. 2015) ("Fayette II"); see 52 U.S.C. § 10301(b); Allen, 599 U.S. at 18 (quoting Gingles, 478 U.S. at 45-46).

750. These requirements have been in place and applied by the courts in vote dilution claims, including statewide redistricting claims, for decades. See, e.g., Gingles, 478 U.S. at 48-51; LULAC, 548 U.S. at 425; Rose v. Raffensperger, 511 F. Supp. 3d 1340, 1349 (N.D. Ga. 2021); Allen, 599 U.S. at 17-23.

751. The Supreme Court has recently reaffirmed "the law as it exists" with respect to the well-worn Gingles results test, and confirmed again the applicability of these requirements to single-member districts like the ones at issue here. Allen, 599 U.S. at 23, 38.

752. Plaintiffs have demonstrated that each requirement of the Gingles results test is satisfied.

a. Gingles 1: Plaintiffs have satisfied the first Gingles precondition

i. General Legal Standard

753. To meet the first Gingles precondition, Plaintiffs must show that the Black population in a given area is "sufficiently large and geographically compact" to comprise a majority of the voting-age population in one more additional Senate or House districts. Allen, 599 U.S. at 18; see also LULAC, 548 U.S. at 402 ("In a district line-drawing challenge, 'the first Gingles condition requires the possibility of creating more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice.'") (citation omitted).

754. The Gingles 1 showing is typically accomplished through an illustrative map demonstrating that one or more additional Black-majority districts can be drawn in the area or areas of focus. See Wright II, 979 F.3d at 1304 (challenged map had two Black-majority

districts, while plaintiff's illustrative map featured three); see also, e.g., Fairley v. Hattiesburg, 584 F.3d 660, 669 (5th Cir. 2009).

755. However, such maps are only illustrative. In the event that a challenged map is determined to be unlawful, the legislature (here, the Georgia General Assembly) "will be given the first opportunity to develop a remedial plan." Clark v. Calhoun Cty., 21 F.3d 92, 95 (5th Cir. 1994) ("[P]laintiffs' proposed district is not cast in stone. It was simply presented to demonstrate that a majority-black district is feasible in [the] county."). After all, "it is a fundamental tenet of voting rights law that, time permitting, a federal court should defer in the first instance to an affected state's or city's choice among legally permissible remedies." Uno v. City of Holyoke, 72 F.3d 973, 992 (1st Cir. 1995); see also McDaniel v. Sanchez, 452 U.S. 130, 150 n.30 (1981). Accordingly, "neither the plaintiff nor the court is bound by the precise lines drawn in these illustrative redistricting maps." Luna v. Cty. of Kern, 291 F. Supp. 3d 1088, 1106 (E.D. Cal. 2018); see also Chen v. City of Houston, 206 F.3d 502, 519 (5th Cir. 2000) ("[T]here is more than one way to draw a district so that it can reasonably be described as meaningfully adhering to traditional principles."); see also Singleton v. Merrill, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022) ("Supreme Court precedent also dictates that the . . . Legislature . . . should have the first opportunity to draw that plan . . . . The Legislature enjoys broad discretion and may consider a wide range of remedial plans."), order clarified, No. 2:21-CV-1291-AMM, 2022 WL 272637 (N.D. Ala. Jan. 26, 2022), and appeal dismissed sub nom. Milligan v. Sec'y of State for Alabama, No. 22-10278-BB, 2022 WL 2915522 (11th Cir. Mar. 4, 2022), and aff'd sub nom. Allen v. Milligan, 599 U.S. 1, 143 S. Ct. 1487, 216 L. Ed. 2d 60 (2023).

756. The "ultimate end of the first Gingles precondition is to prove that a solution is possible, and not necessarily to present the final solution to the problem." Bone Shirt v. Hazeltine, 461 F.3d 1011, 1019 (8th Cir. 2006); accord Davis v. Chiles, 139 F.3d 1414, 1425 (11th Cir. 1998) (remedy must be "possible"); see also, e.g., Holloway v. City of Virginia Beach, 531 F. Supp. 3d 1015, 1059 (E.D. Va. 2021). An illustrative map thus need "only show that a remedy may be feasibly

developed." Luna, 291 F. Supp. 3d at 1106; accord Nipper v. Smith, 39 F.3d 1494, 1530–31 (11th Cir. 1994) (en banc) (Tjoflat, C.J., joined by one judge) (plaintiff must show a remedy is "permissible" and "feasible"); S. Christian Leadership Conf. of Ala. v. Sessions ("SCLC"), 56 F.3d 1281, 1289 (11th Cir. 1995) ("[P]laintiffs must show that an appropriate remedy can be fashioned.").

757. Because the ultimate question in the Gingles 1 analysis is whether the minority population in a particular area is sufficiently numerous and geographically compact to form a majority in a single-member district, courts appropriately analyze whether Gingles has been satisfied, and liability established, on a district-by-district basis. See, e.g., Perez v. Abbott, 250 F. Supp. 3d 123, 143 (W.D. Tex. 2017) (conducting district-by-district analysis of Texas state legislative districts and determining that Section 2 liability was established as to some but not others).

758. With respect to numerosity, a bright-line 50% plus one rule applies in assessing whether the minority population is "sufficiently large" for purposes of Gingles 1. Bartlett v. Strickland, 556 U.S. 1, 12 (2009) (plurality opinion) (internal quotations omitted).

759. It is appropriate to use the "any-part Black voting age percentage" or "AP Black" metric in assessing whether such districts can be drawn. See, e.g., Wright II, 979 F.3d at 1291; see also Georgia v. Ashcroft, 539 U.S. 461, 473 n.1 (2003) (approving of the use of AP Black metric). Notably, Defendant has not contested the use of this metric.

760. With respect to the compactness of the minority population, for Gingles 1 purposes, compactness "refers to the compactness of the minority population, not to the compactness of the contested district." LULAC, 548 U.S. at 443. "While no precise rule has emerged governing § 2 compactness, the inquiry should take into account traditional redistricting principles such as maintaining communities of interest and traditional boundaries." Id. (internal quotation marks omitted).

761. Thus, to meet Gingles 1, each illustrative new Black-majority district must be designed "consistent with traditional districting principles." Davis, 139 F.3d at 1425; see also Allen, 599 U.S. at 18 ("A district will be reasonably configured, our cases explain, if it comports with traditional districting criteria, such as being contiguous and reasonably compact."); Wright I, 301 F. Supp. 3d at 1325-26, aff'd, 979 F.3d 1282 (11th Cir. 2020).

762. There is no requirement that illustrative new Black-majority districts comport with traditional redistricting principles better than the districts in the enacted plan. Rather, the evidence must show only that it is "possible" to draw a new Black-majority district or districts, "consistent with" those principles. Davis, 139 F.3d at 1425; accord Allen, 599 U.S. at 18 (districts must "comport[] with traditional districting criteria"); LULAC, 548 U.S. at 433 (Gingles 1 compactness inquiry "should take into account traditional districting principles") (emphasis added). Even an illustrative plan that is "far from perfect" may satisfy Gingles 1 so long as it meets that standard. Wright I, 301 F. Supp. 3d at 1325-26 (brackets and internal quotation marks omitted).

763. In Allen, the Supreme Court confirmed that it is appropriate—indeed, necessary—for race to be a consideration in drawing an illustrative plan for Gingles 1 purposes. Section 2 "demands consideration of race" because "[t]he question whether additional majority-minority districts can be drawn . . . involves a quintessentially race-conscious calculus." Allen, 599 U.S. at 31 (citation and internal quotation marks omitted) (Op. of Roberts, C.J.); id. at 42 (Kavanaugh, J., concurring) ("[T]he effects test, as applied by Gingles to redistricting, requires in certain circumstances that courts account for the race of voters so as to prevent the cracking or packing—whether intentional or not—of large and geographically compact minority populations." (collecting cases)); see also Davis, 138 F. 3d at 1425 (courts "require plaintiffs to show that it would be possible to design an electoral district, consistent with traditional districting principles, in which minority voters could successfully elect a minority candidate" (emphasis in the original)). As the Eleventh Circuit has explained, disallowing

considerations of race in the Gingles 1 context would effectively "penalize" a plaintiff "for attempting to make the very showing that Gingles, Nipper, and SCLC demand," and would "make it impossible, as a matter of law, for any plaintiff to bring a successful Section Two action." Davis, 139 F.3d at 1425.

764. Consideration of race accordingly does not mean that an illustrative plan must be subjected to strict scrutiny or any other heightened bar beyond the question of whether traditional districting principles were employed. To start, the Equal Protection Clause does not apply to a private party's maps at all, but only to the State. Illustrative maps merely show that a remedy is possible, and they lack the force of law. Consistent with this understanding, the Eleventh Circuit, and every other circuit to address this issue, has rejected attempts to graft the constitutional standard that applies to racial gerrymandering by the State onto the Gingles 1 vote dilution analysis. See Davis, 139 F.3d at 1417–18; see also, e.g., Bone Shirt, 461 F.3d at 1019; Clark, 88 F.3d at 1406–07; Sanchez v. State of Colorado, 97 F.3d 1303, 1327 (10th Cir. 1996); Cane v. Worcester Cty., 35 F.3d 921, 926 n.6 (4th Cir. 1994); Bridgeport Coal. for Fair Representation v. City of Bridgeport, 26 F.3d 271, 278 (2d Cir. 1995), vacated on other grounds sub nom. City of Bridgeport v. Bridgeport Coal. for Fair Representation, 512 U.S. 1283 (1994).

765. Moreover, even if it were relevant in the context of an illustrative plan, a more stringent, strict-scrutiny standard would apply only where it is apparent that race was the "'predominant, overriding' consideration" in the drawing of district lines. Fayette I, 118 F. Supp. 3d at 1345 (quoting Miller v. Johnson, 515 U.S. 900, 920 (1995)); accord Clark v. Putnam Cty., 293 F.3d 1261, 1266-67 (11th Cir. 2002); see also Bush v. Vera, 517 U.S. 952, 958 (1996) (plurality opinion) ("Strict scrutiny does not apply merely because redistricting is performed with consciousness of race. Nor does it apply to all cases of intentional creation of majority-minority districts."). Such predominance may be shown by a total "disregard" for ordinary districting principles, for example where a proposed new Black-majority district is bizarrely shaped. Shaw v. Reno, 509 U.S. 630, 647 (1993) (strict scrutiny applied

to 150-mile-long district in North Carolina that included areas with higher Black populations from Durham to Charlotte).

766. Further, even if strict scrutiny did apply in the context of an illustrative plan drawn for Gingles 1 purposes, and even if a court were to determine that race had been the overriding consideration in the drawing of an illustrative district such that other traditional principles were disregarded, that would not necessarily render the illustrative plan an impermissible remedy. That is because the Supreme Court has "long assumed that one compelling interest" sufficient to satisfy strict scrutiny "is complying with operative provisions of the Voting Rights Act of 1965." Cooper v. Harris, 137 S. Ct. 1455, 1464 (2017); accord Askew v. City of Rome, 127 F.3d 1355, 1376 (11th Cir. 1997) ("[E]liminating violations of Section 2 is a compelling state interest."). Georgia's districting guidelines confirm that compliance "with Section 2 of the Voting Rights Act of 1965, as amended" is mandatory and not subject to balancing away with other factors. Joint Ex. 1, at 3; Joint Ex. 2, at 3. A proposed district design that remedies vote dilution will still survive strict scrutiny so long as it is "reasonably compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries," with no requirement that the illustrative district "defeat rival compact districts . . . in endless 'beauty contests.'" Bush, 517 U.S. at 977.

767. This Court has previously held that, with respect to the extent to which a map-drawer can consider race as one factor in constructing an illustrative plan, the illustrative plan may not "subordinate traditional redistricting principles to racial considerations substantially more than is reasonably necessary to avoid liability under Section 2." Alpha Phi Alpha Fraternity Inc. v. Raffensperger, 587 F. Supp. 3d 1222, 1264 (N.D. Ga. 2022). Given that the Supreme Court in Allen upheld "the law as it exists," Allen, 599 U.S. at 23, this Court's prior distillation of the relevant legal principles still applies.

768. Most importantly for present purposes, the Court in Allen actually evaluated an illustrative plan in the Section 2 context to consider

whether it properly balanced traditional districting principles or whether race had outsized or improper influence. Allen thus offers trial courts certain guidepost questions that can be used in conducting the Gingles 1 analysis.

769. First, are the illustrative plans comparable to the enacted plans with respect to objective metrics like population deviation and splits and compactness scores? Allen, 599 U.S. at 18; id. at 44 n.2 (Kavanaugh, J., concurring).

770. Second, did the map drawer credibly testify that s/he balanced the various traditional districting principles, and that race did not predominate among the various considerations? Allen, 599 U.S. at 29-31.

771. Third, did the mapper articulate specific factors and reasons other than race that support the particular mapping decisions taken in constructing the illustrative plans? Allen, 599 U.S. at 31.

772. Fourth, did the plaintiffs put forward additional evidence to show the illustrative plans maintain and respect communities of interest? Allen, 599 U.S. at 19-22, 31 n.5 (discussing with approval evidence that illustrative plans respected Black Belt community of interest).

773. In Allen, each of these questions were answered in the affirmative. As discussed below, the same is true here.

774. One more point from Allen bears mention. As the Supreme Court's decision makes clear, the determination whether an illustrative plan comports with traditional districting principles, or conversely whether those principles were subordinated improperly to considerations of race, rests almost entirely on case-specific fact-finding. Allen, 599 U.S. at 20-21, see also id. at 23 (concluding on review that there was "no reason to disturb the District Court's careful factual findings"). That makes sense given the particular factual complexity of the redistricting enterprise: "[d]istricting involves myriad considerations—compactness, contiguity, political subdivisions, natural geographic boundaries, county lines, pairing of

incumbents, communities of interest, and population equality," and yet "[q]uantifying, measuring, prioritizing, and reconciling these criteria" requires map drawers to "make difficult, contestable choices." Id. at 35.

775. Here, there is no dispute with respect to Mr. Cooper's extensive demographic analysis regarding population change in the State of Georgia, which reveal the existence of specific areas of the State with large and concentrated Black populations that may be capable of supporting reasonably configured majority-Black Senate and House districts. Nor is there any dispute that the additional majority-Black districts in Mr. Cooper's Illustrative Senate or House plans are over 50% AP Black as required by Bartlett. The question for purposes of Gingles 1 is whether Mr. Cooper's Plans are reasonably configured and consistent with traditional redistricting principles.

ii. The Illustrative Plans are Comparable to the Enacted Plans with Respect to Objective Metrics like Population Deviation and Splits and Compactness Scores

776. As in Allen, one way to tell whether the Illustrative Plans comport with traditional redistricting principles is to review the objective metrics that are typically used to assess a plan. Mr. Cooper's Illustrative Senate and House Plans are comparable to or better than the 2021 Enacted Plans based on all the various objective metrics discussed in the trial record.

1. Population Equality

777. Mr. Cooper testified that the 2021 Enacted Senate Plan stays within a population deviation range of plus or minus 1 percent and that the 2021 Enacted House Plan stays within a population deviation range of plus or minus 1.5 percent. Sept. 5 AM Tr. 92:3-5. He drew the Illustrative Plans to stay within those ranges. Id. at 92:5-8; see also Alpha Ex. 1, at 83-84, ¶ 184.

778. It is undisputed that Mr. Cooper stayed within the same tight population deviation limitations as the State's 2021 Plans. Doc. No. [280], at 78, ¶¶ 301-02; see also Sept. 5 AM Tr. 92:5-8; Alpha Ex. 1, at 83-84, ¶ 184. Indeed, Defendant's mapping expert agreed the population deviation ranges of the two sets of plans are similar if not identical. Sept. 13 AM Tr. 1966:20-22.

779. The Court finds that Mr. Cooper's Illustrative Plans have sufficiently low deviation ranges to comport with the principle of population equality.

2. Contiguity and Compactness

780. Mr. Cooper testified that he considered compactness as a traditional districting principle. Sept. 5 AM Tr. 90:20-91:2. He testified that he examined plans using the eyeball test to verify their compactness. See, e.g., Sept. 5 PM Tr. 197:4-8; Sept. 6 AM Tr. 356:14-18. In addition to using the eyeball test to subjectively evaluate his districts' compactness, he also used two quantitative measures: Reock and Polsby-Popper scores. Sept. 5 AM Tr. 90:20-91:2.

781. As reported in Mr. Cooper's report, the average Reock score of the Illustrative House Plan is identical to the average Reock score of the Enacted House Plan (0.39). Alpha Ex. 327, at 2, ¶ 4. The average Polsby-Popper score of the Illustrative House Plan (0.27) is almost identical to the average score for the 2021 Enacted House Plan (0.28). Id. The Illustrative House Plan has a range of Polsby-Popper scores between 0.10 and 0.59 (Alpha Ex. 1, at 681-88, Ex. AG-1)—identical to the range of Polsby-Popper scores of the Enacted House Plan (0.10 to 0.59). Id. at 691-97, Ex. AG-2. The Illustrative House Plan also has a range of Reock scores between 0.12 and 0.66, which is also the same as the range of Reock scores of the Enacted House Plan (0.12 to 0.66). Id. at 682-88 Ex. AG-1, & 690-97, Ex. AG-2. The low compactness of the Illustrative House Plan is higher than that of the 2021 Enacted Plan. The low compactness of the Illustrative House Plan is 0.16 using the Reock test and 0.11 using the Polsby-Popper test. The low compactness of the 2021 Enacted House Plan is 0.12 using the Reock text and 0.10 using the Polsby-Popper test. Alpha Ex. 1, at 84, fig. 36.

782. As reported in Mr. Cooper's report, the average Polsby-Popper score of the Illustrative Senate Plan is 0.28, only slightly lower than the average score obtained by the 2021 Enacted Senate Plan (0.29). Alpha Ex. 1, at 53, fig. 20. And the average Reock score of the Illustrative Senate Plan is 0.43, slightly higher than the average Reock score of the Enacted Senate Plan (0.42). Id. The low compactness of the Illustrative Senate Plan is higher than that of the 2021 Enacted Plan. The low compactness of the Illustrative Senate Plan is 0.22 using the Reock test and 0.14 using the Polsby-Popper test. The low compactness of the 2021 Enacted Senate Plan is 0.17 using the Reock text and 0.13 using the Polsby-Popper test. Id.

783. This Court finds that Mr. Cooper adhered to the redistricting principle of compactness. The Court credits Mr. Cooper's testimony that he reviewed the compactness of the districts in his Plans, that Plaintiffs' Illustrative Plans were comparable to the 2021 Plans on the Reock and Polsby-Popper metrics for compactness, and that they were within the acceptable range on those metrics. Sept. 5 AM Tr. 95:1-3, 109:2-5. Under any test—the eyeball test or the quantitative compactness metrics—the Illustrative Plans, including the specific districts at issue, are compact.

784. All of the districts in Mr. Cooper's Illustrative Plans are also contiguous. Doc. No. [280], at 78, ¶ 300; Sept. 5 AM Tr. 95:17-21. The Court finds that Mr. Cooper's Illustrative Plans comport with the principle of contiguity.

3. County/VTD Splits

785. Mr. Cooper testified that he took county and VTD lines into account in configuring the Illustrative Plans. Sept. 5 AM Tr. 95:25:97:2. He also generated metrics reports quantifying the performance of the Illustrative Plans and the Enacted Plans (and the prior benchmark plans) with respect to county and VTD splits. Id. at 97:3-98:11.

786. Mr. Cooper's Illustrative Senate Plan splits fewer counties and has fewer total county splits than the Enacted Senate Plan (28 versus 29

split counties and 57 versus 60 total county splits). Alpha Ex. 1, at 53, fig. 21; Sept. 5 AM Tr. 97:9-17.

787. Mr. Cooper's Illustrative House Plan splits fewer counties than, and has the same number of total county splits as, the Enacted House Plan (68 versus 69 county splits and 209 versus 209 total county splits). Alpha Ex. 1, at 85, fig. 37; Sept. 5 AM Tr. 97:21-98:1.

788. With respect to voting tabulation districts (or "VTDs"), the Illustrative House Plan splits the same number of VTDs as the Enacted House Plan (179 versus 179 VTD splits). Alpha Ex. 1, at 85, fig. 37. The Illustrative Senate Plan splits 2 fewer VTDs than the Enacted Senate Plan (38 versus 40 VTD splits). Id. at 53, fig. 21. Mr. Cooper measured VTD splits by counting only "populated" splits, which he testified refers to splits where "there are people in the area where the VTD was split. Sometimes VTDs will extend out into swamps or an unpopulated island. In that sense, even though it's a split, it's not really going to affect any voters." Sept. 6 AM Tr. 353:2-5. Consistent with those plan statistics, Mr. Cooper testified that the Illustrative Plans compare "[v]ery favorably" to the Enacted Plans with respect to county and VTD splits. Sept. 5 AM Tr. 97:3-9.

789. The Court finds that Mr. Cooper also adhered to this districting principle. The Court credits Mr. Cooper's testimony that he tried to minimize such splits and that the Illustrative Plans compare "[v]ery favorably" to the Enacted Plans. Sept. 5 AM Tr. 97:3-9. The Court finds that the Illustrative Senate Plan splits fewer counties and has fewer total county splits than the Enacted Senate Plan. Alpha Ex. 1, at 53, fig. 21; Sept. 5 AM Tr. 97:9-17. The Illustrative House Plan splits fewer counties than the Enacted House Plan, and it has the same number of total county splits. Alpha Ex. 1, at 85, fig. 37; Sept. 5 AM Tr. 97:21-98:1. Along similar lines, the Illustrative House Plan splits the same number of VTDs as does the Enacted House Plan, (Alpha Ex. 1, at 85, fig. 37), and the Illustrative Senate Plan splits two fewer VTDs than the Enacted Senate Plan, id. at 53, fig. 21. The Court also notes that Mr. Cooper's testimony is consistent with the split reports in the record, which show very similar numbers of county splits across the

Illustrative Senate and House Plans and the Enacted Senate and House Plans. Again, Mr. Morgan's testimony regarding these metrics was not to the contrary.

790. The Court finds that that the Illustrative Plans are comparable to or better than the 2021 Plans with respect to county and VTD splits. As such, the Court finds that Mr. Cooper's Illustrative Plans sufficiently comport with the principle of respecting political boundaries.

4. Additional Splits Metrics

791. Mr. Cooper also considered municipalities, regional commission areas, and metro areas, and provided splits metrics to assess how the Illustrative Plans compared to the Enacted Plans with respect to those communities of interest. Alpha Ex. 1, at 53, 85; Sept. 5 AM Tr. 98:15-23.

792. Mr. Cooper's Illustrative State Senate Plan has fewer total city/town splits than the Enacted Senate Plan. Alpha Ex. 1, at 53, fig. 21. Mr. Cooper's Illustrative State Senate Plan keeps more single- and multi-county whole city/towns intact than the Enacted Senate Plan. Id. Mr. Cooper's Illustrative State Senate Plan has fewer Regional Commission Splits than the Enacted Senate Plan. Id. at 55, fig. 22. Mr. Cooper's Illustrative State Senate Plan has fewer Core-Based Statistical Area ("CBSA") Splits than the Enacted Senate Plan. Id.

793. Mr. Cooper's Illustrative State House Plan keeps more single-county whole city/towns intact than the Enacted House Plan. Alpha Ex. 1, at 85, fig. 37. Mr. Cooper's Illustrative State House Plan has fewer Regional Commission Splits than the Enacted House Plan. Id. at 86, fig. 38.

794. The Court finds that that the Illustrative Plans are comparable to or better than the Enacted Plans with respect to municipal splits, regional commission area splits, and metro area splits. These metrics, especially municipality splits, are important indicators that the Illustrative Plans balanced all of the traditional principles and sufficiently considered and respected communities of interest.

5. Incumbent Pairings

795. Mr. Cooper also sought to avoid incumbent pairings (Sept. 5 PM Tr. 236:1-2) and used official incumbent address information that defense counsel provided in January 2022 and another potential database of incumbent address information that followed the November 2022 General Election using the Enacted Plans. Alpha Ex. 1, at 5-6, ¶ 12.

796. Mr. Cooper's Illustrative Senate Plan pairs six incumbents. The Enacted Senate Plan pairs four incumbents. DTX 2, at 7, chart 2. Mr. Cooper's Illustrative House Plan pairs 25 incumbents. The Enacted House Plan pairs 20 incumbents. Id. at 25, chart 6.

797. The Court finds Mr. Cooper also adhered to this consideration. The Court credits Mr. Cooper's testimony that he considered incumbency and avoided the unnecessary pairing of incumbents to the extent possible. Sept. 5 PM Tr. 236:1-2. The Court also concludes that the Illustrative Plans are comparable to the Enacted Plans in avoiding the unnecessary pairing of incumbents. Alpha Ex. 1, at 55, ¶ 122.

6. Core Retention

798. Georgia's Reapportionment Guidelines do not identify as a traditional districting principle the goal to preserve existing district cores among "General Principles for Drafting Plans." See Joint Exs. 1, 2. Nevertheless, Mr. Cooper's Illustrative Plans keep 21 Senate districts identical as between the Illustrative Senate Plan and Enacted Senate Plan, and keeps 87 House districts identical as between the Illustrative House Plan and Enacted House plan. DTX 2, at 8, 25. 82% of the Georgia population would remain in the same district in the Enacted Senate Plan and Illustrative Senate Plan, and 86% of the population would remain in the same district in Enacted House Plan and the Illustrative House Plan. Sept. 5 AM Tr. 88:13-18.

799. The Court finds that Mr. Cooper's Illustrative Plans sufficiently preserve existing district cores.

iii. Mr. Cooper Credibly Testified That the Illustrative Plans Add New Majority-Black Senate and House Districts while Comporting with Traditional Districting Principles

800. The Court accepted Mr. Cooper as qualified to testify as an expert in redistricting demographics and the use of census data. Sept. 5 AM Tr. 65:21-24, 67:10-11. Over the last 30 years, Mr. Cooper has testified at trial as an expert witness in around 55 federal cases, many involving Section 2 of the Voting Rights Act. Alpha Ex. 1, at Ex. A, 97-99; Sept. 5 AM Tr. 62:11-14. That includes Allen, where the district court found Mr. Cooper's testimony "highly credible" and found that he "work[ed] hard to give 'equal weight[]' to all traditional redistricting criteria." 599 U.S. at 31 (citation omitted). Moreover, federal courts have ordered plans that he has drawn, including state legislative plans, into effect as remedies for vote dilution. Alpha Ex. 1 at 1-3; Sept. 5 AM Tr. 62:23-63:5. Mr. Cooper also has significant experience in Georgia, having drawn close to a hundred voting plans in Georgia over the course of his career. Sept. 5 AM Tr. 63:16-21, 64:8-14.

801. Mr. Cooper's overall conclusion that more Black-majority districts can be drawn is well supported by this record, including Mr. Cooper's own extensive demographic analysis.

802. Mr. Cooper's undisputed testimony, as well as the underlying Census numbers, show that the Black population in Georgia has increased by over 484,000 people, including over 400,000 in the Atlanta Metro area alone, over the last decade. Doc. No. [280], at 45, ¶¶ 95-96. See also id. at 45, ¶ 97; Alpha Ex. 1, at 24, fig. 6. That pace of growth is consistent going back decades. Since 1990, the Black population in Georgia has more than doubled—from 1.75 million to 3.54 million. Doc. No. [280], at 46, ¶ 103. The population increase in Atlanta has been especially pronounced: In 1990, the Black population in Metro Atlanta was 779,134; in 2000, it was 1,248,809; in 2010, it was 1,776,888, and in 2020 it was 2,186,815. Alpha Ex. 1, at 24, fig. 6; Doc. No. [280], at 47, ¶¶ 107-10. Moreover, in addition to massive Black population growth in Metro Atlanta, a combination of relative Black population growth and White population loss in other areas of the State (the eastern end of

the Black Belt, Metro Macon, and Southwest Georgia) have made already numerous Black populations more concentrated. See Alpha Ex. 1, at 26, ¶¶ 58-59 & fig. 8 (Eastern Black Belt); Doc. No. [280], at 51, ¶¶ 131-32 (Metropolitan Macon); Alpha Ex. 1, at 28, fig. 10 (Metropolitan Macon); Doc. No. [280], at 51, ¶¶ 130-32 (Southwest Georgia).

803. Despite that, and as Mr. Cooper testified unrefuted, there has not been a new Black-majority Senate district drawn since 2006, and perhaps 1 or 2 new Black-majority House districts, depending on how one counts them. See Sept. 5 AM Tr. 83:2-84:7, 85:12-86:11; Alpha Ex. 1, at 9, ¶ 15; id. at 167-75, Ex. L; Doc. No. [280], at 57, ¶¶ 173-74.

804. Mr. Cooper's undisputed testimony and his report also described how there are disproportionately fewer Black voters in majority-Black districts compared to White voters in majority-White districts. See Alpha Ex. 1, at 31-32, fig. 12; id. at 60, fig. 24; Sept. 5 AM Tr. 85:5-11 ("you can see that 52 percent of the Black voting age population lives in a majority Black district and over 80 percent of the White population lives in a majority White district. So there is that gap there. But it's inexplicable in a way, other than to maybe, perhaps, suggest that more majority Black districts could be drawn.").

805. This overarching analysis, along with the demographic reality, strongly corroborate Mr. Cooper's conclusion that more reasonably-configured Black-majority districts can likely be drawn. Sept. 5 AM Tr. 71:24-72:5 ("it is highly likely, almost certain, that one could draw additional [majority-Black] House districts and Senate districts in Georgia.").

806. The Court finds Mr. Cooper credible, his analysis methodologically sound, and his conclusions reliable. Mr. Cooper has decades of experience and has drawn scores of state legislative plans as a Gingles 1 expert. He has extensive experience drawing electoral maps in Georgia, including General Assembly maps. He testified that he reviewed the districting criteria adopted by the State and sought to adhere to them. The Court notes that Mr. Cooper directly answered questions about the various districts in his plan, and he articulated

detailed and specific reasons for his districting decisions. Mr. Cooper was forthright throughout, answering all questions throughout the many hours of cross-examination, and while Mr. Cooper testified that he believed the Illustrative Plans could be implemented as a remedy today, he also believed the maps could be improved further at the remedial stage. See Sept. 5 PM Tr. 235:24-25. The Court credits Mr. Cooper's testimony, including his bottom-line conclusions.

807. The Court also credits Mr. Cooper's detailed testimony, backed by the analysis in his report, that he complied with each of the traditional districting principles with the Illustrative Senate and House Plans. See, e.g., Sept. 5 AM Tr. 89:15-18, 89:15-91:9, 90:16-19, 107:18-20, 108:4-11-109:5; Sept. 5 PM Tr. 168:12-14.

808. With respect to his adherence to traditional districting principles, Mr. Cooper was repeatedly asked whether the Illustrative Plans were consistent with the traditional districting principles and could constitute a valid remedy for vote dilution if enacted. He answered unequivocally that the Illustrative Plans balance traditional districting principles (as borne out by all objective metrics). Sept. 5 AM Tr. 90:16-19, 108:4-11-109:5. He also testified unequivocally that the Illustrative Plans could be implemented as a remedy. See Sept. 6 AM Tr. 362:13-16; Sept. 5 PM Tr. 168:23-169:2. The Court credits this unequivocal, bottom-line response.

809. With respect to communities of interest, the Court finds that Mr. Cooper adhered to this consideration as well. The Court credits Mr. Cooper's testimony that he respected communities of interest when drawing Plaintiffs' Illustrative Plan. Sept. 5 AM Tr. 90:6-7. It also credits his testimony that he considered communities of interest in both "a subjective manner, looking at cultural and historical factors that might come into play," as well as quantitatively, by "looking at splits of municipalities, splits of counties, and splits of voting tabulation districts of precincts." Id. at 90:8-14. Ms. Wright agreed with Mr. Cooper's conclusion that there are numerous ways to define communities of interest. See Sept. 12 AM Tr. 1681:22-24.

810. The Court further credits Mr. Cooper's testimony that he considered municipalities, core-based statistical areas (CBSAs, commonly referred to as metro areas), regional commissions, transportation corridors, historical connections, and socioeconomic connections or commonalities. See Sept. 5 AM Tr. 98:15-99:1, 103:5-105:9. Mr. Cooper's testimony also showed that he relied on his strong familiarity with different parts of Georgia in configuring his districts. See, e.g., id. 114:19-115:5 (discussing the differences between Peachtree City and Griffin when explaining why he placed them in different districts), (Sept. 5 PM Tr. 231:17-20; Sept. 5 AM Tr. 128:8-129:9) (discussing the fact that Thomasville and Albany share connections like sports leagues and intergovernmental cooperation). As noted further below, Mr. Cooper offered various detailed examples of the ways he took these into account. Ms. Wright validated many of those categories as indicative of communities of interest, including that a community of interest may be based around a shared economic interest, (Sept. 12 AM Tr. 1681:18-20); a school system, (id. at 1681:7-9); municipality, (id. at 1681:10-11); demographic similarities, (id. at 1682:15-17); or around a shared place of worship, (id. at 1682:18-21).

811. With respect to remedying vote dilution and complying with the Voting Rights Act, the Court concludes that, by drawing additional Black-majority Senate and House districts in areas where the Black population is sufficiently numerous and compact to support such districts, Mr. Cooper adhered to this principle. The Court also credits Mr. Cooper's testimony that, while he was aware of race, race did not predominate in his drawing of the Illustrative Plans and that he instead sought to balance all relevant factors. Sept. 5 AM Tr. 93:1, 108:4-11, 108:23-109:5, 168:15-18; see, e.g., Ala. Legislative Black Caucus v. Alabama, 231 F. Supp. 3d 1026, 1114-15 (M.D. Ala. 2017) (crediting such testimony from Mr. Cooper). The Court concludes that Mr. Cooper's limited consideration of race was balanced with other considerations, including population equality, avoiding county splits, avoiding splitting municipalities, and preserving communities of interest. Sept. 5 AM Tr. 108:4-11.

812. The Court credits Mr. Cooper's testimony that drawing a state legislative map requires balancing the various traditional districting principles, and that they "all went into the mix" when he drew the Illustrative Plans. Sept. 5 AM Tr. 90:16-19; see also Sept. 5 PM Tr. 168:19-22; Sept. 6 AM Tr. 367:5-7 ("you really do have to balance, balance, balance. That's the name of the game."). Ms. Wright agreed that, in her personal experience, drawing maps requires balancing the various factors, and that different mapmakers will reach different conclusions about how to balance those factors when making specific line-drawing decisions. Sept. 12 AM Tr. 1684:13-22.

813. Mr. Cooper repeatedly said he attempted to balance all of these principles. See Sept. 5 AM Tr. 90:16-19, 107:18-20; Sept. 5 PM Tr. 168:19-22; Sept. 6 AM Tr. 367:5-7. The Court credits his testimony and finds that he did so. Moreover, the Illustrative Plans drawn by Mr. Cooper, consistent with the traditional principles, contain at least three new Black-majority Senate districts using the AP BVAP metric, and at least five such new House districts.

814. The Court also specifically concludes that race did not predominate in the drawing of any of the individual districts at issue. As discussed above and further below, Mr. Cooper's explanations for the districting decisions all evince a reasoned, balanced approach to the various traditional districting principles. Contrary to Defendant's arguments, (Sept. 14 PM Tr. 2396:9–24), the Court finds that Mr. Cooper's balanced approach, which focused on maintaining compactness, minimizing splits, minding incumbents, and respecting communities of interest while drawing compact districts that unite geographically proximate communities with articulable commonalities, is readily and categorically distinguishable from the impermissible fixation on race described in cases like League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 433–34 (2006) (rejecting illustrative district "that combine[d] two farflung segments of a racial group with disparate interests" hundreds of miles away from one another).

815. Defendant essentially concedes that the Illustrative Plans are consistent with traditional redistricting principles, but argues that "race can predominate even when a reapportionment plan respects traditional principles." Sept. 14 PM Tr. 2396:1–4 (citing Bethune-Hill v. Va. State Bd. of Elections, 580 U.S. 178, 190 (2017)).

816. As a legal matter, Bethune-Hill was a racial gerrymandering case, not a Section 2 case, and the point of the holding to which Defendant points is only that racial gerrymandering may be proven by "direct evidence of the legislative purpose and intent" as well as by evidence of the subordination of race-neutral districting principles. 580 U.S. at 191; but see also id. at 190 (noting that "in the absence of a conflict with traditional principles, it may be difficult for challengers to find other evidence sufficient to show that race was the overriding factor causing neutral considerations to be cast aside" and that "this Court to date has not affirmed a predominance finding, or remanded a case for a determination of predominance, without evidence that some district lines deviated from traditional principles"). However, the notion of an improper "legislative purpose" is inapposite in the context of an illustrative plan offered by Section 2 plaintiffs for purposes of Gingles 1; in this specific context, we have only just been reminded by the Supreme Court that "[a] district will be reasonably configured . . . if it comports with traditional districting criteria, such as being contiguous and reasonably compact." Allen, 599 U.S. at 18.

817. And in any case, even if it were the law that Gingles 1 could be defeated by some showing analogous to an improper "legislative purpose," there is no such showing in this trial record. Rather, the Court credits Mr. Cooper's extensive, repeated, and consistent testimony that while he was aware of race, he did not allow racial considerations to dictate the drawing of his illustrative districts, and instead balanced all the relevant factors in constructing the Illustrative Plans. The fact that those plans compare favorably with the plans enacted by the State and comport with all the various criteria support the conclusion that race did not predominate in Mr. Cooper's process.

iv. Mr. Cooper Drew Reasonably Configured Districts, Offered Specific, Credible Testimony About His Line-Drawing Decisions in the Areas of Focus, and Additional Fact Witnesses Testified That the Illustrative Districts in Those Areas Unite Communities of Interest

i. South Atlanta Metro

818. Plaintiffs have shown that the Black population in the South Metro Atlanta area, including Fayette, Spalding, Henry, and Rockdale Counties and other adjacent areas, is sufficiently numerous and geographically compact to support the addition of two more reasonably-configured Black-majority Senate districts and two more reasonably-configured Black-majority House districts.

819. Illustrative Senate District 28: Illustrative Senate District 28 includes much of Fayette County as well as adjacent portions of southern Clayton County and western Spalding County including Griffin. Alpha Ex. 1, at 41-42, ¶ 99 & fig. 17A. The record reflects that Clayton County already has a large (and still growing) Black population, (id. at 121, Ex. G-1), and that the Black population in Fayette and Spalding Counties has been growing by double digits. Id. at 122, 124, Ex. G-1.

820. Illustrative Senate District 28 is reasonably configured. The district is visually compact. Sept. 5 AM Tr. 113:19-21. It is significantly more geographically compact than Enacted Senate District 16, which extends from the Fulton-Fayette County line in Tyrone all the way to the farthest reaches of Pike and Lamar Counties. Alpha Ex. 1 at 40, fig. 16. In addition, Illustrative Senate District 28 is comparable to Enacted Senate District 16 with respect to compactness metrics. Id. at 308, Ex. S-1; id. at 321, Ex. S-3; DTX 2, ¶¶ 24, 29. The State does not argue, nor is there any basis to argue, that Illustrative District 28 is non-compact, or non-contiguous. Nor does the district pair any incumbents. Alpha Ex. 1, at 55, 308, 321. To the extent relevant, the surrounding districts are also comparably compact to the Enacted Plan as well. Id. at 290, 292, 306-10, 320-24.

821. Illustrative Senate District 28 keeps municipalities whole, including Fayetteville (which is split in the Enacted Plan) and Griffin, whose municipal lines Mr. Cooper used to configure the boundaries of the district. The district also unites areas that Mr. Cooper credibly testified and reported "match[] up socioeconomically," including because they are growing and similarly becoming more diverse and suburban. Sept. 5 AM Tr. 113:6-114:18; see also Sept. 5 PM Tr. 242:15-24; Alpha Ex. 1, at 56 ¶ 125 & Ex. CD at 53-55. Mr. Cooper also explained why it made sense not to include western Fayette County in Illustrative District 28, highlighting the differences between Peachtree City and Griffin. Sept. 5 AM Tr. 114:19-115:5.

822. Moreover, the communities included in Illustrative Senate District 28 are geographically proximate and also directly connected by US-41 and US-19. Sept. 5 AM 114:8-18; see also Alpha Ex. 1, at 41, 296.

823. Defendant complains that Illustrative Senate District 28 splits Spalding County. But that does not take Illustrative Senate District 28 outside the bounds of traditional districting considerations. Mr. Cooper discussed how the need to adhere to Georgia's strict 1% population deviation standard played a role in his construction of Illustrative Senate District 28. Sept. 5 PM Tr. 238:23-25.

824. Additional testimony supports the conclusion that Illustrative Senate District 28 is reasonably configured. Sherman Lofton attested to the interconnectedness of the communities included in Illustrative Senate District 28. For example, as Mr. Lofton explained, if you visit shopping centers in Griffin you will see Fayette and Clayton tags. Sept. 11 AM Tr. 1302:9-11. Mr. Lofton also testified areas covered by Illustrative Senate District 28 share common places of worship and that Black communities in the area share certain socioeconomic characteristics, such as similar educational attainment. Id. at 1309:25-1310:9. And Mr. Lofton's testimony was also consistent regarding the differences between Peachtree City and Griffin. Id. at 1312:2-16.

825. Gina Wright, who testified that she was familiar with the area, also agreed that the area of South Clayton County that is included in Illustrative Senate District 28 is suburban. Sept. 12 AM Tr. 1685:2-20.

826. The Court finds that Illustrative Senate District 28 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority Senate District beyond what was drawn in the Enacted Senate Plan.

827. The Court further finds that race was not the overriding consideration in the configuration of Illustrative Senate District 28. Moreover, even if it was, and even if strict scrutiny applied, Illustrative Senate District 28 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

828. Illustrative Senate District 17: Illustrative Senate District 17 connects adjacent portions of Henry County (including McDonough, the seat of Henry County), Rockdale and DeKalb Counties. Alpha Ex. 1, at 46, ¶ 105 & fig. 17D; see also id. at 300, Ex. Q-2. The record reflects that all of those counties, as well as neighboring Newton County in the South Metro area, have large and fast-growing Black populations. Id. at 122, 124, Ex. G-1. In particular, the Black population of Henry County grew by 75% over the last decade, and by approximately 200% in the decade before that, such that Henry County is now plurality Black. Id. at 123, Ex. G-1.

829. Illustrative Senate District 17 is reasonably configured. The State's own expert conceded that Illustrative Senate District 17 is more geographically compact than Enacted Senate District 17, which combines portions of majority-Black Henry and Newton Counties with predominantly White populations in more distant and rural Walton and Morgan Counties. Sept. 13 PM Tr. 2026:14-2028:1 (Morgan); see also Alpha Ex. 1, at 43-44, ¶¶ 102-03 & fig. 17C; id. at 298, Ex. Q-1.

830. Under the Illustrative Senate Plan, Newton County is kept whole (rather than split as in the Enacted Plan) and is included in Illustrative Senate District 43, which is compact and is also majority-Black. Alpha Ex. 1, at 48 & fig. 17F.

831. The communities included in Illustrative Senate District 17 are close to one another; as Mr. Cooper credibly testified, it is "probably a ten-minute drive from western Henry County into Rockdale County." Sept. 5 PM Tr. 231:17-20. The areas included in the district are suburban areas that are closely affiliated with Atlanta. Id. at 230:22-231:8. Moreover, these areas share socioeconomic characteristics, such as similarly educational attainment rates among Black residents. Alpha Ex. 1, at 57, ¶¶ 127-28.

832. Again, Mr. Lofton, who lives in McDonough, offered detailed testimony completely in accord with Mr. Cooper's assessment. Mr. Lofton testified about the similarities and connections between Dekalb, Stonecrest, Conyers and McDonough. Sept. 11 AM Tr. 1308:16-22 (discussing the "major thoroughfares" connecting Dekalb, Rockdale, and Henry Counties that people drive up and down "all day."); 1308:23-1309:8 (discussing travelling between McDonough, Stonecrest, Conyers, and Covington for shopping and dining "because they're not terribly far out of the way."). He also testified that Henry, Rockdale, and Dekalb Counties are becoming more diverse and "on par" with one another. Id. at 1298:16-20, 1306:16-1307:8, 1308:4-7.

833. The Court finds that Senate District 17 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority Senate District beyond what was drawn in the Enacted Senate Plan.

834. The Court further finds that race was not the overriding consideration in the configuration of Illustrative Senate District 17. Indeed, Defendant made no real attempt to argue otherwise. Defendant's expert, Mr. Morgan, admitted that he did not describe the configuration of Illustrative Senate District 17 as having a "strategic" or "racial focus." Sept. 13 PM Tr. 2029:25-2030:2. Moreover, even if it was, and even if strict scrutiny applied, Illustrative Senate District 17 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while

ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

835. Illustrative House District 74: Illustrative House District 74, in the South Metro Atlanta area, includes adjacent areas in South Clayton, Henry, and Spalding Counties. Alpha Ex. 1, at 68-69, ¶¶ 163-64 & fig. 29; see also id. at 660, Ex. AB-2.

836. Illustrative House District 74 is reasonably configured. The district is plainly compact. Sept. 5 AM Tr. 122:18 (Cooper). It is in fact more compact than Enacted House District 74, as the Defendant's expert conceded. Alpha Ex. 1, at 684, Ex. AG-1; id. at 693, Ex. AG-2; Sept. 13 PM Tr. 2049:8-12 (Morgan).

837. Illustrative House District 74 unites nearby, adjacent communities on either side of the line between south Clayton and Henry Counties. Alpha Ex. 1, at 87-88, ¶ 198. As Mr. Cooper testified "the distance there to get from one part of the district to the other are...maybe 20-minute drive at most, unless you're going during rush hour traffic or something." Sept. 5 PM Tr. 272:24-273:2. Both House Plans split Henry, Spalding, Clayton, and Fayette Counties in various ways and are comparable on that score. Alpha Ex. 1, at 68-69.

838. Mr. Cooper credibly testified that the communities included in the district are "largely suburban" in nature. Sept. 5 PM Tr. 273:17-22; see also Alpha Ex. 1, at 87-88, ¶ 198. Mr. Lofton's testimony was consistent, (Sept. 11 AM Tr. 1309:25-1310:4), as was Gina Wright's, Sept. 12 AM Tr. 1685:2-20.

839. The Court finds that Illustrative House District 74 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority House District beyond what was drawn in the Enacted Senate Plan.

840. The Court further finds that race was not the overriding consideration in the configuration of Illustrative House District 74. Moreover, even if it was, and even if strict scrutiny applied, Illustrative House District

74 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

841. Illustrative House District 117: Illustrative House District 117 includes adjacent portions of South Henry County around Locust Grove and a portion of Spalding County, including much of Griffin, Spalding County's seat and largest city. Alpha Ex. 1, at 71, ¶ 198; see also id. at 664, Ex. AC-2.

842. Illustrative House District 117 is reasonably configured.

843. The Illustrative and Enacted House Plans both constructs House District 117 out of adjacent portions of South Henry and Spalding Counties, and are comparable on that score.

844. The State does not contest that Illustrative House District 117 is compact, and in fact it is almost identically compact (Reock 0.41 and Polsby-Popper 0.26) as compared to Enacted House District 117 (Reock 0.41 and Polsby-Popper 0.28). Alpha Ex. 1, at 686, Ex. AG-1; id. at 695, Ex. AG-2.

845. Illustrative House District 117 unites communities with common features and interests. Illustrative House District 117 unites communities that are similar, connected, and geographically proximate to one another. Mr. Cooper testified that "everyone" in Illustrative House District 117 "lives close by." Sept. 5 AM Tr. 123:17-24; see also Sept. 5 PM Tr. 277:25; Alpha Ex. 1, at 87-88, ¶ 198. Again, the Defendant's mapping expert agreed, testifying that Griffin and Locust Grove are "close." Sept. 12 PM Tr. 1794:23.

846. Mr. Lofton's testimony was consistent with respect to the proximity and connections between the communities in Illustrative House District 117. For example, he testified about the shared commercial centers used by residents of the area, such as Tanger Outlets, and about how Highways 138 and 155 are important transportation corridors that unite the district. Sept. 11 AM Tr. 1308:20-1309:8.

847. The Court finds that Illustrative House District 117 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority House District beyond what was drawn in the Enacted Senate Plan.

848. The Court further finds that race was not the overriding consideration in the configuration of Illustrative House District 117. Moreover, even if it was, Illustrative House District 117 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

ii. Eastern Black Belt

849. Plaintiffs have also shown that the Black population in the portion of Georgia's Black Belt between Augusta and Macon is sufficiently numerous and geographically compact to support the addition of one more Black-majority Senate district and one more Black-majority House district.

850. Illustrative Senate District 23: Illustrative Senate District 23 is located in the eastern end of Georgia's Black Belt. Alpha Ex. 1, at 49, ¶ 108. The district is oriented East-West (like the Black Belt itself) and unites a swath of predominantly rural counties in the region. Id. at 304, Ex. R-2.

851. Senate District 23 under the Enacted Senate Plan is also located primarily in the region identified by Mr. Cooper as the Eastern Black Belt. Alpha Ex. 1, at 48, ¶ 107. However, Enacted Senate District 23 is drawn running North-South, perpendicular to and cutting against the Black Belt, with a BVAP under 36%. Id.

852. Illustrative Senate District 23 is reasonably configured. The district is identical to the Enacted Senate Plan version on both the Reock and Polsby-Popper measures of compactness. Alpha Ex. 1, at 307, Ex. S-1; id. at 321, Ex. S-3. In terms of geographic compactness, Defendant's

expert conceded that Illustrative Senate District 23 is comparable to if not shorter than the version in the Enacted Senate Plan. Sept. 13 PM Tr. 2034:23-2036:2 (Morgan).

853. Compared to the Enacted Senate Plan version, Illustrative Senate District 23 has the same number of county splits (two). And Mr. Cooper credibly testified that in drawing the district line in Wilkes County, which is split in the Illustrative Senate Plan, he followed County Commission and municipal lines. Sept. 5 AM Tr. 119:19-120:4; Alpha Ex. 1, at 50, ¶ 109; id. at 51, fig. 19B.

854. Illustrative Senate District 23 unites counties and communities that share commonalities, including the historical and sociopolitical ties that bind counties in the Black Belt, as well similar rates of poverty. Sept. 5 PM Tr. 261:17-263:1 (Cooper); Alpha Ex. 1, at 58, ¶ 129. Cooper's testimony on this score was corroborated both by Dr. Burch, who testified regarding the unique political history and identity of the Black Belt, (Sept. 8 PM Tr. 1096:23-1097:3), as well as Dr. Diane Evans, who offered extensive testimony regarding the shared resources and interest that bind together the swath counties between Milledgeville and Augusta, Sept. 7 AM Tr. 628:15-19, 630:17-631:4, 653:20-25.

855. The Court finds that Illustrative Senate District 23 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority Senate District beyond what was drawn in the Enacted Senate Plan.

856. In light of the foregoing, the Court further finds that race was not the overriding consideration in the configuration of Illustrative Senate District 23. Moreover, even if it was, and even if strict scrutiny applied, Illustrative Senate District 23 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

857. Illustrative House District 133: Illustrative House District 133 is also located in Eastern Black Belt area, between Wilkes and Wilkinson Counties and including much of Milledgeville. Alpha Ex. 1, at 74, ¶ 169 & fig. 31; see also id. at 672, Ex. AD-2.

858. Illustrative House District 133 is reasonably configured. In terms of compactness, Illustrative House District 133's Reock and Polsby-Popper scores are above the minimums for both the Enacted and Illustrative House Plans. Alpha Ex. 1, at 682, 684, Ex. AG-1; see also id. at 691, Ex. AG-2.

859. The district is constructed out of whole counties with the exception of Wilkes and Baldwin Counties on either end of the district. Alpha Ex. 1, at 74, ¶ 169 & fig. 31. With respect to the boundary lines in Baldwin and Wilkes Counties, Mr. Cooper offered detailed, credible testimony regarding the traditional districting principles that he considered in drawing those lines, explaining that in Wilkes County, he kept the City of Washington whole, and otherwise followed county commission and precinct lines, (Sept. 5 AM Tr. 126:13-127:2; Alpha Ex. 1, at 77, ¶ 173 & fig. 31), and that in Baldwin County, he worked to avoid pairing an incumbent and to balance compactness and splits in light of the odd, non-compact shape of Milledgeville's municipal lines. Sept. 5 AM Tr. 125:7-126:12. Defendant's mapping expert failed to undermine this testimony. Sept. 13 PM Tr. 2052:22-2054:2 (Morgan).

860. Mr. Cooper also credibly testified that his configuration of Illustrative House District 133 connects counties with shared socioeconomic characteristics, such as education and poverty levels. Alpha Ex. 1, at 88, ¶ 199; Sept. 5 AM Tr. 124:15-125:1.

861. The Court finds that Illustrative House District 133 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority House District beyond what was drawn in the Enacted Senate Plan.

862. In light of the foregoing, the Court further finds that race was not the overriding consideration in the configuration of Illustrative House District 133. Moreover, even if it was, and even if strict scrutiny applied, Illustrative House District 133 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

iii. Metropolitan Macon

863. Plaintiffs have shown that the Black population in Metropolitan Macon is sufficiently numerous and geographically compact to support the addition of one more Black-majority House district.

864. In particular, Illustrative House District 145 is anchored in Macon and combined with the southern part of Monroe County. Alpha Ex. 1, at 82-83, ¶¶ 182-83.

865. Illustrative House District 145 is reasonably configured. The district is compact, as both mapping experts agreed. Sept. 5 PM Tr. 167:9-12 (Cooper); Sept. 13 PM Tr. 2062:18-2063:2 (Morgan).

866. Mr. Cooper's report also demonstrated commonalities shared by the communities included in Illustrative House District 145. The district is largely made up of Macon-Bibb residents, (Alpha Ex. 1, at 89, ¶ 201), and communities in the district share commonalities such as high rates of Black poverty and child poverty in particular. Id.

867. Defendant essentially failed to mount a defense with respect to Illustrative House District 145; Defendant's mapping expert did not even discuss the district in his report. Sept. 13 PM Tr. 2062:18-2063:2 (Morgan).

868. The Court finds that Illustrative House District 145 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically

compact as to constitute a majority in an additional Black-majority House District beyond what was drawn in the Enacted House Plan.

869. In light of the foregoing, the Court further finds that race was not the overriding consideration in the configuration of Illustrative House District 145. Moreover, even if it was, Illustrative House District 145 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

iv. Southwest Georgia

870. Plaintiffs have also shown that the Black population in Southwest Georgia is sufficiently numerous and geographically compact to support the addition of one more Black-majority House district.

871. Illustrative House District 171 includes all of Mitchell County, and parts of Dougherty and Thomas Counties. Alpha Ex. 1, at 79-80, ¶ 177 & fig. 33.

872. As Mr. Cooper explained, if the Black population in Southwest Georgia is numerous and compact enough to support a majority-Black (57.97% BVAP) Senate district, it is almost necessarily numerous and compact enough to support three majority-Black House districts, given that a Senate district is just over three times the size of a House district. Sept. 5 AM Tr. 127:11-25 (Cooper). Despite that, there are only two majority-Black House districts in the area.

873. Illustrative House District 171 is reasonably configured. Defendant has not suggested that Illustrative House District 171 is impermissibly non-compact. In terms of compactness, Illustrative House District 171's Reock and Polsby-Popper scores are above the minimums for both the Enacted and Illustrative House Plans. Alpha Ex. 1, at 688, Ex. AG-1; see also id. at 697, Ex. AG-2. Moreover, while Defendant's expert characterized Albany and Thomasville (which are less than 70 miles apart) as "distant," he agreed that the Enacted House Plan unites even more "distant" areas of Southwest Georgia, with one

district (Enacted House District 153) stretching all the way from Dougherty County to the border of Muscogee County and the Alabama line. Sept. 13 PM Tr. 2042:2-4 (Morgan).

874. The Illustrative House Plan reduces the number of times Dougherty County is split from four to three. Sept. 5 AM Tr. 128:8-17 (Cooper); Alpha Ex. 1, at 79. And while Defendant points out that Lee and Colquitt Counties are split in the Illustrative House Plan but not the Enacted, the reverse is true for Ben Hill and Cook Counties in the same general area. Sept. 13 PM Tr. 2055:10-2059:20 (Morgan).

875. Illustrative House District 171 unites communities that share significant commonalities, including being part of the historic and contemporary Black Belt. Transportation corridors also unite the area; US-19 and the historic Dixie Highway run through Mitchell County between Albany and Thomasville. Alpha Ex. 1, at 80, ¶ 178. The communities along that corridor, such as Albany, Camilla, Pelham, Meigs, and Thomasville, work together under the auspices of the Southwest Georgia Regional Commission and share economic, cultural, and historical ties. Sept. 5 AM Tr. 128:18-129:19 (Cooper); Alpha Ex. 1, at 80, Alpha Ex. 54; Alpha Ex. 325. They also share economic, cultural, and historical ties. Alpha Ex. 1, at 80, ¶ 178. As Mr. Cooper testified, Albany and Thomasville "are only about 60 miles apart. It takes you about an hour to get there along Highway 19.

They're in the same high school football leagues." Sept. 5 AM Tr. 128:8-129:9.[7]

876. Additional evidence further corroborates these connections. Bishop Jackson of the AME Church testified that Dougherty, Mitchell, and Thomas Counties—share similar attributes and are comparable socioeconomically. Sept. 6 AM Tr. 382:18-384:2. Plaintiff Janice Stewart lives in Thomasville, but attends church in Camilla, in Mitchell County. Doc. No. [280], at 39, 42, ¶¶ 64, 80-81.

877. The Court finds that Illustrative House District 171 is consistent with traditional districting principles and demonstrates that the Black population in the area is sufficiently large and geographically compact as to constitute a majority in an additional Black-majority House District beyond what was drawn in the Enacted House Plan.

878. In light of the foregoing, the Court further finds that race was not the overriding consideration in the configuration of Illustrative House District 171. Moreover, even if it was, Illustrative House District 171 would pass strict scrutiny because it is reasonably compact and reasonably consistent with traditional districting principles while ameliorating the dilution of Black voting strength and ensuring compliance with the Voting Rights Act.

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[7] The Court may take judicial notice of the fact that Albany and Thomasville high schools play in the same football league (Region 1-AAA), a fact that is "not subject to reasonable dispute," and "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). Defendant cannot reasonably question the fact that these schools play in the same football league and that they regularly play each other. See, e.g., Albany Herald, *Thomasville Bulldogs intercept Dougherty's Region Title Hopes* (Oct. 20, 2022), https://www.albanyherald.com/sports/thomasville-bulldogs-intercept-doughertys-region-title-hopes/article_eca52102-50f1-11ed-8261-07d0bf644054.html; see also Georgia High School Association, 2022-2023 Region Alignments, https://www.ghsa.net/2022-2023-region-alignments.

v. Defendant's Mapping Expert is Not Credible and His Opinions are Not Persuasive

879. Mr. Morgan's opinions, especially with respect to Mr. Cooper's Illustrative Plans, cannot be considered credible.

880. Mr. Morgan previous redistricting work includes drawing maps that were ultimately struck down as unconstitutional racial gerrymanders. Sept. 13 PM Tr. 2101:7-22, 2102:5-25.

881. The two federal courts, aside from this Court, that have heard Mr. Morgan's testimony have determined that it was not credible. Sept. 13 PM Tr. 2111:22-25.

882. Mr. Morgan was evasive during his live testimony in this case. For instance, he misrepresented that he had read Mr. Cooper's report in full, when he only skimmed it. Sept. 13 AM Tr. 1961:1-9; see also Allen, 599 U.S. at 32 ("The court also explained that Alabama's evidence of racial predominance in Cooper's maps was exceedingly thin. Alabama's expert, Thomas Bryan, 'testified that he never reviewed the exhibits to Mr. Cooper's report' and 'that he never reviewed' one of the illustrative plans that Cooper submitted . . . . By his own admission, Bryan's analysis of any race predominance in Cooper's maps 'was pretty light. . . .' The District Court did not err in finding that race did not predominate in Cooper's maps in light of the evidence before it.")

883. In his January 23, 2023 report, Mr. Morgan neglected to consider a number of traditional redistricting criteria. Indeed, Mr. Morgan did not state anywhere in his January report that he considered the redistricting guidelines issued by the State of Georgia in comparing Mr. Cooper's plans and the enacted plans. Sept. 13 AM Tr. 1961:25-1962:19.

884. Nor did Mr. Morgan claim that Mr. Cooper's plans were insufficient with regard to any objective metrics. Sept. 13 AM Tr. 1963:1-7.

885. In any event, because Mr. Morgan admitted he failed to engage with the reasons Mr. Cooper gave for drawing his districts, and because Mr. Cooper did not himself use such racial shading maps, Mr. Morgan's analysis based on those maps is of limited if any value. See Sept. 13 PM Tr. 2054:18-23.

886. Finally, the opinions Mr. Morgan did express regarding the effect of racial considerations on the Illustrative Plans, were ambiguous, and his objective analysis almost entirely confirms Mr. Cooper's.

887. Mr. Morgan's report of December 5, 2022 ("December 5 Report") is not relevant for multiple reasons.

888. For one, the question for purposes of Gingles 1 is only whether the Illustrative Plans drawn by Mr. Cooper are consistent with traditional districting principles. And Mr. Morgan admitted he could not have, and did not, review Mr. Cooper's Illustrative Plans prior to the completion of his December 5 Report. Sept. 13 PM Tr. 2064:24-2065:9. The December 5 Report therefore does not and cannot speak to the relevant issue for Gingles 1 purposes.

889. For another, the Supreme Court in Allen rejected the use of a "race-neutral benchmark" to serve as a "point of comparison" for evaluating a plaintiff's illustrative plans in the Section 2 context. See Allen, 599 U.S. at 23-24; see also Alpha Phi Alpha Fraternity Inc. v. Raffensperger, 21-CV-5337-SCJ (N.D. Ga. July 17, 2023) ("[A] race-neutral approach for determining a Section 2 violation is not consistent with the text of the statute."). Defendant cannot explain why Mr. Morgan's illustrative plans, which purport not to consider race and thus to provide an ostensible point of comparison for the 2021 Enacted and Cooper Illustrative Plans, are different in concept from the "race neutral benchmark" plans rejected in Allen. Indeed, if anything, the benchmark offered by Defendant here is less useful than the one suggested in Allen, because Mr. Morgan is not a sophisticated computer program capable of generating millions of maps based on pre-set inputs, but is instead a human being who concededly knew much about Georgia's racial demographics when he was drawing his

supposedly "race-blind" plans. See, e.g., Sept. 13 PM Tr. 2071:7-2072:12.

890. This last point is one reason why, even if some type of "race-blind" map could theoretically be useful in a Section 2 case, Mr. Morgan's illustrative plans are not a credible or reliable analytical tool.

891. Nor was Mr. Morgan able to explain any other diagnostic value of his so-called "race-blind" plans. He could not explain the basis for his analysis comparing his "race-blind" maps to the Enacted Maps, or explain how that analysis might reliably demonstrate the effect of considering race as opposed to other factors.

892. In the end, Mr. Morgan was unable to say whether so-called racial considerations actually caused the differences he purported to observe between his maps and the 2021 Enacted Plans, or whether they were caused instead by his ignoring various districting considerations other than race, such as avoiding incumbent pairings or maintaining district cores. Sept. 13 PM Tr. 2084:21-2093:8.

893. For all those reasons, the Court assigns no weight to Mr. Morgan's December 5 Report.

vi. Conclusion regarding Gingles 1

894. In sum, and consistent with the foregoing, the Court credits Mr. Cooper's analysis and conclusions and concludes that Mr. Cooper's analysis demonstrates that the Plaintiffs have satisfied the factual predicates of the first Gingles precondition as to each of the regions discussed above. Plaintiffs have shown, and the Court finds and concludes, that the Black population in the South Metro Atlanta is sufficiently numerous and geographically compact to constitute majorities in two additional Senate districts and two additional House districts. Plaintiffs have shown, and the Court finds and concludes, that the Black population in the Eastern portion of Georgia's Black Belt is sufficiently numerous and geographically compact to constitute majorities in one additional Senate district and one additional House district. Plaintiffs have also shown, and the Court

finds and concludes, that the Black population in the Macon area is sufficiently numerous and geographically compact to constitute a majority in one additional House district. And Plaintiffs have shown, and the Court finds and concludes, that the Black population in Southwest Georgia is sufficiently numerous and geographically compact to constitute a majority in one additional House district.

895. While Defendant argues that redistricting "is primarily the duty and responsibility of the states," (Sept. 14 PM Tr. 2391:11–14), application of the Gingles factors, as reaffirmed in Allen, "help[s] ensure that remains the case." 599 U.S. at 29–30. Here, the Court finds that Plaintiffs have satisfied Gingles 1 by illustrating the possibility of drawing additional majority-Black districts without "requir[ing] adoption of districts that violate traditional redistricting principles." Id.

896. The Court rejects Defendant's argument that continued application of the longstanding Gingles 1 standard would cause confusion among state legislatures seeking to comply with Section 2. See Sept. 14 PM Tr. 2393:10–2394:14. The Gingles 1 standard was established in 1986, has been applied by countless legislatures and courts in the decades since, and has recently been reaffirmed by the Supreme Court. Allen, 599 U.S. at 26 ("And we decline to adopt an interpretation of § 2 that would revise and reformulate the Gingles threshold inquiry that has been the baseline of our § 2 jurisprudence for nearly forty years."). Altering that body of binding precedent would engender far greater confusion than following it.

b. Gingles 2 & 3: Plaintiffs have satisfied the second and third Gingles preconditions

i. Plaintiffs have satisfied the second Gingles precondition

897. The second Gingles precondition requires the protected group be "politically cohesive," which plaintiffs may demonstrate by "showing that a significant number of minority group members usually vote for the same candidates." Gingles, 478 U.S. at 51, 56; accord Solomon v.

Liberty Cty., 899 F.2d 1012, 1019 (11th Cir. 1990) (Kravitch, J., concurring).

898. Courts rely on statistical analyses to estimate the proportion of each racial group that voted for each candidate. See, e.g., Gingles, 478 U.S. at 52-54; Nipper, 39 F.3d at 1505 n.20 (citing Nipper v. Chiles, 795 F. Supp. 1525, 1533 (M.D. Fla. 1992)); see also Allen, 599 U.S. at 22. In particular, courts have recognized homogeneous precinct analysis, ecological regression, and ecological inference as appropriate methods, and ecological inference has been called the "gold standard" for racially polarized voting analysis. Wright I, 301 F. Supp. 3d at 1305.

899. Courts have repeatedly found that Georgia's Black communities are politically cohesive. See, e.g., Allen, 599 U.S. at 22; Wright II, 979 F.3d at 1304 ("[B]lack voters in Sumter County were 'highly cohesive'" because in most elections "the overwhelming majority of African Americans voted for the same candidate"); Askew, 127 F.3d at 1355, 1377 (observing that "both empirical and anecdotal evidence indicate that [Georgia's] black community is 'cohesive,'" in large part because "[t]he black community consistently ranks black candidates as their favorite candidates"); Georgia State Conf. of NAACP, 312 F. Supp. 3d at 1360 ("[V]oting in Georgia is highly racially polarized.").

900. The Court finds Dr. Handley credible, her analysis methodologically sound, and her conclusions reliable. Dr. Handley has decades of experience evaluating racially polarized voting behavior and her testimony has consistently been accepted by courts. The Court credits Dr. Handley's testimony and conclusions.

901. In its order denying summary judgment, this Court recognized that "the testimony of both Plaintiffs' expert and Defendant's expert provide sufficient evidence that Black voters are politically cohesive to defeat Defendant's Motion for Summary Judgment as to the second Gingles precondition," acknowledging that Dr. Alford agreed that "extremely cohesive Black support" existed for Black-preferred candidates in general elections. Doc. No. [268], at 57.

902. Based on the trial record, the second Gingles precondition is satisfied here because there is no dispute that Black voters in Georgia are politically cohesive. See 478 U.S. at 49; id. at 68 ("Bloc voting by blacks tends to prove that the black community is politically cohesive, that is, it shows that blacks prefer certain candidates whom they could elect in a single-member, black majority district."). The analysis of Dr. Handley clearly demonstrates high levels of cohesiveness among Black Georgians in supporting their preferred candidates. See Sept. 7 PM Tr. 889:1-2; 889:7-8; Alpha Ex. 5, at 9-10, 32; see generally supra Part III. Dr. Alford agreed with that conclusion. Sept. 14 AM Tr. 2224:14-18; 2224:25-2225:4. Defendant has offered no evidence to rebut — and has in fact stipulated to — this overwhelming showing of cohesiveness.

ii. Plaintiffs have satisfied the third Gingles precondition

903. Under the third Gingles precondition, a racial "minority must be able to demonstrate that the White majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—usually to defeat the minority's preferred candidate." 478 U.S. at 51 (internal citations omitted).

904. There is no specific threshold percentage required to demonstrate bloc voting, as "[t]he amount of white bloc voting that can generally 'minimize or cancel' black voters' ability to elect representatives of their choice . . . will vary from district to district." Gingles, 478 U.S. at 56 (internal citations omitted). Instead, "a white bloc vote that normally will defeat the combined strength of minority support plus white 'crossover' votes rises to the level of legally significant white bloc voting." Id.

905. Courts have previously found that in Georgia, White voters typically support the same candidate, and that bloc is usually large enough to defeat Black-preferred candidates. See, e.g., Allen, 599 U.S. at 22; Wright II, 979 F.3d at 1304 (third precondition met when in the "most probative" elections in Sumter County, "white residents voted as a

bloc to defeat the black-preferred candidate"); Fayette II, 775 F.3d at 1340 (observing that because "non-African-American voters preferr[ed] white candidates" "no African-American candidates had ever been elected" to the offices in question); Hall v. Holder, 117 F.3d 1222, 1229 (11th Cir. 1997) ("Racial bloc voting by the white majority usually suffices to keep black citizens out of office.").

906. In its summary judgment order, this Court found that there was "sufficient Record evidence from which a factfinder could determine that the white majority sufficiently votes as a bloc to defeat the minority voters' candidate of choice." Doc. No. [268], at 57. This Court noted that "Defendant's expert testified that Black and White voters are supporting different candidates, that voting is polarized, and that this is what polarization looks like." Id. at 58 (internal quotation marks omitted).

907. The Court concludes that Dr. Handley's analysis clearly demonstrates (and Defendants stipulated to) high levels of White bloc voting against the candidates preferred by Black voters in Georgia in the areas analyzed. See Alpha Ex. 5, at 9-10, 32; Sept. 7 PM Tr. 892:15-21; see generally supra Part IV. The Court also concludes that Black-preferred candidates are consistently defeated in Georgia in these areas except in majority-Black districts. See Alpha Ex. 5, at 9-10, 32; Sept. 7 PM Tr. 892:15-21, 905:22-906:8 (Handley). Defendant has offered no evidence to the contrary.

908. As a legal matter, this Court has already concluded that "the second and third Gingles preconditions require only the Plaintiffs show that majority-voter political cohesion and racial bloc voting exists, not the reason for its existence." Doc. No. [268], at 38-39, and that "precedent establishes that evaluating the reasons behind racial bloc voting and minority political cohesion is inappropriate at the Gingles preconditions phase," id. at 40.

909. Rather, "the second and third Gingles preconditions can be established by the mere existence of minority group political cohesion and majority voter racial bloc voting." Id. (citing Chisom v. Roemer, 501 U.S. 380, 404 (1991)).

910. Defendant's suggestion that Gingles' second precondition requires the Plaintiffs to prove that race is the sole or predominant cause of racially polarized voting is contrary to law. It is well-established in this Circuit that evidence that "the community's voting patterns can best be explained by other, non-racial circumstances" such as partisan affiliation, does not "rebut[] the plaintiff's evidence of racial bloc voting" under the Gingles preconditions. Nipper, 39 F.3d at 1524 & n.60 (Tjoflat, C.J., joined by one judge); see Sanchez v. State of Colorado, 97 F.3d 1303, 1321 (10th Cir. 1996) (holding district court committed reversible error when it "adopted the State's statistical theory on the mistaken view that why voters vote a certain way answers Gingles' question about the existence of racial bloc voting."). Instead, such evidence, if relevant at all, would go only to the broader "totality of the circumstances" and would have no effect on whether the preconditions themselves have been met. Id. The other circuits are near-unanimous in their agreement on this point. See, e.g., Goosby v. Town Bd. of Hempstead, 180 F.3d 476, 493 (2d Cir. 1999) (holding that the "inquiry into the cause of white bloc voting is not relevant to a consideration of the Gingles preconditions"; collecting cases); Holloway v. City of Va. Beach, 531 F. Supp. 3d 1015, 1078 (E.D. Va. 2021) (noting that the First, Second, Fourth, Seventh, Tenth, and Eleventh Circuits take this approach).

911. "[E]xpanding the inquiry into the third Gingles precondition to ask not merely whether, but also why, voters are racially polarized . . . would convert the threshold test into precisely the wide-ranging, fact-intensive examination it is meant to precede." United States v. Charleston Cty., 365 F.3d 341, 348 (4th Cir. 2004). For purposes of evaluating the Gingles preconditions, causation is simply "irrelevant." Id. at 347.

912. This Court concludes that the Plaintiffs have satisfied the second and third Gingles preconditions.

c. Plaintiffs Have Demonstrated a Section 2 Violation, Considering the Totality of the Circumstances

913. Having found that the Plaintiffs satisfied the Gingles preconditions, this Court must also "consider the 'totality of circumstances' to determine whether members of a racial group have less opportunity than do other members of the electorate.'" League of United Latin Am. Citizens v. Perry, 548 U.S. 399, 425-26 (2006).

914. "'[I]t will be only the very unusual case in which the plaintiffs can establish the existence of the three Gingles factors but still have failed to establish a violation of § 2 under the totality of circumstances.'" Fayette II, 775 F.3d at 1342 (11th Cir. 2015) (quoting Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ., 4 F.3d 1103, 1135 (3d Cir. 1993)). Therefore, where plaintiffs have satisfied the Gingles preconditions but a court determines the totality of the circumstances does not show vote dilution, "the district court must explain with particularity why it has concluded, under the particular facts of that case, that an electoral system that routinely results in white voters voting as a bloc to defeat the candidate of choice of a politically cohesive minority group is not violative of § 2 of the Voting Rights Act." Jenkins, 4 F.3d at 1135.

915. To determine whether vote dilution exists under the totality of the circumstances, the Court uses "a searching practical evaluation of the past and present reality," which is an analysis "peculiarly dependent upon the facts of each case and requires an intensely local appraisal of the design and impact of the contested" district map. Gingles, 478 U.S. at 79 (internal quotation marks and citations omitted).

916. To undertake the totality-of-the-circumstances determination, courts use the nine factors drawn from a report of the Senate Judiciary Committee accompanying the 1982 amendments to the VRA, i.e., the "Senate Factors." Fayette II, 775 F.3d at 1342.

917. The nine non-exhaustive Senate Factors are:

> [1] the history of voting-related discrimination in the State or political subdivision;
>
> [2] the extent to which voting in the elections of the State or political subdivision is racially polarized;
>
> [3] the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting;
>
> [4] if there is a candidate slating process, whether the members of the minority group have been denied access to that process;
>
> [5] the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
>
> [6] the use of overt or subtle racial appeals in political campaigns; and
>
> [7] the extent to which members of the minority group have been elected to public office in the jurisdiction.
>
> The Report notes that two additional considerations may be probative:
>
> [8] evidence demonstrating that elected officials are unresponsive to the particularized needs of the members of the minority group and
>
> [9] that the policy underlying the State's or the political subdivision's use of the contested practice or structure is tenuous may have probative value.
>
> Gingles, 478 U.S. at 45.

918. In considering the totality of the circumstances, the Senate Factors are "neither comprehensive nor exclusive," and "there is no requirement

that any particular number of factors be proved, or that a majority of them point one way or the other." Gingles, 478 U.S. at 45. However, the Supreme Court has explained that "the most important" Senate Factors are the "extent to which minority group members have been elected to public office in the jurisdiction," Senate Factor Seven, and the "extent to which voting in the elections of the state or political subdivision is racially polarized," Senate Factor Two. Id. at 48 n.15.

919. Each relevant consideration in the totality-of circumstances analysis points towards the conclusion that the political process, particularly in district-based legislative elections under the Enacted Senate and House Plans in the areas of focus here, is not equally open to Black Georgians.

920. In addition to failing to draw additional majority-Black districts reflecting the dramatic growth in Black population in Georgia, the State, among other things: has continued to: employ voting practices with discriminatory origins and disparate impacts on Black voters; define its politics along racial lines, as evidenced by stark racially polarized voting patterns, which are reinforced on an ongoing basis by pervasive uses of racial appeals, including those aimed at White voters in particular; witness racial disparities in turnout as a result of a history of discrimination in education, employment, and health; fail to elect Black candidates to political office, both statewide and in the areas at issue in this case, at levels that would be expected if the political process were to be equally open; and refuse to respond to the needs of Black Georgians. As detailed below, all of those considerations, and more, confirm that Black Georgians, particularly in the areas relevant to this litigation, "have less opportunity to elect candidates of their choice than do white citizens." Wright II, 979 F.3d at 1297.

i. Factor One: History of Discrimination

921. As to Senate Factor One, this Court agrees with the many other courts in this circuit to have opined on this issue, and concludes that Georgia has a long history of voting-related discrimination. See Wright I, 301

F. Supp. 3d at 1310 (quoting Brooks, 848 F. Supp. at 1560); Doc. No. [134], at 205-06.

922. That some of this history is centuries old does not render it irrelevant. As this Court and others have recognized, a history of discrimination "can severely impair the present-day ability of minorities to participate on an equal footing in the political process. Past discrimination may cause Blacks to register or vote in lower numbers than whites. Past discrimination may also lead to present socioeconomic disadvantage, which in turn can reduce participation and influence in political affairs." Doc. No. 134, at 28 (quoting United States v. Marengo Cty. Comm'n, 731 F.2d 1546, 1567 (11th Cir. 1984)) (brackets omitted); see also Wright I, 301 F. Supp. 3d at 1319; Doc. No. [134], at 208 ("[W]hether some of the history [of official discrimination] is decades or centuries old does not diminish the importance of those events and trends under this [first] Senate Factor, which specifically requires the history of official discrimination in Georgia."). The accumulated weight of the history of voting in Georgia has resulted in "diminished political influence and opportunity" for Black citizens in Georgia into the present day. Cofield v. City of LaGrange, 969 F. Supp. 749, 757 (N.D. Ga. 1997).

923. Indeed, the Supreme Court instructs that "[t]he essence of a § 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives." Gingles, 478 U.S. at 47 (emphasis added).

924. The Court finds highly credible the extensive testimony provided by Drs. Ward, Jones, and Burton, whose conclusions as to Georgia's history of voting-related discrimination are undisputed. See supra Part V(B). Dr. Jones, for instance, explained that "the State used basically every expedient that we can think of…to prevent Black voters from voting," including voter purges, poll closures, relocation of polling places, violence, intimidation, poll taxes, literacy tests, felon disenfranchisement, the White primary, the county unit system, and others. Sept. 8 PM Tr. 1162:9-21; Alpha Ex. 2, at 6.

925. Several of those historical methods of suppressing the Black vote continue to be in effect today, including "felony disenfranchisement, voter purges, voter challenges," "precinct closures," and others. Sept. 8 PM Tr. 1187:14-22 (Jones). To the extent that some of those methods have been discontinued, Georgia was forced to do so by the courts—and would attempt to replace the invalidated method with a new means of inhibiting the Black franchise. Id. at 1164:23-1165:4; 1167:13-1168:3.

926. As Defendant conceded during opening arguments, "Georgia obviously has a long history of official racial discrimination." Sept. 5 AM Tr. 47:9-12.

927. Under Eleventh Circuit precedent, evidence of historical discrimination remains relevant to Plaintiffs' claim under Section 2 of the Voting Rights Act. In League of Women Voters of Fla., Inc. v. Fla. Sec'y of State, the panel held that "outdated" history of racial discrimination "cannot support a finding of discriminatory intent," under claims of intentional discrimination brought under the Arlington Heights standard. 66 F.4th 905, 923 (11th Cir. 2023). However, as explained by that panel's majority, discriminatory intent is not at issue where, as here, the plaintiffs rely on Section 2 of the Voting Rights Act, which "turns on the presence of discriminatory effects, not discriminatory intent." League of Women Voters of Fla. Inc. v. Fla. Sec'y of State, No. 22-11143, 2023 WL 6157350, at *2 (11th Cir. Sept. 21, 2023) (Pryor, C.J., joined by Grant and Brasher, JJ., respecting the denial of rehearing en banc) (quoting Allen, 599 U.S. at 25).

928. In any event, the evidence of the contemporary reverberations of this long history of racial discrimination as well as the evidence of recent history in this case, including the continuation of some of the same methods of discrimination that began during Jim Crow and the similarities between contemporary and historical voting practices that hinder Black participation, confirms that the electoral process is not "equally open." Allen, 599 U.S. at 25.

929. This Court thus concludes that Georgia has an extensive history of voting-related discrimination—both recent and distant—and that this factor weighs heavily in Plaintiffs' favor.

ii. Factor Two: Racially Polarized Voting

930. Plaintiffs' experts, including Dr. Handley, provided overwhelming evidence that Black and White voters in Georgia cohesively support different candidates. See supra Part V(C); Sept. 7 PM Tr. 862:4-6 (Handley); Alpha Ex. 5, at 9-10; Sept. 11 PM Tr. 1429:7-10 (Burton); Sept. 8 PM Tr. 1169:19-22 (Jones); Sept. 11 AM Tr. 1343:16-17 (Ward). Defendant's expert, Dr. Alford, agrees. Sept. 14 AM Tr. 2225:5-9. It is undisputed that this polarization is "stark." Sept. 7 PM Tr. 862:4-6 (Handley). Thus, the second Senate Factor weighs heavily in Plaintiffs' favor.

931. "The legal concept of racially polarized voting, as it relates to claims of vote dilution, refers only to the existence of a correlation between the race of voters and the selection of certain candidates." City of Carrollton Branch of NAACP v. Stallings, 829 F.2d 1547, 1557 (11th Cir. 1987) (quoting Gingles, 478 U.S. at 74).

932. "It is the difference between the choices made by blacks and whites—not the reasons for that difference—that results in blacks having less opportunity than whites to elect their preferred representatives. Consequently, . . . under the 'results test' of § 2, only the correlation between race of voter and selection of certain candidates, not the causes of the correlation, matters." Gingles, 478 U.S. at 63. "All that matters under § 2 and under a functional theory of vote dilution is voter behavior, not its explanations." Id. at 73.

933. Defendant attempts to rebut the stark racial polarization in the areas at issue here by claiming that partisanship rather than race better explains the polarization because there is little variation in the level of support that Black and White voters give to *candidates* of different races in general elections. The Court rejects that argument for several reasons.

934. *First*, Defendant's argument that racial polarization depends on a showing of voters strongly preferring candidates of the same race lacks any foundation in precedent, as demonstrated by the reasons such a showing could conceivably be relevant.

935. One reason relates to misconceptions about the relationship between elected officials and their constituents, arising as it does from the presumption that White candidates necessarily hold views that are shared by White voters, and that the same is true for Black candidates and Black voters. As this Court has previously held, however, "an inquiry into voter preferences as it relates to the race of the candidate is not necessary," because it rests on the false and "demeaning" assumption that members of one racial group must necessarily ascribe to views "different from those of other citizens." Doc No. [268], at 49 (quoting Johnson v. De Grandy, 512 U.S. 997, 1027 (1994) (Kennedy, J., concurring)).

936. The other possibility is that White and Black voters consistently refuse to vote for candidates of a different race, regardless of their quality and policy positions (many of which relate to issues of race, such as racial equality and civil rights). In that scenario, the inquiry into candidate race would be in service of determining whether the electorate is motivated by racial bias and animus—and to such an extent as to be determinative of the outcome of elections.

937. But Section 2 does not require that plaintiffs prove such "racial animus." Ga. State Conf. of NAACP v. Fayette Cty. Bd. of Comm'rs, 950 F. Supp. 2d 1294, 1321 n.29; Askew, 127 F.3d at 1382 (Section 2 does not require Plaintiffs to prove that "racism determines the voting choices of the white electorate"); see also Nipper, 39 F.3d at 1525 n.64. "A discriminatory result is all that is required; discriminatory intent is not necessary." Fayette II, 775 F.3d at 1342.

938. The rule Defendant proposes is also anathema to Section 2 of the VRA as amended by Congress in 1982. The 1982 Amendment restored the "results test," which does not require a showing of discriminatory intent. S. Rep. No. 97-417, at 2, 23 (1982), reprinted in 1982 U.S.C.C.A.N. 177, 179, 200. As described by the Senate Committee

Report, the "main reason" that Congress restored the results test was "simply put, the [intent] test asks the wrong question." Id. at 36, 1982 U.S.C.C.A.N. at 214. The relevant question is whether the "electoral system operates today to exclude Blacks" or deny Black people a "fair opportunity to participate," and if so, "the system should be changed." Id. "The purpose of the Voting Rights Act was not only to correct an active history of discrimination . . . but also to deal with the accumulation of discrimination." Id. at 5, 1982 U.S.C.C.A.N. at 182.

939. Additionally, "the intent test is unnecessarily divisive because it involves charges of racism on the part of individual officials or entire communities." S. Rep. No. 97-417, at 36 (1982), reprinted in 1982 U.S.C.C.A.N. 177, 214. Moreover, requiring proof of motivation creates the "inherent danger" in a defendant's "ability to offer a non-racial rationalization" even "for a law which in fact purposely discriminates. Id. at 37. See generally Solomon, 899 F.2d at 1015 (Kravitch, J., concurring) (discussing these considerations in the Senate Report).

940. Requiring a plaintiff to negate non-racial causes put forth by a defendant under the totality of the circumstances inquiry would also effectively reintroduce the City of Mobile v. Bolden, 446 U.S. 55 (1980), intent test into the vote dilution analysis. A defendant could always come up with some plausible cause or causes which could explain away sustained racially polarized voting. Solomon v. Liberty Cty., 957 F. Supp. 1522, 1548-49 (N.D. Fla. 1997), aff'd sub nom. Solomon v. Liberty Cty. Comm'rs, 221 F.3d 1218 (11th Cir. 2000).

941. The State is transparent in its attempt to import the rejected intent standard into the Section 2 context. At closing, counsel for Defendant invoked the discussion of race and politics from League of Women Voters of Fla., which was addressing intentional discrimination claims brought under the Fourteenth and Fifteenth Amendments, a fact that counsel acknowledged. 66 F.4th at 922, 924 (citing Brnovich v. Democratic Nat'l Comm., 141 S. Ct. 2321, 2349 (2021)); Sept. 14 PM Tr. 2405:12-15. Defendant also cited the Supreme Court's Brnovich decision, but he again relies on the portion of the opinion "related to

intentional discrimination." Sept. 14 PM Tr. 2405:15-18. The Court will not follow Defendant in rewriting Section 2 of the Voting Rights Act.

942. *Second*, even if the subjective reasons why Black and White Georgians vote overwhelmingly for different candidates can be relevant to the totality of the circumstances analysis, Defendant has not met his "obligation to introduce evidence" that the undisputed racial polarization has an "innocent explanation[]." Nipper, 39 F.3d at 1525 n.64. And even if racial polarization "may logically be explained by a factor other than race" it does not require "plaintiffs to prove racial bias in community." NAACP, Spring Valley Branch, 462 F. Supp. 3d at 392 (S.D.N.Y. 2020), aff'd sub nom. Clerveaux v. E. Ramapo Cent. Sch. Dist., 984 F.3d 213 (2d Cir. 2021).

943. Having established "proof of the second and third Gingles factors," Plaintiffs have created "a sufficient inference that racial bias is at work," and are "not required to prove the negative." Nipper, 39 F.3d at 1525. At this point, it is the Defendant who may attempt at the totality of the circumstances to "rebut [this] proof of vote dilution by showing that losses by minority-preferred candidates are attributable to non-racial causes." Id. at 1526 (emphasis added); see also id. at 1525 n.64 (plaintiffs are under "no obligation" to "search . . . out" such evidence "and disprove [non-racial explanations] preemptively").

944. Defendant attempts to do so through the testimony of Dr. Alford, who suggests that the undisputed evidence of "stark" racial polarization is explained by what he calls "partisan polarized voting"— in other words, the descriptive fact that Black voters support Democratic candidates and White voters support Republican candidates. Dr. Alford's analysis was very limited: he did not offer an opinion as to the cause of voters' behavior, (Sept. 14 AM Tr. 2226:23-2227:1), he did not perform his own analysis of any of the elections Dr. Handley analyzed, (id. at 2217:12-14), and though he discusses one 2022 Republican primary election in one area, he did not do his own statistical analysis of that election, either, (id. at 2217:15-18). For these and other reasons, courts have rejected Dr. Alford's theories,

including on this very point. See, e.g., id. 2247:22-2249:16 (discussing Robinson, 605 F. Supp. 3d at 840-41).

945. Dr. Alford's descriptive observations, on which he bases his suggestion that partisanship may be driving racially polarized voting behavior, (see Sept. 14 AM Tr. 2180:5-18), do not "introduce evidence of [an] innocent explanation[]" for the undisputed polarization. Nipper, 39 F.3d at 1525 n.64. Rather, as in Singleton v. Merrill, Defendant has offered "very little evidence" to support the causal assertion that "party, not race" explains racially polarized voting patterns. 582 F. Supp.3d at 1019 (finding that "one election of one Black Republican is hardly a sufficient basis for us to ignore" a "veritable mountain of undisputed evidence" that voting is racially polarized). Fayette I, 118 F. Supp. 3d at 1347 ("[T]he Court recognizes that Defendants have raised an interesting possibility that partisanship, not race, accounts for the lack of electoral success in Fayette County. But on the current record, the Court is unable to conclude that this is the case.")

946. Further, Dr. Alford touts the one Republican primary he analyzed in a single region as evidence of White Republicans' willingness to support a Black Republican and thus evidence of a purported lack of racial bias animating White voting behavior. But the weight of this limited evidence is further diminished when considered in light of Dr. Jones' testimony, discussed earlier, as to that candidate's use of racial appeals.

947. Moreover, even though Plaintiffs do not carry a burden to disprove non-racial explanations, Plaintiffs in this case did provide powerful and largely undisputed statistical and qualitative evidence that race drives political attitudes and partisan voting choices in Georgia. See generally supra Part V(B); Sept. 7 PM Tr. 876:12-17, 885:10-25 (Handley).

948. In fact, Dr. Alford acknowledged that political affiliation can be motivated by race and that voters choose candidates that respond to their needs. Sept. 14 AM Tr. 2240:19-22, 2183:4-9, 2185:15-19.

949. For one, Plaintiffs provided evidence that parties have different attitudes on issues related to race. Sept. 7 PM Tr. 884:22-885:9, 886:3-7 (Handley).

950. Plaintiffs also provided evidence that partisan realignments have occurred over time, where the parties have redefined themselves based on issues related to race and civil rights. Sept. 7 PM Tr. 885:10-25 (Handley); Alpha Ex. 4, at 3; Sept. 11 AM Tr. 1343:17-25 (Ward).

951. Plaintiffs showed that while partisan affiliation has shifted over time, racial division has remained constant, demonstrating that partisanship alone cannot explain the lack of political opportunity for Black Georgians. Sept. 8 PM Tr. 1204:18-1205:8 (Jones); Sept. 11 PM Tr. 1428:9-24 (Burton).

952. As in Robinson, a case in which the court concluded Dr. Alford's conclusions were unsupported and "border on *ipse dixit*," "contra Defendants' assertion that polarization is attributable to partisanship and not race, the evidence of the historical realignment of Black voters from voting Republican to voting Democrat undercuts the argument that the vote is polarized along party lines and not racial lines. The realignment of Black voters from Democrat to Republican is strong evidence that, party affiliation notwithstanding, Black voters cohesively [vote] for candidates who are aligned on issues connected to race." 605 F. Supp. 3d at 840-41, at 845. See also Rodriguez v. Harris Cty., 964 F. Supp. 2d 686, 775-77 (S.D. Tex. 2013) (evidence of partisan realignment after passage of civil rights legislation supported the notion that "race is playing a factor" in the decisions of both White and minority groups in choosing candidates).

953. In addition, Plaintiffs have demonstrated that ongoing and pervasive racial appeals attest to the racialized nature of party politics in Georgia and that they demonstrate how parties define themselves by race. Sept. 8 PM Tr. 1170:17-1171:1, 1200:10-12 (Jones); Sept. 11 PM Tr. 1456:22-25 (Burton). The evidence shows that racial appeals operate to enforce the racial split between the parties by appealing to White voters in particular, including by signaling to White voters that they

should vote for the Republican Party. Sept. 8 PM Tr.1199:12-1200:13 (Jones); Sept. 11 PM Tr. 1456:14 (Burton).

954. While Plaintiffs' account of how race informs and underlies partisan preferences and behavior is "thick," and supported by the extensive, consistent, and credible testimony of multiple experts, Defendant's account is paper thin. Defendant's descriptive evidence does not even attempt to "isolate and measure for effect" the impact of party on voting patterns, failing to rebut Plaintiffs' evidence let alone to "demonstrate that race-neutral factors explain the voting polarization." United States v. Charleston Cty., 316 F. Supp. 2d 268, 304 (D.S.C. 2003), aff'd, 365 F.3d 341 (4th Cir. 2004).

955. Plaintiffs' account is more persuasive still because they also have introduced additional evidence of racial polarization that cannot be explained by partisanship – racial polarization in Democratic primary elections. Sept. 7 PM Tr. PM 880:7-11, 881:13-18 (Handley). Indeed, as Defendant's expert has previously testified, "primary elections are nonpartisan and cannot be influenced by the partisanship factor." Pasadena Indep. Sch. Dist., 958 F. Supp. 1196, 1225 (S.D. Tex. 1997), aff'd, 165 F.3d 368 (5th Cir. 1999). Accordingly, Dr. Handley's findings of racial polarization within Democratic Party primaries are especially compelling here in dispelling Defendant's ultimately unsupported assertion that Georgia's stark racial polarization reduces to mere partisanship.

956. In sum, Senate Factor Two weighs heavily in Plaintiffs' favor. The stark, consistent, persistent racially polarized voting in Georgia, including in the specific areas of focus here, militates strongly against a determination that the political process is equally open to Black Georgians.

957. Moreover, Defendant's efforts to demonstrate non-racial causes for the polarized voting patterns in Georgia is not borne out by the facts in the trial record. If anything, and despite having no burden to do so, Plaintiffs have affirmatively disproven the notion that mere partisanship can account for the persistent and stark racial polarization of voting patterns in Georgia.

iii. Factor Three: Use of Electoral Schemes Enhancing the Opportunity for Discrimination

958. Based on the evidence proffered at trial as to Senate Factor Three, including Dr. Jones's testimony, this Court concludes that Georgia has consistently used voting practices or procedures that may enhance the opportunity for discrimination against the minority group. See supra Part V(D).

959. In recent years, jurisdictions in Georgia have attempted to use methods such as at-large voting and majority-vote, which are explicitly identified in Senate Factor Three as mechanisms that enhance the opportunity for discrimination. For instance, in 2015, Fayette County's at-large voting system for electing county commissioners and the board of education was enjoined by a federal district court—and the result of the court's remedial plan was the election of a Black commissioner for the first time. Alpha Ex. 2, at 11. And in Sumter County, the General Assembly endorsed a proposal to convert some of the county's school board seats to at-large seats, after the board became majority-Black for the first time. Id. at 18–19. Accordingly, far from "showing its age," (Sept. 14 PM Tr. 2411:23–2412:2) (Defendant's Counsel), the mechanisms identified by Senate Factor Three continue to be employed in response to the threat of Black political success and would continue to operate against minority voting strength if left unchecked.

960. Defendant argues that the majority vote requirement no longer harms Black voters, because it has not resulted in the defeat of Senators Raphael Warnock and Jon Ossoff. This Court finds persuasive Dr. Jones' testimony that the requirement still operated against Senator Warnock, who had to participate in additional runoff elections despite winning the most votes in the general elections in 2020 and 2022. Furthermore, Senator Ossoff's victory is one datapoint that cannot outweigh the overall record of the majority vote requirement, which was adopted for the purpose of suppressing Black voting strength after the demise of the county unit system. Alpha Ex. 2, at 12-13.

961. It also can hardly be disputed that Georgia continues to employ electoral and voting mechanisms that disproportionately impede Black Georgians' ability to participate politically. Contemporary practices, like the various iterations of Georgia's "exact match" program, voter purges, the closing of polling locations, prohibitions on assistance to illiterate voters, restrictions on absentee voting, and failure to register voters at agencies that tend to serve Black Georgians (while registering voters at agencies frequented by White Georgians) have been shown to disproportionately disadvantage Black voters—around 70% of the people who failed verification were Black. Alpha Ex. 2, at 23-37 (cataloging contemporary methods of voter suppression); Sept. 8 PM Tr. 1179:9-1180:9, 1183:14-1186:20 (Jones); Sept 14. AM Tr. 2297:21-23 (Germany) (acknowledging that the Office of Secretary of State's internal review found that as of 2018, Georgians who had failed identification verification pursuant to House Bill 316 were "overwhelmingly Black applicants").

962. Redistricting itself has been used as a tool to district Black officials out of office and to protect White incumbents, including as recently as the redistricting cycle in the mid-2010s. Alpha Ex. 2, at 16-17 (discussing Georgia's abuse of redistricting in Henry and Cobb County area districts).

963. None of Defendant's arguments change this conclusion. First, contrary to the State's argument that Black turnout has been high in recent years, the fact that Black voters were able to overcome—to some extent—the discriminatory effects of in some instances does not erase the continued racial disparity in turnout, particularly after Georgia responded to record turnout in 2020 by restricting voting processes favored by Black voters. Alpha Ex. 2, at 34-37.

964. Second, the State points to automatic voting registration as one example of a voting procedure that tends to improve access to the polls, but has stopped short of providing any other examples or sufficient evidence to refute Plaintiffs' evidence that Georgia employs various voting practices that tends to enhance the opportunity for discrimination against Black Georgians. Automatic voter registration

does not specifically address racial disparities, nor does it tend to favor minority voters—and even if it did, Eleventh Circuit precedent is clear that the political process may not be equally open even when Black minorities enjoy political advantages with voter registration. Wright II, 979 F.3d at 1308-09 (affirming district court's decision not to give "dispositive weight" to the fact to the Black community's "registration, population, and voting-age population advantages"). Moreover, the organizational representative for the Secretary of State's Office testified at trial that there are certain costs associated with automatic voter registration, but that the Secretary of State's Office has not determined whether—and was unable to deny that—such costs impose a heavier burden on Black Georgians and other groups that tend to have lesser financial means. Sept 14. AM Tr. 2290:19-2292:6.

965. Third, Defendant argues that there has been no legal finding of racially discriminatory intent as to the state's "recent history" of election practices that may stifle minority participation, (Sept. 5 AM Tr. 47:13-22), but a finding of intent is not necessary for consideration as part of the totality of the circumstances analysis. See, e.g., Marengo Cty. Comm'n, 731 F.2d at 1570 (finding, for Senate Factor Three purposes, that requiring candidates to run county-wide enhanced opportunity for discrimination against Black candidates and voters, who are less able to sustain expensive campaigns). Indeed, Senate Factor Three identifies a series of relevant electoral mechanisms, none of which are facially discriminatory on the basis of race but nonetheless enhance the opportunity for discrimination. See id. ("A vote dilution case is 'enhanced by a showing of the existence of large districts, majority vote requirements, anti-single shot voting provisions and the lack of provision for at-large candidates running from particular geographical subdistricts.'" (citation omitted)).

966. Accordingly, recent restrictions on voting—including limitations on the use of absentee voting, early voting, and drop boxes—are relevant considerations, particularly given Plaintiffs' evidence of their disproportionate impact on Black voters, even without a judicial finding of racially discriminatory intent in their enactment.

967. Senate Factor Three weighs heavily in Plaintiffs' favor. Georgia's long history and continued adoption and use of voting mechanisms and rules that disproportionately burden Black voters support the conclusion that the political process is not equally open to Black Georgians.

iv. Factor Four: Slating Processes

968. It is undisputed that Georgia uses no slating process for its General Assembly elections. As a result, this factor is irrelevant to this case, and the Court does not consider it to weigh in either parties' favor. See Doc. No [134], at 211.

v. Factor Five: Effects of Discrimination

969. As to Senate Factor Five, the Court concludes that Black Georgians suffer socioeconomic hardships rooted in a history of discrimination that continues in the present day that impedes their ability to participate in the political process compared to White Georgians, a racial gap that is captured by Georgia's own voter turnout data.

970. Plaintiffs have offered overwhelming evidence from the expert report and testimony of Dr. Burch that as a result of Georgia's long history of discriminating against Black residents in nearly every aspect of daily life, the Black community in Georgia suffers socioeconomic and other disparities in various aspects of life that impair their ability to participate in the political process.

971. The Eleventh Circuit has "recognized in binding precedent that 'disproportionate educational, employment, income level, and living conditions arising from past discrimination tend to depress minority political participation.'" Wright II, 979 F.3d at 1294 (quoting Marengo Cty. Comm'n, 731 F.2d at 1568). "'Where these conditions are shown, and where the level of black participation is depressed, plaintiffs need not prove any further causal nexus between their disparate socio-economic status and the depressed level of political participation.'" Id. at 1294; see also United States v. Dallas Cty. Comm'n, 739 F.2d 1529, 1537 (11th Cir. 1984).

972. Racial inequalities in financial resources can cause other relevant harms, like Black voters "not be[ing] able to provide the candidates of their choice with the same level of financial support that whites can provide theirs." Gingles, 478 U.S. at 70.

973. Defendant does not dispute that Black Georgians today suffer from disparities in essentially every area of life, from socioeconomic indicators such as income, education, poverty, and employment, to housing, health outcomes, and contacts with the criminal justice system.[8] Defendant also does not dispute that these disparities are in part caused by historical and contemporary discrimination.

974. Nor does Defendant dispute the evidence that these socioeconomic and other disparities have the effect of making it harder for one to participate in the political process.

975. The Court finds that the persistent turnout gap between Black and White Georgians, observable in the Georgia Secretary of State's own voter turnout data, is indicative of Black Georgians' diminished ability to participate effectively in the political process.

976. While Defendant argues that there is less difficulty in participating in the political process in recent years, that ignores the indisputable fact that the racial gap in voter turnout continues to persist, including in the 2020 and 2022 general elections.

977. Nor is Defendant's assertion that Black voters are merely "choosing" to vote less than White voters supported by the trial record. As Dr. Burch explained, her analysis about educational attainment, race, and voter turnout shows that "it's not about the personal choices of voters." Sept. 8 PM Tr. 1126:22-23. Black voters put in the effort to vote, and in fact outvote White voters at several levels of educational attainment. Alpha Ex. 6, at 16 (Table 1). But the act of systemic discrimination against Black Georgians means that there are fewer Black Georgians at the higher levels of education that directly

[8] This Court has credited similar evidence regarding racial disparities in Georgia along these indicators. See Doc. No. [134], Order Denying Preliminary Injunction, at 213 n.41.

translate into more participation, resulting in a total turnout gap between Black and White voters. Sept. 8 PM Tr. 1126:19-1127:14 (Burch); Sept. 8 AM Tr. 1061:2-1062:14 (Burch).

978. Because Defendant entirely fails to rebut Plaintiffs' evidence of significant effects of discrimination on Black Georgians that affect political participation, Senate Factor Five weighs heavily in favor of a finding of vote dilution.

vi. Factor Six: Racial Appeals

979. As to Senate Factor Six, the Court concludes that there are ample recent and historical examples of the use of racial appeals in Georgia elections, which show that both subtle and overt racial appeals are pervasive in Georgia's political environment. See supra Part V(G). Such appeals continue to characterize campaigns in Georgia, as they have persistently and repetitively occurred in some of the most high-profile campaigns involving Black candidates in the State. See, e.g., Alpha Exs. 31, 266. The resilience of these appeals indicates that political campaigns, parties, and other actors continue to believe that such appeals are effective at associating Black candidates with negative, racist stereotypes and at mobilizing White voters by emphasizing the racial division in the State's politics. See, e.g., Sept. 8 PM Tr. 1198:1-1200:25 (Jones).

980. Examples include darkening the skin of a Black candidate, which courts have regularly recognized as a common tactic for racial appeals. See, e.g., United States v. Charleston Cty., 318 F. Supp. 2d 302, 323 (D.S.C. 2002) (noting that "non-minority candidates have displayed photos of their black opponents prominently in campaign literature and sometimes darkened pictures to emphasize the racial distinction").

981. The State incorrectly suggests that appeals to racism by unsuccessful candidates do not weigh toward vote dilution, noting that Senator Warnock won his race despite the racial appeals lodged against him. Yet, as this Court has previously explained, Senate Factor Six "does not require that racially polarized statements be made by successful

candidates. The factor simply asks whether campaigns include racial appeals." Order on Motion for Summary Judgment at 45-46, Fair Fight Action, Inc. v. Raffensperger, No. 1:18-cv-5391-SCJ (N.D. Ga. 2021), Doc. No. [636] (citing Gingles, 478 U.S. at 37).

982. That makes sense because, as Dr. Jones explained, racial appeals used in campaigns against a candidate who is able to overcome the racial appeal and win the election still provide evidence about the political environment and show that the political opponent thought the appeals to racism would work in Georgia. Sept. 11 AM Tr. 1288:21-1289:4. Dr. Ward also explained that racial appeals made by unsuccessful candidates are important to consider because these candidates "believe [racial appeals] will land, will be effective," and that candidates are "trying to influence the political conversation" by making such appeals. Id. at 1350:16-19.

983. Defendant's other arguments on Senate Factor Six are similarly unavailing. Defendant contends that "the evidence shows" that a particular racial appeal ad highlighted by Dr. Jones "originated outside Georgia." Sept. 11 AM Tr. 2413:24-2414:1. Yet, the State does not dispute that the appeals were made to the Georgia electorate and aimed at influencing election outcomes in Georgia. Moreover, even if the State is correct that "fewer than a thousand people" were the direct recipients of this robocall, Dr. Jones explained that the robocall received widespread coverage—and the contents of the racial appeal therefore reached many others. Id. at 1288:18-20.

984. Finally, the Court rejects Defendant's assertion that "evidence plaintiffs [have] put in the record of at least claims by a Republican candidate that Democrats were making racial appeals," reinforces the State's point that partisan polarization explains the lack of electoral success for Black-preferred candidates. Sept. 11 PM Tr. 2414:4-10; Alpha Ex. 266. In fact, the State has it backwards. First, there is no testimony or other evidence admitted to show that Democrats in fact engaged in racial appeals. See Sept. 8 PM Tr. 1189:14-25, 1197:12-19 (Jones). Moreover, even if the record showed that Democrats also used racial appeal ads, that fact would only further demonstrate that

voters in Georgia are polarized for reasons related to race—and that the political context of Georgia is one that is not equally open to Black Georgians but instead characterized by demeaning and harmful racial appeals.

985. Because Plaintiffs have shown that both overt and subtle racial appeals continue to be endemic in Georgia politics, this factor weighs heavily in the Plaintiffs favor.

vii. Factor Seven: Lack of Electoral Success

986. As to Senate Factor Seven, the Court concludes that Black Georgians continue to have a lack of electoral success in U.S. Congress, state-wide office, and most importantly in districted General Assembly elections in the precise areas at issue in this case. See supra Part V(H).

987. The Court credits Dr. Jones' analysis of the lack of Black electoral success in the areas of interest in this case, which Defendant has not rebutted. In 2022, none of the districts in the areas of interest elected a Black legislator. Sept. 8 PM Tr. 1209:2-3 (Jones); Alpha Ex. 3. And over the previous two decades, most of the population in these district areas were not represented by a Black legislator in the General Assembly either. Id. at 1209:22-1210:1 (Jones); Alpha Ex. 2, at 48; Alpha Ex. 3. Moreover, in the few instances where a Black legislator did succeed in getting elected to represent some of the areas at issue, the level of Black representation in the General Assembly declined sharply after each redistricting, both in 2010 and in 2020. Sept. 8 PM Tr. 1208:23-1209:3 (Jones). Such area-specific evidence is especially powerful. See Wright II, 979 F.3d at 1305-06.

988. At trial, Dr. Jones submitted a list of typographical errors, most of which were affirmatively raised by Dr. Jones at her deposition, and there is no question that those errors are immaterial. Sept. 8 PM Tr. 1143:1-25; Alpha Ex. 340.

989. The State's examples of one Black candidate (Erick Allen) who was elected from a non-majority Black district and one Black-preferred candidate who lost a statewide election are not enough to overcome

the weight of the Plaintiff's evidence of underrepresentation in every corner of Georgia's public office. See Wright II, 979 F.3d at 1310-11 (rejecting defendant's reliance on success of single Black candidate from non-majority-Black district).

990. While Black Georgians do represent their communities in the General Assembly, significantly less than 1/3 of the General Assembly is Black, and the vast majority of those Black State Senators and Representatives come from majority-Black districts.

991. The persistent inability of Black candidates to win state legislative office in the particular areas of focus in this case is especially strong evidence that, in those areas, and in the context of district-based elections for state legislature, the political process is not equally open to Black Georgians.

viii. Factor Eight: Lack of Responsiveness

992. As to Senate Factor Eight, the Court concludes that elected officials in Georgia are unresponsive to the interests and needs of its Black constituents, as shown by the continued disparity between White and Black Georgians across a number of dimensions, including socioeconomic indicators, residence, health status, and contacts with the criminal justice system.

993. As Dr. Burch explained in her report and testimony, that these disparities continue to exist is a testament to how public officials fail to take opportunities to enact laws that would address the needs of Black Georgians.

994. This conclusion is also supported by the racial gaps in satisfaction with political figures and public services, demonstrating that Black Georgians perceive a lack of responsiveness of government officials to their needs. A majority of Black Georgians also disapprove of S.B. 202, which reflects a lack of responsiveness by elected officials to Black Georgians' needs and concerns regarding political participation.

995. While the causes of legislative action and inaction can no doubt be complex, the overall lack of responsiveness to the needs of Black Georgians demonstrated by Plaintiffs further indicates that the political process is not equally open to Black Georgians. Based on this unrebutted evidence, Senate Factor Eight weighs in Plaintiffs' favor.

ix. Factor Nine: Tenuous Justification

996. As to Senate Factor Nine, the Court concludes that any justification for the Enacted State Senate and House Plans are tenuous.

997. Mr. Cooper's Illustrative Plans demonstrate that it is possible to create plans with additional majority-Black districts that respect traditional redistricting principles and meet all of Georgia's own redistricting guidelines.

998. Moreover, the hurried manner in which the Enacted Plans were announced to the public and then rushed through the legislative process—followed by a lengthy delay before signing them into law, which had the predictable effect of making it difficult for the maps to be effectively challenged prior to the 2022 election—reflect poorly on the transparency of the process around the maps and their ultimate justification.

999. The Court does not view Senate Factor Nine as especially salient in this case. However, the fact that the Enacted Plans, which operate to shut Black Georgians out of power in the areas of focus, were swiftly enacted without giving those effected by the plans a chance to respond to them also indicates that the political process is not equally open to Black Georgians in those areas.

d. Defendant Misinterprets De Grandy and Proportionality Does Not Bar Relief

1000. To the extent that Defendant claims that Plaintiffs are not entitled to relief because, under the Enacted Plans, more than one-third of the Georgia House and Senate are members of the Democratic Party, this argument fails.

1001. In Johnson v. De Grandy, 512 U.S. 997 (1994), the Supreme Court held that there is a potential defense to a VRA Section 2 claim, even though the Gingles preconditions are satisfied, when "minority voters form effective voting majorities in a number of districts roughly proportional to the minority voters' respective shares in the voting-age population." Id. at 1000.

1002. The De Grandy proportionality analysis "is a relevant fact in the totality of circumstances to be analyzed when determining whether members of a minority group have 'less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.'" 512 U.S. at 1000 (citation omitted). However, proportionality alone "is not dispositive in a challenge to single-member districting." Id.

1003. In De Grandy, the Supreme Court explained that the district maps at issue there "provid[ed] political effectiveness in proportion to voting-age numbers" because "Hispanics constitute[d] 50 percent of the voting-age population in Dade County and under SJR 2–G would make up supermajorities in 9 of the 18 House districts located primarily within the county. Likewise, if one consider[ed] the 20 House districts located at least in part within Dade County, the record indicates that Hispanics would be an effective voting majority in 45 percent of them (i.e., nine), and would constitute 47 percent of the voting-age population in the area." 512 U.S. at 1014.

1004. De Grandy defines proportionality by examining the voting age population of the minority group at issue in comparison with the number of majority-minority districts in the electoral map at issue. 512 U.S. at 1014.

1005. Defendant asks this Court to adopt a totally novel definition of proportionality that compares the number of members of a political party elected on a statewide basis to the Georgia House and Senate with the BVAP of the State of Georgia. The Court will not extend De Grandy in that manner.

1006. The Supreme Court has never defined proportionality by looking at the partisan makeup of the respective districts or contests at issue, or otherwise suggested a departure from De Grandy's definition of proportionality.

1007. Indeed, recently in Allen, the Supreme Court reaffirmed the De Grandy proportionality definition. There, the Supreme Court discussed proportionality as a comparison between the number of majority-minority voting districts versus the minority group's percentage of the voting age population. See Allen, 599 U.S. at 26-29.

1008. Moreover, as a factual matter, Defendant also appears to assume, without citing specific evidence in the record, that each and every Democrat in the General Assembly is necessarily the candidate preferred by Black voters in their district, (See Sept. 14 PM Tr. 2417:19-2418:3), or that every district in which a Democrat is elected necessarily provides Black voters with an opportunity to elect their preferred candidates. Even if Defendant's theory were legally tenable, there is no such evidence in this trial record. Compare Sept. 7 PM 900:14-16 ("Q: . . . Would you consider all districts that elect Democrats to be Black opportunity districts? A: Not without doing any analysis, no.") (Handley), and 900:17-901:1 (describing the statistical analysis necessary to determine whether a district presents an opportunity to elect) (Handley), with Sept. 14 AM Tr. 2227:2-8 ("Q: . . . [Y]ou've not analyzed whether any state legislative district under the illustrative or enacted plans that are at issue in this case, create an opportunity for Black voters to elect the candidate of their choice; right? A: I did not look at -- I didn't do any performance analysis.") (Alford).

1009. Accordingly, the Court rejects Defendant's proffered approach to proportionality.

1010. Defendant does not claim that the Enacted House and Senate Plans are proportional under De Grandy's definition.

1011. Nor could Defendant make such a claim. The BVAP population in Georgia is approximately 31.73%. Under the Enacted House Plan, the

percentage of majority-Black House districts is 27% (49/180). Under the Enacted Senate Plan, the percentage of majority-Black Senate districts is 25% (14/56). Indeed, even with the three additional Black-majority Senate districts, and five additional Black-majority House districts that are the subject of this litigation, the percent of Black-majority Senate districts (30.3%, or 17/56) and Black-majority House districts (30%, or 54/180) would still be below the statewide BVAP percentage.

e. There Is No Temporal Limitation on Section 2 of the VRA and the Trial Record Provides No Reason to Impose One

1012. Primarily relying on the dissenting opinion in Allen as well as Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll., 143 S. Ct. 2141 (2023), Defendant also argues that Section 2 of the VRA no longer applies to the State of Georgia. Defendant's theory is apparently that the U.S. Constitution imposes an unstated temporal limitation on race-conscious government action or policy of any kind.

1013. As a legal matter, the Constitution imposes no such restriction. Rather, the Fifteenth Amendment provides Congress with broad power to impose race-conscious remedies in the area of voting. Allen, 599 U.S. at 41 (citing City of Rome, 446 U.S. at 173); Chisom, 501 U.S. at 403 (quoting Katzenbach, 383 U.S. at 315). The Fifteenth Amendment, which by its terms protects "the right to vote" from denial or abridgement "on account of race, color, or previous condition of servitude," is expressly race-conscious. U.S. Const. Amend. XV, § 1.

1014. Shelby County v. Holder, 570 U.S. 529 (2013), where the Court struck down the coverage formula that had applied the VRA's Section 5 preclearance regime to some jurisdictions and not others, is fatal to Defendant's argument. There, the Court struck down Section 4's coverage formula based on a principle of "equal sovereignty" to the States that does not apply in the context of Section 2, and based on the fact that "Sections 4 and 5 were intended to be temporary," and thus had always had temporal limitations built in by Congress. Shelby, 570 U.S. at 538, 546. But the Court expressly contrasted this regime with

Section 2 of the VRA, which, it explained, "applies nationwide" and "is permanent." Id. at 537 (emphasis added). That unequivocal pronouncement by a majority of the Supreme Court directly and completely forecloses Defendant's assertion that Section 2 is temporary.

1015. The Harvard affirmative action case, which involves neither voting, nor the Fifteenth Amendment, nor any congressional authorization to remedy racial discrimination, is meanwhile completely inapposite. Nothing in that decision purports to apply outside the unique context of race-conscious admissions policies.

1016. Nor can the Court discern any basis in the trial record that might support the argument that the Voting Rights Act is no longer needed. To the contrary, the trial record here demonstrates that Georgia has enacted legislative districts that lock large and concentrated groups of Black voters out of power due to the persistent and stark patterns of racially polarized voting, especially in the specific areas of focus in the lawsuit. See supra Part V(C). The record demonstrates that in those areas, Black voters have more or less never had an opportunity to elect candidates of their choosing outside Black-majority districts, supra Part V(H), and that Black General Assembly candidates have largely never prevailed, supra Part V(H). The record demonstrates that Georgia continues to enact policies that disproportionately make it more difficult for Black Georgians to vote, supra Part V(D), that Georgia continues to be afflicted by racial disparities that are reflected in a persistent gap in turnout and political participation despite the efforts of Black Georgians to exercise hard-won political rights, supra Part V(F), and that Georgians continue to be subjected to ugly racial appeals in politics, supra Part V(G).

1017. Section 2 is permanent, but this state of affairs need not be. On different facts—for example, where stark and persistent racially polarized voting patterns no longer characterized Georgia elections—a Section 2 claim simply would not lie. But the trial record demonstrates that, at least in these particular district-based legislative elections, Section 2, and the Gingles results test, still have work to do.

B. The Remaining Permanent Injunction Factors Weigh in Favor of Relief

a. The Plaintiffs Would Suffer Irreparable Harm Absent Injunctive Relief

1018. As Defendant candidly agreed during the preliminary injunction hearing in this case, "if there is a Section 2 violation, the harm is irreparable. . . . [T]hose two go hand-in-hand." Feb. 14 PM Tr. 154:12-16.

1019. Voting is "a fundamental political right, because [it is] preservative of all rights." Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886). It "is the beating heart of democracy" and therefore "is of the most fundamental significance under our constitutional structure." Democratic Exec. Comm. of Fla. v. Lee, 915 F.3d 1312, 1315 (11th Cir. 2019) (citations omitted). "And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." Reynolds v. Sims, 377 U.S. 533, 555 (1964).

1020. As the Eleventh Circuit has explained, a harm is "irreparable 'if it cannot be undone through monetary remedies.'" Scott v. Roberts, 612 F.3d 1279, 1295 (11th Cir. 2010) (citation omitted). In turn, numerous courts have recognized that restrictions on the fundamental right to vote are a "significant, irreparable harm." Charles H. Wesley Educ. Found., Inc. v. Cox, 408 F.3d 1349, 1355 (11th Cir. 2005); see also, e.g., Martin v. Kemp, 341 F. Supp. 3d 1326, 1340 (N.D. Ga. 2018), stay denied sub nom. Ga. Muslim Voter Project v. Kemp, 918 F.3d 1262 (11th Cir. 2019); Fish v. Kobach, 840 F.3d 710, 752–53 (10th Cir. 2016); League of Women Voters of N.C. v. North Carolina, 769 F.3d 224, 247-48 (4th Cir. 2014); Obama for Am. v. Husted, 697 F.3d 423, 436 (6th Cir. 2012). This reflects the obvious principle that, "[o]nce the election occurs, there can be no do-over and no redress." League of Women Voters, 769 F.3d at 247.

1021. Thus, in view of this Court's conclusion, supra Part IX(B), that the Enacted Senate and House Plans violate Section 2 of the Voting Rights

Act, this Court further concludes that the resulting harm suffered by the Plaintiffs would be severe and irreparable.

b. The Balance of Equities Tip Decidedly in Favor of Relief

1022. Vindicating voting rights is also in the public interest. The "cautious protection of the Plaintiffs' franchise-related rights is without question in the public interest." Charles H. Wesley Educ. Found., 408 F.3d at 1355.

1023. The trial record, and in particular Mr. Cooper's Illustrative Plans, indicate that it is possible to add reasonably configured Black-majority Senate and House districts in the areas of interest in this litigation while leaving a large number of Senate and House districts unchanged, and while leaving the vast majority of Georgians (80% plus) in the same district that they were in before. DTX 2, at 8, 25; Sept. 5 AM Tr. 88:13-18 (Cooper).

1024. Counsel for Defendant has represented to this Court that, so long as a remedial plan is ordered into place by "late January, early February," there will be sufficient time for election administrators to revise the districts in advance of the 2024 election season. Aug. 22 Telephone Conference Tr. 16:20.

X. Remedy

1025. This Court concludes that it is appropriate to give the Georgia General Assembly two weeks to enact plans that comply with the Voting Rights Act.

1026. This timeline balances the relevant equities and serves the public interest by providing the General Assembly with its rightful opportunity to craft a remedy in the first instance, while also ensuring that, if an acceptable remedy is not produced, there will be time for the Court to fashion one. This litigation was initiated in 2021, within days of the challenged plans' enactment. The public must not endure the extraordinarily serious and entirely preventable harm of a second

election cycle using legislative maps that the Court has now determined on a full trial record to be unlawful.

XI. Conclusion

1027. Based on the foregoing, this Court concludes that injunctive relief and declaratory relief are appropriate. Plaintiffs have prevailed on the merits and are entitled to relief. A permanent injunction will issue forthwith, with remedial proceedings, if necessary, to follow.

1028. The Court's injunction affords the State a limited opportunity to enact a new map. When a federal court finds that a redistricting plan violates federal law, the Supreme Court "has repeatedly held that redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt." Wise v. Lipscomb, 437 U.S. 535, 539-40 (opinion of White, J.) (collecting cases). Upon such a finding, it is "appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet [legal] requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan." Id. at 540; see also Caster v. Merrill, 2022 WL 264819, at *82 (N.D. Ala. Jan. 24, 2022), aff'd sub nom. Allen, 599 U.S. at 143.. If the state legislature cannot or will not adopt a remedial map that complies with federal law in time for the 2024 election, then the job of drawing an interim map may fall to this Court. Wise, 437 U.S. at 540 (when "those with legislative responsibilities do not respond, or the imminence of a state election makes it impractical for them to do so, it becomes the unwelcome obligation of the federal court to devise and impose a reapportionment plan.") (internal citations omitted); see also Larios v. Cox, 314 F. Supp. 2d 1357, 1359 (N.D. Ga. 2004).

1029. The Court is confident that the General Assembly can accomplish its task: the General Assembly enacted the Plans quickly in 2021; the Legislature has been on notice since at least the time that this litigation was commenced more than 18 months ago that new maps might be necessary; the General Assembly already has access to an experienced cartographer; and the General Assembly has an illustrative remedial plan to consult.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Book Antiqua and a point size of 13.

/s/ Rahul Garabadu

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing ***Plaintiffs' Findings of Fact and Conclusions of Law*** with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel or parties of record on the service list:

This 25th day of September, 2023.

/s/ Rahul Garabadu