

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

James L. “Jimmy” Cooper, III,
et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Plaintiffs’ Motion for a
Preliminary Injunction**

The plaintiffs respectfully move the Court for a preliminary injunction prohibiting the Secretary of State from enforcing Georgia’s signature requirements for independent and third-party candidates in light of the current public health emergency caused by the novel coronavirus.

Background

This lawsuit seeks to ensure that independent and third-party candidates have a reasonable opportunity to qualify for the ballot without endangering their own lives and the lives of others. Georgia's ballot-access laws require such candidates to submit nomination petitions containing many thousands of signatures gathered over a 180-day period. With the state on lockdown as a result of a global pandemic arising from a highly communicable infectious disease, they cannot lawfully or safely gather the signatures necessary to meet that requirement.

The plaintiffs are two third-party candidates and the Georgia Green Party. They have met, or will have met, all of Georgia's ballot-access requirements other than the petition. They allege that, under these unprecedented circumstances, Georgia's signature requirements unconstitutionally burden their rights under the First and Fourteenth Amendments to the U.S. Constitution, and they seek declaratory and injunctive relief for the 2020 general election.

I. The Novel Coronavirus Presents a Threat to Public Health

In December 2019, an outbreak of respiratory disease caused by a novel coronavirus emerged in Wuhan, China. (Ex. 1: Exec. Order 03.14.20.01 at 1.) It is an infectious disease, now known as “COVID-19,” that can spread from person to person and can result in serious illness and death. (*Id.*) According to the Centers for Disease Control and Prevention, older adults (particularly those over 65) and people of any age who have serious underlying medical conditions (including asthma, heart disease, cancer, and diabetes) may be at higher risk for severe illness from COVID-19.¹

On January 30, 2020, after the coronavirus outbreak had spread well beyond China, the World Health Organization (WHO) declared that COVID-19 constituted a Public Health Emergency of International Concern. (Ex. 14: WHO statement at 4.) The next day, as a result of confirmed cases of COVID-19 in the United States, Health and Human Services Secretary Alex M. Azar II declared a nationwide public health

¹ Centers for Disease Control and Prevention, *People Who Are at Higher Risk for Severe Illness*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited May 8, 2020).

emergency retroactive to January 27, 2020. (Ex. 16: Azar determination.)

Immediately thereafter, public health officials in the United States began taking aggressive measures to stop the spread of the disease.² They began to warn the public about the possibility of severe disruption from COVID-19 outbreaks in the United States, and they urged cities and towns to begin preparing for social-distancing measures like school closures and meeting cancellations.³

On March 11, the World Health Organization declared COVID-19 to be a global pandemic. (Ex. 15: WHO director's remarks at 2.) Two days later, the President of the United States declared a national emergency (retroactive to March 1, 2020) due to the COVID-19 outbreak in the United States. (Ex. 17: Presidential Proclamation at 2.)

² See, e.g., Julie Bosman and Denise Grady, *U.S. Officials Promise 'Aggressive Measures' to Contain Coronavirus*, N.Y. Times, Feb. 3, 2020, available at <https://nyti.ms/2Or1seZ>; Shraddha Chakradhar, *To fight coronavirus spread, the U.S. may expand 'social distancing' measures. But it comes at a cost*, STAT, Feb. 3, 2020, available at <https://www.statnews.com/2020/02/03/coronavirus-spread-social-distancing-us/>.

³ See, e.g., Helen Branswell, *CDC director: More person-to-person coronavirus infections in U.S. likely, but containment still possible*, STAT, Feb. 12, 2020, available at <https://www.statnews.com/2020/02/12/cdc-director-more-person-to-person-coronavirus-infections-in-u-s-likely-but-containment-still-possible/>; Peter Belluck and Noah Weiland, *C.D.C. Officials Warn of Coronavirus Outbreaks in the U.S.*, N.Y. Times, Feb. 25, 2020, available at <https://nyti.ms/2uu1r30>; Megan Thielking, *CDC expects 'community spread' of coronavirus, as top official warns disruptions could be 'severe'*, STAT, Feb. 25, 2020, available at <https://www.statnews.com/2020/02/25/cdc-expects-community-spread-of-coronavirus-as-top-official-warns-disruptions-could-be-severe/>.

On March 14, Georgia Governor Brian Kemp declared a Public Health State of Emergency in the State of Georgia due to the public health emergency from the spread of COVID-19. (Ex. 1: Exec. Order 03.14.20.01 at 1.) The Governor's order observed that COVID-19 "is proliferating via 'community spread,' meaning people have contracted the virus in areas of Georgia as a result of direct or indirect contact with infected persons." (*Id.*) That same day, Secretary of State Brad Raffensperger postponed Georgia's presidential preference primary from March 24 to May 19, 2020, due to the public health emergency from COVID-19. (Ex. 10: Raffensperger announcement of March 14, 2020, at 1.) In announcing the postponement, Secretary Raffensperger noted that older Americans face an increased risk from COVID-19 and that "[a]ll individuals should practice social distancing and minimize contact with others" (*Id.*)

Two days later, the Governor closed all public schools through March 31, 2020. (Ex. 2: Exec. Order 03.16.20.01) He later extended the closures through April 24 (Ex. 4: Exec. Order 03.26.20.02 at 2), and then he closed them for the remainder of the school year in order to stop the spread of COVID-19 (Ex. 5: Exec. Order 04.01.20.01 at 2).

On March 20, due to the COVID-19 public health emergency, Secretary Raffensperger invoked his authority under O.C.G.A. § 21-2-50.1 to extend the deadline for independent and third-party candidates to submit nomination petitions until 12:00 noon on Friday, August 14, 2020. (Ex. 13: letter from Harvey to Cowen.)

On March 23, Governor Kemp issued an order closing all bars, banning gatherings of more than 10 people, and ordering “medically fragile” residents to shelter in place. (Ex. 3: Kemp Exec. Order 03.23.20.01 at 2.) The order also directed the Department of Public Health to undertake a public information campaign to encourage businesses to “limit personal interaction” during transactions. (*Id.* at 3.)

On March 24, 2020, Secretary Raffensperger announced unprecedented steps to protect public health and safety in the election process as a result of COVID-19. (Ex. 11: Raffensperger announcement of March 24, 2020, at 1.) Those steps include mailing absentee ballot request forms to Georgia’s 6.9 million active voters, encouraging as many voters as possible to vote by mail, and implementing social-distancing measures in polling places during the primary election. (*Id.*)

On April 2, Governor Kemp issued an executive order requiring “[t]hat all residents and visitors of the State of Georgia” shelter in place between April 3 and April 13. (Ex. 6: Exec. Order 04.02.20.01 at 2.) Less than a week later, the Governor extended the state of emergency in Georgia until May 13 and extended the shelter-in-place order through April 30. (Ex. 7: Exec. Order 04.08.20.02 at 1-2.)

On April 9, Secretary Raffensperger postponed the primary election from May 19 to June 9. (Ex. 12: Raffensperger announcement of April 9, 2020, at 1.) His press release announcing the delay stated that “challenges will certainly remain on June 9” but the additional time would permit officials “to shore up contingency plans, find and train additional poll workers, and procure supplies and equipment necessary to clean equipment and protect poll workers.” (*Id.*)

On April 23, Governor Kemp issued an executive order which, among other things, ordered “all residents and visitors in the State of Georgia” to practice social distancing and sanitation in accordance with the guidelines published by the Centers for Disease Control and Prevention; encouraged residents and visitors to wear masks in public to prevent the spread of COVID-19; continuing to require high-risk

individuals, including everyone over age 65, to shelter in place; and prohibited such people from receiving visitors. (Ex. 8: Exec. Order 04.23.20.02 at 2-6.) The lockdown and social-distancing provisions in the order are effective from May 1 through May 13. (*Id.* at 2.)

On April 30, Governor Kemp renewed the public health emergency due to COVID-19 and extended the shelter-in-place and no-visitors requirements for high-risk individuals and those over 65 through Friday, June 12. (Ex. 9: Exec. Order 04.30.20.01 at 1-2.) On May 1, this Court extended its coronavirus-prevention measures through May 29. (ECF 9.) And on May 4, the Georgia Supreme Court announced its intention to extend the statewide judicial emergency due to the coronavirus through June 12.⁴

As of the date of this motion, Georgia is among the states hardest hit by COVID-19. There are at least 32,016 confirmed cases and 1,391 confirmed deaths from the disease in the state.⁵ And the Centers for

⁴ Georgia Supreme Court, *Chief Justice Will Extend Statewide Judicial Emergency* (May 4, 2020), <https://www.gasupreme.us/extend-judicial-emergency/> (last visited May 8, 2020).

⁵ Georgia Dep't of Pub. Health, *COVID-19 Daily Status Report*, <https://dph.georgia.gov/covid-19-daily-status-report> (last visited May 8, 2020).

Disease Control and Prevention continue to recommend that members of the public wear masks and practice social distancing.⁶

II. Georgia's Ballot-Access Restrictions

Georgia's ballot-access laws distinguish between three kinds of candidates for partisan public offices: (1) candidates nominated by a political party; (2) candidates nominated by a political body; and (3) independent candidates.

A "political party" is any political organization whose nominee received at least 20 percent of the vote in the last gubernatorial or presidential election. O.C.G.A. § 21-2-2 (25). Political parties choose nominees in partisan primaries, and the candidate nominated by the party appears automatically on the ballot for any statewide or district office. O.C.G.A. § 21-2-130(1).⁷

A "political body" is any political organization other than a political party. O.C.G.A. § 21-2-2 (23). Political bodies must nominate

⁶ Centers for Disease Control and Prevention, *How to Protect Yourself and Others*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (last visited May 8, 2020).

⁷ The only political parties that meet the current definition of "political party" under Georgia law are the Democratic Party of Georgia and the Georgia Republican Party.

candidates for partisan public offices by convention. O.C.G.A. § 21-2-170(g).

Political-body candidates for *non-statewide offices*, including the office of U.S. Representative, do not appear automatically on the ballot. In order to appear on the general-election ballot, such candidates must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition signed by five percent of the number of registered voters eligible to vote for that office in the last election, O.C.G.A. § 21-2-170(b). The notice of candidacy and qualifying fee for non-statewide candidates is due during the thirty-fifth week before the election (a date that in 2020 fell on March 6). O.C.G.A. § 21-2-132(d). The nomination petition for non-statewide candidates is due no later than noon on the second Tuesday in July (which this year is July 14). O.C.G.A. § 21-2-132(e). The Secretary's recent order extends that deadline for the 2020 election to noon on Friday, August 14, 2020. (Ex. 13: letter from Harvey to Cowen).

The nomination petition must be on sheets of uniform size and different sheets must be used by signers residing in different counties or municipalities. O.C.G.A. § 21-2-170(d). Each sheet of the nomination

petition must also contain a sworn and notarized affidavit of the circulator attesting, among other things, that each signature on the sheet was gathered within 180 days of the filing deadline. *Id.* The 180th day before the new filing deadline was February 16, 2020.

For the 2020 election, a political-body candidate for U.S. Representative in Georgia's Eighth and Thirteenth Congressional District, where plaintiffs Jimmy Cooper and Martin Cowen seek to run, must submit at least 20,719 and 24,503 valid signatures, respectively, in order to appear on the general-election ballot.⁸ The qualifying fee is \$5,220.⁹

Political-body candidates for *President of the United States* do not appear automatically on the ballot.¹⁰ In order to appear on the general election ballot, such candidates must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition containing 7,500 signatures. O.C.G.A. § 21-2-170(b); *Green Party v.*

⁸ Ga. Sec'y of State, *Number of Signatures Required for 2020 Nomination Petitions*, https://sos.ga.gov/admin/files/2020_Nomination_Signatures_Required.pdf (last visited May 8, 2020).

⁹ Ga. Sec'y of State, *Qualifying Fees for State and Federal Candidates for 2020 Elections in Georgia*, <https://sos.ga.gov/admin/files/2020%20QUALIFYING%20FEES.pdf> (last visited May 8, 2020).

¹⁰ Georgia law provides a second method by which a political body can place candidates for statewide offices on the general election ballot. See O.C.G.A. § 21-2-180. That method is not at issue here.

Kemp, 171 F. Supp. 3d 1340, 1372 (N.D. Ga. 2016) (reducing the number of signatures from one percent of registered voters to 7,500), *aff'd* 674 F. Appx. 974 (11th Cir. 2017) (mem). The notice of candidacy and qualifying fee for presidential candidates is due in late June—this year on June 26, 2020. O.C.G.A. § 21-2-132(d). The nomination petition for presidential candidates is due no later than noon on the second Tuesday in July (July 14, 2020). O.C.G.A. § 21-2-132(e). The Secretary’s recent order extends that deadline for the 2020 election to noon on Friday, August 14, 2020. The qualifying fee for each presidential elector is \$1.50.

Independent candidates do not appear automatically on the ballot for any office unless the candidate is an incumbent. Non-incumbent candidates must follow the same rules as political-body candidates.

III. The Burdens of Georgia’s Ballot-Access Restrictions

Even in normal times, Georgia’s ballot-access restrictions on independent and third-party (or “political-body”) candidates for U.S. Representative are incredibly burdensome. In fact, no third-party candidate for U.S. Representative has ever satisfied the requirements to appear on Georgia’s general-election ballot, despite many attempts to do so, since the five-percent signature requirement was adopted in 1943.

(Ex. 18: Order, *Cowen v. Raffensperger*, Civ. No. 1:17-CV-4660-LMM at 6 (N.D. Ga. Sept. 23, 2019) (ECF 113).) Georgia requires more signatures for third-party candidates for U.S. Representative to appear on the general-election ballot than any other state in the nation, both as a percentage of votes cast, and as an absolute number of signatures. (*Id.* at 5.) Among states with a mandatory petition for ballot-access, Georgia’s qualifying fees are also higher than any other state in the nation. (*Id.* at 4.) And Georgia’s signature requirements are higher, in absolute terms, than any signature requirement that an independent or third-party candidate for U.S. Representative has ever overcome in the history of the United States. (Ex. 19: Def’s Resp. to Pls. Statement of Undisputed Material Facts, *Cowen v. Raffensperger*, Civ. No. 1:17-CV-4660-LMM at ¶¶83-91 (N.D. Ga. Aug. 07, 2019) (ECF 97) (hereinafter “Ex. 19: *Cowen* ECF 97”).)

Aside from the amount of the qualifying fee and the number of signatures required, several other factors contribute to the difficulty of Georgia’s ballot-access restrictions for independent and third-party candidates. For example, the Secretary of State’s signature-validation process results in signatures being improperly rejected and validation

rates below 50 percent. (Ex. 19: *Cowen* ECF 97 ¶¶ 146, 148; Ex. 23: Esco decl. ¶10.) One recent petition by an independent candidate for U.S. Representative resulted in a validation rate of only two percent. (Ex. 19: *Cowen* ECF 97 ¶ 147.) As a result, independent and third-party candidates must gather signatures far in excess of the number of valid signatures required in order to be reasonably assured of obtaining ballot access under Georgia law. (Ex. 23: Esco decl. ¶ 10.)

Gathering signatures, moreover, is slow and difficult work. (Ex. 19: *Cowen* ECF 97 ¶¶ 150-157.) Experienced signature-gatherers report being able to gather only about 5 signatures per hour going door-to-door over the course of a week. (*Id.*; Ex. 21: Cooper decl. ¶ 16; Ex. 22: Cowen decl. ¶ 19.) At that rate, a full-time petitioner could collect only 4,800 raw signatures over the course of the entire 180-day petitioning period, well short of the number required of a single independent or political-body candidate for President or U.S. Representative.

Another factor is the combined effect of the cost of petitioning and the impact of federal campaign-finance law. Professional petition circulators typically charge \$2-\$5 per signature collected, plus expenses for travel, lodging and incidentals. (Ex. 23: Esco decl. ¶ 12.) A petition

for U.S. Representative could cost tens of thousands or even hundreds of thousands of dollars. But federal campaign-finance law prohibits a political party or other large donor from contributing enough money to a candidate to cover a substantial number of signatures. (Ex. 19: *Cowen* ECF 97 ¶¶ 162-71.) A candidate's petition drive must therefore either be self-funded or be funded by many donors.

A lack of access to voters is yet another factor. In Georgia, petition-circulators may not lawfully solicit signatures on private property without the permission of the property owner. (*Id.* ¶ 173.) Virtually all of the places where large numbers of people congregate, like grocery stores and shopping malls, are on private property. Petition-circulators are relegated to gathering signatures on public sidewalks, which are often far away from where voters park to enter the stores. (*Id.* ¶ 174; Ex. 23 Esco decl. ¶ 11; Ex. 22: Cowen decl. ¶ 20.)

One final factor that makes Georgia's ballot-access requirements virtually impossible to meet—even in normal times—is widespread public concern about disclosing confidential information to petitioners. (Ex. 19: *Cowen* ECF 97 ¶¶ 181-84.) The form of a nomination petition calls for a voter to provide a residential address, which is considered

confidential, personally identifying information under Georgia law.

O.C.G.A. § 21-2-225(b).¹¹ (*Id.* ¶¶ 181-83.) Potential petition-signers have expressed reluctance to sign, have provided incomplete information, or have refused to sign altogether, because of the information called-for by the form and the possibility that it could be used for identity theft or other nefarious purposes. (*Id.* ¶ 184-88; Ex. 22: Cowen decl. ¶ 20; Ex. 23: Esco decl. ¶ 11.)

IV. The Coronavirus Pandemic Increases the Burdens of Georgia's Ballot-Access Restrictions

But these are not normal times. The public-health emergency caused by COVID-19 has made it virtually impossible to gather petition signatures. Government and public-health officials at virtually every level have encouraged people to stay at home, to practice social distancing, and to avoid being within six feet of other people. Gathering signatures during the COVID-19 outbreak endangers public health and the lives of petition-circulators and potential signers.

¹¹ Until this year, the petition form also called for a voter to provide a birth date. Now, it only requires a birth year. This change will likely make it more difficult for election officials to validate signatures because there are likely to be many Georgia voters with identical names and birth years.

From April 2 through April 30, it was clearly unlawful for anyone to gather signatures because of Governor Kemp's shelter-in-place order. It continues to be unlawful for Plaintiff Cowen to gather signatures because he is over the age of 65 and remains subject to the shelter-in-place order through at least June 12. (Ex. 22: Cowen decl. ¶¶ 1, 14-16.) It also continues to be unlawful for high-risk individuals and anyone over the age of 65 to open his or her door to a signature-gatherer because of the continuing no-visitors order. And it is at best questionable whether it is lawful now for anyone else to engage in the petition process—either as a petition-circulator or as a petition-signer—because of the social-distancing requirements that remain in effect through at least May 13.

Aside from its legality, moreover, petitioning continues to contravene the best advice of America's most trusted public-health officials. The Centers for Disease Control and Prevention continue to encourage social-distancing and isolation, and prominent public health officials have vocally criticized states, including Georgia, that have begun to ease such restrictions.¹² Dr. Deborah Birx, the White House's

¹² See, e.g., Alyson Chiu, *Fauci warns states rushing to reopen: 'You're making a really significant risk'*, Wash. Post, May 1, 2020, available at <https://www.washingtonpost.com/nation/2020/05/01/fauci-open-states-coronavirus/>; Keren Landman, *Georgia Went First. And It Screwed Up*, N.Y. Times, Apr. 30, 2020, available at

coronavirus task force coordinator, recently said on national television that “social distancing will be with us through the summer to really ensure that we protect one another as we move through these phases.”¹³

Even if it were feasible to gather signatures during the current public health emergency, it is unlikely that petition-circulators would be able to gather very many signatures because there are fewer people congregating in public places and fewer people are likely to open their doors to strangers who come knocking. Indeed, that was precisely the experience of one independent candidate for the state legislature who saw his door-to-door response rate drop off in March—before the President or the Governor declared public-health emergencies—as the public became aware of the impending crisis. (Ex. 24: Reed decl. ¶¶ 9-12.) He then announced a signature-gathering event in his district in the middle of March. But the announcement yielded such a negative

<https://www.nytimes.com/2020/04/30/opinion/georgia-coronavirus-reopening.html>; *Opinion: It's just too soon to reopen Ga.*, Atlanta Journal-Constitution, May 1, 2020, available at <https://www.ajc.com/news/opinion/opinion-just-too-soon-reopen/UUJUrsM06vJ45y5wPV0pWK/>.

¹³ Felicia Sonmez, Paige Winfield Cunningham, and Meryl Kornfield, *Social distancing could last months, White House coronavirus coordinator says*, Wash. Post, Apr. 26, 2020, available at https://www.washingtonpost.com/politics/social-distancing-could-last-months-white-house-coronavirus-coordinator-says/2020/04/26/ad8d2f84-87de-11ea-8ac1-bfb250876b7a_story.html.

reaction, with constituents accusing him of endangering public health, that he had to cancel the event.

The emerging crisis completely disrupted Plaintiff Cooper's signature-gathering plans. He had been in discussions with the Green Party's presidential candidates to fund as many as three full-time staffers to gather signatures and coordinate volunteers in his district, but those plans fell through with the virus emerged in the middle of March. (Ex. 21: Cooper decl. ¶ 11.)¹⁴

The postponement of the March 24 presidential preference primary also has had a negative effect on signature-gathering. Even though Georgia law prohibits canvassing for signatures within 150 feet of a polling place, it is still possible to gather signatures outside of that buffer zone at some polling locations, making them an especially attractive place to gather voters' signatures under normal circumstances. Plaintiff Cowen had planned a significant effort to collect signatures during the March 24 primary in Douglas County before the pandemic upended those plans. (Ex. 22: Cowen decl. ¶¶ 12-13.) The

¹⁴ The pandemic also disrupted the signature-gathering plans of two independent candidates for state legislative offices, Scott Cambers and Joe Reed. (Ex. 20: Cambers decl. ¶¶ 8-10, 15; Ex. 24: Reed decl. ¶¶ 10-12.)

Secretary of State has also encouraged voters to make use of early voting and absentee voting in the upcoming elections, and that will likely reduce the number of voters present and available to sign petitions at the polls during the June 9 primary election.

Even after the public-health emergency subsides, the COVID-19 outbreak is likely to have a negative effect on signature-gathering. (Ex. 20: Cambers decl. ¶¶ 12-13; Ex. 21: Cooper decl. ¶¶ 12-17; Ex. 22: Cowen decl. ¶ 22; Ex. 23: Esco decl. ¶ 15; Ex. 24: Reed decl. ¶¶ 12-15.) Voters may remain wary of close physical contact for some time. There is absolutely no reason at the moment to believe that members of the public will greet door-knocking petitioners with open arms as soon as the President, the Governor, or public-health officials say that it is okay to do so. And that is particularly likely to be the case if the door-knockers are wearing masks for self-protection. Welcoming masked strangers at your door is inadvisable even in normal times.

Petitioning is thus likely to be unusually challenging for some time after the pandemic subsides, and we're not even there yet.

V. The 2020 Election

The individual plaintiffs in this case are third-party candidates for U.S. Representative. Both of them timely submitted a notice of candidacy and paid the \$5,220 qualifying fee before the March 6 deadline. (Ex. 21: Cooper decl. ¶ 9; Ex. 22: Cowen decl. ¶ 10.) And both of them are the only independent or third-party candidate to have qualified in their respective district,¹⁵ so the maximum number of candidates on the general-election ballot is three.

The other plaintiff is the Georgia Green Party. It has not yet paid the filing fee or filed a notice of candidacy for its presidential electors because the applicable qualifying period does not begin until June 22. But it is prepared to do so at that time.¹⁶

In total, there are fewer than a dozen independent or third-party candidates at the state or federal level who timely filed a declaration of candidacy and paid the required qualifying fee but who have not yet submitted a nomination petition required by Georgia law. There are also

¹⁵ See Georgia Sec'y of State, *Qualifying Candidate Information*, available at <https://elections.sos.ga.gov/GAElection/CandidateDetails> (last visited May 8, 2020).

¹⁶ The Green Party had planned to gather signatures for its slate of electors soon after its nominating convention on February 22, but the Secretary of State's office did not make the appropriate form available until March 24, 2020. (Ex. 23: Esco decl. ¶¶ 6-7.)

fewer than a dozen such candidates at the local level. Any relief ordered by this Court would therefore be limited, and it would not overwhelm Georgia's ballots with a laundry list of candidates.

Legal Standard

A plaintiff seeking a preliminary injunction must demonstrate that: (1) there is a substantial likelihood of success on the merits; (2) it will suffer irreparable injury if relief is not granted; (3) the threatened injury outweighs any harm the requested relief would inflict on the non-moving party; and (4) entry of relief would serve the public interest. *See, e.g., Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1268 (11th Cir. 2006). The decision as to whether a plaintiff carried this burden “is within the sound discretion of the district court and will not be disturbed absent a clear abuse of discretion.” *Int’l Cosmetics Exch., Inc. v. Gapardis Health & Beauty, Inc.*, 303 F.3d 1242, 1246 (11th Cir. 2002) (quoting *Palmer v. Braun*, 287 F.3d 1325, 1329 (11th Cir. 2002)) (internal quotation marks omitted).

Discussion

I. The plaintiffs are likely to succeed on the merits.

To determine whether Georgia’s ballot-access restrictions violate the First and Fourteenth Amendments, this Court must apply the balancing test set forth in *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983):

First, a court must evaluate the character and magnitude of the asserted injury to rights protected by the First and Fourteenth Amendments. Second, it must identify the interests advanced by the State as justifications for the burdens imposed by the rules. Third, it must evaluate the legitimacy and strength of each asserted state interest and determine the extent to which those interests necessitate the burdening of the plaintiffs’ rights.

Bergland v. Harris, 767 F.2d 1551, 1553-54 (11th Cir. 1985)

(paraphrasing *Anderson*); accord *Stein v. Ala. Sec’y of State*, 774 F.3d 689, 694 (11th Cir. 2014); *Common Cause/Georgia v. Billups*, 554 F. 3d 1340, 1352 (11th Cir. 2009).

Under this test, the level of scrutiny varies on a sliding scale with the extent of the asserted injury. When, at the low end of the scale, the law “imposes only ‘reasonable, nondiscriminatory restrictions’ upon First and Fourteenth Amendment rights of voters, ‘the State’s important

regulatory interests are generally sufficient to justify’ the restrictions.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson*, 460 U.S. at 788, 788-89 n.9). But when the law places “severe” burdens on the rights of political parties, candidates, or voters, “the regulation must be ‘narrowly drawn to advance a state interest of compelling importance.’” *Id.* at 434 (quoting *Norman v. Reed*, 502 U.S. 279, 289 (1992)).

The plaintiff bears the burden of proof on the first step in the *Anderson* test, and the defendant bears the burden on the second and third. *Burson v. Freeman*, 504 U.S. 191, 199 (1992); *Nader v. Brewer*, 531 F.3d 1028, 1039-40 (9th Cir. 2008); *Lopez Torres v. New York State Bd. of Elections*, 462 F.3d 161, 203 (2d Cir. 2006), *rev’d on other grounds* 552 U.S. 196 (2008); *Patriot Party v. Allegheny Cnty. Dept. of Elections*, 95 F.3d 253, 267-68 (3d Cir. 1996).

A. The Character and Magnitude of the Injury

Georgia’s signature requirements burden “two different, although overlapping kinds of rights—the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively.”

Williams v. Rhodes, 393 U.S. 23, 30 (1968). “Both of these rights, of course, rank among our most precious freedoms.” *Id.*

The right to associate, which includes the “right of citizens to create and develop new political parties,” is obviously diminished if a party can be kept off the ballot. *Norman*, 502 U.S. at 288; *see also Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979). Ballot-access restrictions also implicate the right to vote because, except for initiatives and referenda, “voters can assert their preferences only through candidates or parties or both.” *Lubin v. Panish*, 415 U.S. 709, 716 (1974). “It is to be expected that a voter hopes to find on the ballot a candidate who comes near to reflecting his policy preferences on contemporary issues.” *Id.* An election campaign is a platform for the expression of views on the issues of the day, and a candidate “serves as a rallying point for like-minded citizens.” *Anderson*, 460 U.S. at 787-88.

Even in normal times, the burdens of Georgia’s ballot-access restrictions on independent and third-party candidates for U.S. Representative are undoubtedly heavy. Those restrictions are by far the most stringent in the nation, and—despite many attempts—no third-

party candidate for U.S. Representative has appeared on the general-election ballot since the petition requirement was first enacted in 1943. As the Supreme Court has recognized, “[t]he right to vote is ‘heavily burdened’ if that vote may be cast only for major-party candidates at a time when other parties or other candidates are ‘clamoring for a place on the ballot.’” *Anderson*, 460 U.S. at 787 (quoting *Lubin*, 415 U.S. at 716).

But, again, these are not normal times. Petitioning has been unlawful for a significant portion of the 180-day petitioning period. It continues to be unlawful for Plaintiff Cowen to petition, due to his age. And it continues to be unlawful for many potential signers to open their doors to petitioners.

Putting legality aside, it is simply not reasonable for signature requirements designed for normal times to govern access to the ballot when we are in the middle of a global pandemic caused highly communicable infectious disease. More than five months after the virus arrived in America, the pandemic remains a public health crisis without any modern equivalent, and the situation remains dynamic. Much is still unknown about the nature of the virus, its transmission, and its effects.

There is still no vaccine, no cure and no widely available treatment.

Uncertainty, like the virus, hangs in the air.

Because it has been shown that one can carry and spread COVID-19 without any apparent symptoms, every encounter with another person—particularly a stranger—poses a risk of infection. And because it is not altogether clear how long the virus can survive on various surfaces, touching a pen, a clipboard, or a piece of paper that has recently been touched by another person also poses a risk of infection. Circulating a petition during this crisis risks the health and safety not only of the person requesting the signature but also the health and safety of the person who is signing the petition, the signer’s family, and potentially the entire community.

Every federal court that has addressed this issue so far has found that signature requirements for ballot-access impose severe burdens on candidates’ rights during the time of this pandemic. *See Garbett v. Herbert*, Civ. No. 2:20-cv-245-RJS, 2020 WL 2064101 at *12 (D. Utah May 1, 2020); *Libertarian Party of Ill. v. Pritzker*, Civ. No. 1:20-cv-2112, 2020 WL 1951687 at *4 (E.D. Ill. April 23, 2020); *Esshaki v. Whitmer*, Civ. No. 2:20-cv-10831, 2020 WL 1910154 at *6 (E.D. Mich. April 20,

2020), *aff'd in part and reversed in part*, No. 20-136, 2020 WL 2185553 at *1 (6th Cir. May 5, 2020)(“The district court correctly determined that the [ballot-access restrictions] imposed a severe burden on the plaintiffs’ ballot access, so strict scrutiny applied...”). One state court that applies an analogous framework similarly found a severe burden. *See Goldstein v. Secretary of the Commonwealth*, 125 N.E.3d 560, 571 (Ma. 2020).

This Court should likewise conclude that Georgia’s signature requirements impose a severe burden under current circumstances.

B. Asserted State Interests and Narrow Tailoring

Because Georgia’s signature requirements impose a severe burden here, they must be narrowly drawn to advance a compelling state interest. Although it remains to be seen what interests, if any, the Secretary of State will assert to justify enforcement of the signature requirements under these circumstances, the State has no compelling interest in preventing independent and third-party candidates from running for office by enforcing insurmountable barriers to the ballot.

The Supreme Court held in *Storer v. Brown*, 415 U.S. 724, 736 (1974), that a state has a “compelling” interest in “the stability of its political system.” But the Court held more recently that this interest

does not extend so far as to permit a state to protect existing parties from competition with independent or minor-party candidates.

Anderson, 460 U.S. at 801-02. Indeed, “[c]ompetition in ideas and governmental policies is at the core of our electoral process and of the First Amendment Freedoms.” *Id.* at 802 (quoting *Williams*, 393 U.S. at 32).

The Supreme Court has also recognized that States have an important interest in minimizing the potential for voter confusion caused by “laundry list” ballots, which it described as ballots with more than 12 candidates for a single office. *See Lubin*, 415 U.S. at 715-18. But there is no danger of that here because only a small number of independent and third-party candidates timely filed a notice of candidacy and paid the applicable qualifying fee by March 6. Plaintiffs Cooper and Cowen have already demonstrated a significant modicum of support by gaining their respective party’s nomination and paying the highest-in-the-nation qualifying fee.

In short, because enforcement of Georgia’s signature requirements is not narrowly tailored to advance a compelling state interest under

present circumstances, it is highly likely that the Plaintiffs will succeed on the merits of their claim.

II. The plaintiffs will suffer irreparable harm in the absence of a preliminary injunction.

Harm is irreparable for purposes of a preliminary injunction when “it cannot be undone through monetary means.” *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F.2d 328 (5th Cir. 1981). Harms that touch upon the constitutional and statutory rights of political parties, candidates, and voters are generally not compensable by money damages and are therefore considered irreparable. *See, e.g., Elrod v. Burns*, 427 U.S. 347 373 (1976) (plurality opinion); *League of Women Voters v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *Ga. State Conference of the NAACP v. Fayette Cnty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338, 1347 (N.D. Ga. 2015).

Part of the reason for this treatment of political and voting harms is the special importance of the right to vote in the American democratic tradition:

Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right

to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

Reynolds v. Sims, 377 U.S. 533, 561-62 (1962); accord *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) (“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.”). Money cannot fully compensate an individual for the loss of a right so fundamental. Part of the reason is also practical: a court simply cannot undo, by means of a special election or otherwise, all of the effects of an unconstitutional election. Tremendous practical advantages accrue to those who win even tainted elections, and a court simply has no way to re-level the playing field. *See, e.g., League of Women Voters of N.C.*, 769 F.3d at 247 (“Courts routinely deem restrictions on fundamental voting rights irreparable injury” because “once the election occurs, there can be no do-over and no redress.”).

In this case, the irreparable nature of the injuries is obvious. Money cannot compensate the plaintiffs for the loss of their opportunity, as candidates, to play an important part in our democracy. *See Anderson*, 460 U.S. at 794 (discussing the importance of “political figures

outside the two major parties”); *Socialist Workers Party*, 440 U.S. at 185-86 (discussing “the significant role that third parties have played in the political development of the Nation”). This *Winter* factor therefore weighs in favor of granting the injunction.

III. The balance of harms favors the plaintiffs.

The third *Winter* factor requires the Court to consider the potential impact that the requested injunction might have upon the Secretary of State, and to balance that potential with the considerable and irreparable harms that the plaintiffs would suffer should their request be denied. There is no question that the balance of equities tips in the plaintiffs’ favor here.

The Secretary of State will suffer no harm if the injunction is granted. The plaintiffs have already qualified (or will qualify soon, in the case of the Green Party’s presidential electors). Nothing unusual or additional would be required of the Secretary.

IV. A preliminary injunction would serve the public interest.

The public interest in this case is clear. “[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Hobby*

Lobby Stores, Inc. v. Sebelius, 723 F.3d 1114, 1145 (10th Cir. 2013) (en banc) (quoting *Awad v. Ziriax*, 670 F.3d 1111, 1131–32 (10th Cir. 2012)), *aff'd* 134 S. Ct. 2751 (2014); *accord League of Women Voters of N.C.*, 769 F.3d at 247. The requested injunction will also ensure that Georgia citizens have a greater opportunity to vote for candidates of their choice. Without an injunction, voter choices will be limited. In some instances, voters may have no choice at all. The public undoubtedly has a vital interest in a broad selection of candidates as well as the conduct of free, fair, and constitutional elections. *See Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (recognizing the public has a “strong interest in exercising the fundamental political right to vote” (citations omitted)). The requested injunction, if granted, would therefore favor the public interest.

Remedy

It is black-letter law that, “wherever practical,” a federal court should give elected officials an opportunity to remedy an unlawful election law. *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978). In this case, because the Georgia General Assembly is still in session, this Court should enjoin enforcement of the signature requirements and give the

General Assembly an opportunity to enact ballot-access requirements that are constitutional under present circumstances.

Such was the result in Michigan, where the Sixth Circuit recently stayed part of the district court's preliminary injunction. *See Esshaki*, 2020 WL 2185553 at *2. The district court not only enjoined enforcement of the signature requirements—which the Sixth Circuit upheld—but it also re-wrote state statutes to impose a new signature requirement and to loosen other restrictions on the petitioning process. But the Sixth Circuit stayed the mandatory portions of the injunction out of concern for States' rights to prescribe the "Times, Places and Manner of holding Elections for Senators and Representatives." Art. I, § 4, cl. 1. The court invited the state to devise a constitutionally permissible alternative system if it wished to do so.

And so should the Court here. If the General Assembly adopts an alternative system that this Court finds to be constitutional under the circumstances, the plaintiffs will do their best to comply with it. If the General Assembly chooses not to do so, then a preliminary injunction against the signature requirements would have the effect of granting a

place on the ballot to the plaintiffs for having complied with the remaining requirements for ballot access.

Conclusion

For the foregoing reasons, the Court should enjoin the Secretary of State from enforcing Georgia's petitioning requirements for independent and third-party candidates.

Respectfully submitted this 8th day of May, 2020.

/s/ Bryan L. Sells

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CERTIFICATE OF COMPLIANCE

I hereby certify that the forgoing PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION was prepared in 13-point Century Schoolbook in compliance with Local Rules 5.1(C) and 7.1(D).

/s/ Bryan L. Sells

Attorney Bar No. 635562

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Telephone: (404) 480-4212

Email: bryan@bryansellslaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2020, I electronically filed the foregoing PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Charlene McGowan: cmcgowan@law.ga.gov

/s/ Bryan L. Sells

Attorney Bar No. 635562

Attorney for the Plaintiffs

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Email: bryan@bryansellslaw.com



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

DECLARATION OF PUBLIC HEALTH STATE OF EMERGENCY

- WHEREAS:** In late 2019, a new and significant outbreak of respiratory disease caused by a novel coronavirus emerged in Wuhan, China; and
- WHEREAS:** The respiratory disease caused by the novel coronavirus, known as "COVID-19," is an infectious virus that can spread from person-to-person and can result in serious illness or death; and
- WHEREAS:** On March 13, 2020, President Donald Trump declared the outbreak of COVID-19 a national emergency; and
- WHEREAS:** The Centers for Disease Control and Prevention has identified the potential public health threat posed by COVID-19 both globally and in the United States, and has advised that the person-to-person spread of COVID-19 will continue to occur globally, including within the United States; and
- WHEREAS:** The Centers for Disease Control and Prevention has noted that COVID-19 is proliferating via "community spread," meaning people have contracted the virus in areas of Georgia as a result of direct or indirect contact with infected persons, including some who are not sure how or where they became infected; and
- WHEREAS:** Laboratory testing has confirmed more than sixty cases of COVID-19 in Georgia; and
- WHEREAS:** In consultation with the Commissioner of Public Health, the Georgia Coronavirus Task Force, and other state health and emergency preparedness officials, I have determined a public health emergency exists, and that it is necessary and appropriate to take action to protect the health, safety, and welfare of Georgia's residents and visitors to ensure COVID-19 remains controlled throughout this State, as provided by Code Section 38-3-51; and
- WHEREAS:** The uninterrupted supply of medical goods and other emergency related materials, supplies, goods, and services during this

emergency is an essential need of the public and any perceived or actual shortage threatens public welfare; and

WHEREAS: The Federal Motor Carrier Safety Regulations, 49 C.F.R. §§ 390 *et seq.*, prescribes limits on the hours of service for operators of commercial vehicles, and federal law, 23 U.S.C. § 127, sets forth certain weight limitations for vehicles on interstate highways; and

WHEREAS: 49 C.F.R. § 390.23 allows the Governor of a state to suspend these rules and regulations for commercial vehicles responding to an emergency for up to thirty (30) days, if the Governor determines an emergency condition exists.

NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That a Public Health State of Emergency exists in the State of Georgia due to the public health emergency from the spread of COVID-19.

IT IS FURTHER

ORDERED: That all resources of the State of Georgia shall be made available to assist in activities designed to address this emergency, control the spread of COVID-19, and aid recovery efforts.

IT IS FURTHER

ORDERED: That the Georgia Emergency Management and Homeland Security Agency shall activate the Georgia Emergency Operations Plan (GEOP) in response to this emergency.

IT IS FURTHER

ORDERED: That the Georgia Department of Public Health, as the state agency responsible for emergency management services under *GEOP Emergency Support Function (ESF) 8 - Public Health and Medical Services*, shall coordinate with the Center for Disease Control and Prevention for release of the Strategic National Stockpile as necessary and appropriate in response to this Public Health State of Emergency.

IT IS FURTHER

ORDERED: That the Georgia Emergency Management and Homeland Security Agency is designated as the lead agency for responding to this public health emergency and shall coordinate all emergency response activities and other matters pertaining to this Public Health State of Emergency.

IT IS FURTHER

ORDERED: That acting pursuant to the Governor's authorization, the Georgia Department of Public Health shall coordinate with the Georgia Emergency Management and Homeland Security Agency to take any action necessary to protect the public's health, including, without limitation:

- (1) Planning and executing public health emergency assessments, mitigation, preparedness response, and recovery for the state;
- (2) Coordinating public health emergency responses between state and local authorities;
- (3) Establishing protocols to control the spread of COVID-19;
- (4) Coordinating recovery operations and mitigation initiatives;
- (5) Collaborating with appropriate federal government authorities, elected officials of other states, private organizations, or private sector companies;
- (6) Organizing public information activities regarding the state's public health emergency response operations, including educating the public on prevention of the spread of COVID-19 based on Centers for Disease Control and Prevention's guidelines and the best scientific evidence available;
- (7) Providing special identification for public health personnel involved in this Public Health State of Emergency;
- (8) For all persons meeting the Centers for Disease Control and Prevention's definition of a Person Under Investigation ("PUI"), implementing a program of active monitoring, which may include a risk assessment within twenty-four (24) hours of learning that the person meets the PUI criteria and twice-daily temperature checks for a period of at least fourteen (14) days or until the PUI tests negative for COVID-19; and
- (9) Implementing quarantine, isolation, and other necessary public health interventions consistent with Code Sections 31-12-4 and 38-3-51(i)(2) or as otherwise authorized by law.

IT IS FURTHER

ORDERED: That all state and local authorities as well as public and private hospitals, healthcare facilities, clinics, and medical personnel shall fully comply with orders by the Governor as authorized by Georgia law, in furtherance of this Order.

IT IS FURTHER

ORDERED: The Georgia Composite Medical Board is authorized to grant temporary licenses to physicians who apply for a temporary medical license and are currently licensed as a physician in good standing by equivalent boards in other states to assist with the needs of this public health emergency.

IT IS FURTHER

ORDERED: The Georgia Board of Nursing is authorized to grant temporary licenses to nurses who apply for a temporary license and are currently licensed in good standing as an Advanced Practice Registered Nurse, Licensed Practical Nurse, or Registered Professional Nurse by an equivalent board in another state to assist with the needs of this public health emergency.

IT IS FURTHER

ORDERED: That in accordance with 49 C.F.R. 390.23(a)(1)(i)(A), the federal rules and regulations limiting hours operators of commercial vehicles may drive are suspended to ensure that carrier crews are available as needed to provide emergency relief. This declared emergency justifies a suspension of Part 395 (driver's hours of service) of Title 49 of the Code of Federal Regulations. The suspension will remain in effect for thirty (30) days from the date of this Order or until the emergency condition ceases to exist, whichever is less.

IT IS FURTHER

ORDERED: That no motor carrier operating under the terms of this emergency declaration will require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor vehicle carrier that he or she needs immediate rest will be given at least ten (10) consecutive hours off-duty before being required to return to service.

IT IS FURTHER

ORDERED: That weight, height, and length for any such vehicle traveling through the State of Georgia for the purposes of providing disaster relief and/or preparation, which traverses roadways maintained by the State of Georgia, shall not exceed the following:

- (1) A maximum gross vehicle weight for vehicles equipped with five (5) weight bearing axles, with an outer bridge span of not less than fifty-one (51) feet, shall not exceed a gross vehicle weight of ninety-five (95) thousand pounds, a maximum width of ten (10) feet and an overall length of one hundred (100) feet. Continuous travel is authorized, with the proper escorts.
- (2) If the width of said vehicle exceeds eight (8) feet six (6) inches and is traveling after daylight, defined as thirty (30) minutes before sunset to thirty (30) minutes after sunrise, the transporter is required to have a vehicle front and a rear escort/amber light when traveling on a two lane roadway and a vehicle rear escort when traveling on a four lane highway.

Transporters are responsible for ensuring they have proper oversize signs, markings, flags, and escorts as defined in the Georgia Department of Transportation Rules and Regulations.

IT IS FURTHER

ORDERED: That commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this Executive Order shall be issued permits by the Georgia Department of Public Safety. Said vehicles shall be subject to any special conditions the Georgia Department of Public Safety may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order or other legal requirement not specifically waived herein. Oversize permits may be issued by the Georgia Department of Public Safety, Motor Carrier Compliance Division, during normal business hours, Monday through Friday by calling 404-624-7700 or through the Georgia Permitting and Routing Optimization System online portal at <https://gapros.dot.ga.gov/>.

IT IS FURTHER

ORDERED: That during preparation, response, and recovery activities for this Public Health Emergency, price gouging of goods and services necessary to support Public Health would be detrimental to the social and economic welfare of the citizens of this State, and thus Code Section 10-1-393.4, prohibiting price gouging, remains in effect.

IT IS FURTHER

ORDERED: That pursuant to Code Section 38-3-51(a), the General Assembly shall convene for a special session, beginning on March 16, 2020, at 8:00 A.M. for the purpose of concurring with or terminating this Public Health State of Emergency.

IT IS FURTHER

ORDERED: That the State of Emergency shall terminate on April 13, 2020, at 11:59 P.M., unless it is renewed by the Governor.

This 14th day of March 2020, at 10:15 A.M.



GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

SCHOOL CLOSURES TO STOP SPREAD OF COVID-19

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** The Georgia Department of Public Health has determined that COVID-19 is spreading through Georgia communities; and
- WHEREAS:** The number of COVID-19 cases in Georgia continues to rise; and
- WHEREAS:** Further action is necessary to protect the health and safety of the population of Georgia, slow the spread of COVID-19, reduce the number of people who will become infected, and avoid unnecessary strain on Georgia's healthcare system; and
- WHEREAS:** During a state of emergency, Georgia law vests the Governor with powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** In consultation with the Governor's Coronavirus Task Force and local, state, and federal education, health and emergency preparedness officials, I have determined that closing all elementary, secondary, and post-secondary public schools in Georgia is a necessary and appropriate action to protect the health, safety, and welfare of Georgia's residents and visitors to help control the spread of COVID-19 throughout this State.

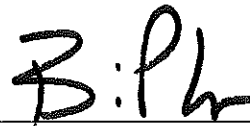
NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That all public elementary, secondary, and post-secondary schools in Georgia close beginning Wednesday, March 18, 2020, and shall remain closed through Tuesday, March 31, 2020, unless extended beyond that date.

IT IS FURTHER

ORDERED: That the Georgia Department of Public Health and the Georgia Department of Education implement measures providing for the health, nutrition, safety, educational needs, and well-being of students during this mandated school closure period.

This 16th day of March 2020.

A handwritten signature in black ink, appearing to read "B:Ph", is written over a horizontal line.

GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** The number of COVID-19 cases in Georgia continues to rise; and
- WHEREAS:** The Georgia Department of Public Health has determined that COVID-19 is spreading throughout communities, requiring the implementation of certain restrictions to limit the spread; and
- WHEREAS:** The Centers for Disease Control and Prevention has determined that older adults and people of any age who have serious underlying medical conditions may be at higher risk for more serious complications from COVID-19; and
- WHEREAS:** Code Section 38-3-51(c)(4) vests the Governor with the power to perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** Code Sections 31-2A-4 and 31-12-4 vest the Department of Public Health with the power to segregate and isolate individuals with certain communicable diseases or conditions when said individuals' exposure to the general population is likely to endanger the health of others; and

WHEREAS: In consultation with the Governor's Coronavirus Task Force and health and emergency preparedness officials, I have determined that the following temporary actions are necessary and appropriate to protect the health, safety, and welfare of Georgia's residents and visitors.

NOW, THEREFORE, PURSUANT TO THE AFOREMENTIONED GEORGIA LAW AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That the Department of Public Health shall order certain persons within the State of Georgia who have serious underlying conditions likely to cause an increased spread of COVID-19, if such persons were to become infected, to isolate, quarantine, or shelter in place within their homes or place of residence. This order by the Department of Public Health shall include the following populations within the State:

- (1) Those persons who live in a nursing home or long-term care facility;
- (2) Those persons who have chronic lung disease;
- (3) Those persons who are currently undergoing cancer treatment; and
- (4) Those persons included in Department of Public Health Administrative Order 03.22.20.01.

IT IS FURTHER

ORDERED: That the Department of Public Health shall promulgate rules and regulations necessary to effectuate this Order, including provisions to allow persons quarantined, isolated, or sheltered in place according to this Order to seek essential services, make necessary travel, and receive specific visitors in end-of-life circumstances.

IT IS FURTHER

ORDERED: That all businesses which possess a license to operate as or otherwise meet the definition of "Bar" as defined by Code Section 3-1-2(2.1) shall cease operation while this Order is in effect.

IT IS FURTHER

ORDERED: That no business, establishment, corporation, non-profit corporation, or organization shall allow more than ten (10) persons to be gathered at a single location if such gathering requires persons to stand or to be seated within six (6) feet of any other person.

IT IS FURTHER

ORDERED: That the Department of Public Health is authorized to mandate the closure of any business, establishment, corporation, non-profit

corporation, or organization not in compliance with this order for a period not to extend beyond the term of this Order.

IT IS FURTHER

ORDERED: That the Commissioner of the Department of Public Safety shall provide available resources to assist in the enforcement of this Order.

IT IS FURTHER

ORDERED: That in order to mitigate the possibility of more severe action in the future, the Department of Public Health, in accordance with Code Section 38-3-51(i)(1)(E), shall undertake a public information activities to encourage organizations and businesses to protect the public by adhering to Centers for Disease Control and Prevention guidelines for preventing the spread of the novel coronavirus, COVID-19. The public information campaign shall encourage businesses to undertake more extensive sanitation efforts, to encourage curbside pick-up or home delivery of purchased items, to limit personal interaction during transactions, and to limit the number of persons within their place of business.

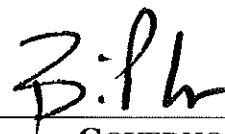
IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

IT IS FURTHER

ORDERED: All provisions of the Order shall become effective for a period of fourteen days, beginning at 12:00 P.M. on Tuesday, March 24, 2020, and expiring at 12:00 P.M. on Monday, April 6, 2020.

This 23rd day of March 2020, at 5:58 P.M.

A handwritten signature in black ink, appearing to read "B. Kemp", is written over a horizontal line.

GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

EXTENDED SCHOOL CLOSURES TO STOP SPREAD OF COVID-19

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** Executive Order 03.16.20.01 closed public elementary, secondary, and post-secondary schools in Georgia through March 31, 2020; and
- WHEREAS:** The Georgia Department of Public Health has determined that COVID-19 is spreading through communities; and
- WHEREAS:** The number of COVID-19 cases in Georgia continues to rise; and
- WHEREAS:** Further action is necessary to protect the health and safety of the population of Georgia, slow the spread of COVID-19, reduce the number of people who will become infected, and avoid unnecessary strain on Georgia's healthcare system; and
- WHEREAS:** During a state of emergency, Georgia law vests the Governor with powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** In consultation with the Governor's Coronavirus Task Force and education, health, and emergency preparedness officials, I have determined that an extended closure of elementary, secondary, and post-secondary public schools is a necessary and appropriate action to protect the health, safety, and welfare of Georgia's residents and visitors to control the spread of COVID-19.

NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That school closures mandated by Executive Order 03.16.20.01 are hereby extended by the terms included in this Order.

IT IS FURTHER

ORDERED: That public elementary and secondary schools shall remain closed for in-person instruction through April 24, 2020 with limited exceptions for meal preparation and distribution, continuity of distant learning opportunities, and any other necessary functions as determined by the local school superintendent.

IT IS FURTHER

ORDERED: That public post-secondary schools shall remain closed for in-person instruction with limited exceptions for the rest of the semester.

IT IS FURTHER

ORDERED: That actions not addressed by this Order related to the health, safety, and welfare of the students, faculty, and staff of the University System of Georgia and Technical College System of Georgia may be determined by the Chancellor of the University System of Georgia and Commissioner of the Technical College System of Georgia for their respective post-secondary education systems.

IT IS FURTHER

ORDERED: That this Order shall not prevent remote learning or online programs developed for students by the University System of Georgia, the Technical College System of Georgia, the Georgia Board of Education, or any local school district.

IT IS FURTHER

ORDERED: That the Georgia Department of Public Health and Georgia Department of Education implement measures for the health, nutrition, safety, and educational needs of students during this school closure period.

This 26th day of March 2020.



GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

EXTENDED SCHOOL CLOSURES TO STOP SPREAD OF COVID-19

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** Executive Order 03.16.20.01 closed all public elementary, secondary, and post-secondary schools in Georgia through Tuesday, March 31, 2020; and
- WHEREAS:** The Georgia Department of Public Health has determined that COVID-19 is spreading through Georgia communities; and
- WHEREAS:** The number of COVID-19 cases in Georgia continues to rise; and
- WHEREAS:** Further action is necessary to protect the health and safety of the population of Georgia, slow the spread of COVID-19, reduce the number of people who will become infected, and avoid unnecessary strain on Georgia's healthcare system; and
- WHEREAS:** During a state of emergency, Georgia law vests the Governor with powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** In consultation with the Governor's Coronavirus Task Force and local, state, and federal education, health and emergency preparedness officials, I have determined that an extended closure of

all elementary, secondary, and post-secondary public schools in Georgia is a necessary and appropriate action to protect the health, safety, and welfare of Georgia's residents and visitors to help control the spread of COVID-19 throughout this State.

NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That the school closures mandated by Executive Order 03.26.20.02 are hereby extended by the terms included in this Order.

IT IS FURTHER

ORDERED: That all public elementary and secondary schools shall remain closed through the end of the 2019-2020 school year.

IT IS FURTHER

ORDERED: That all post-secondary public schools shall remain closed for instruction to graduate and undergraduate students through the end of the 2019-2020 school year.

IT IS FURTHER

ORDERED: That actions not addressed by this Order related to the health, safety, and welfare of the students, faculty, and staff of the University System of Georgia and the Technical College System of Georgia may be determined by the Chancellor of the University System of Georgia and the Commissioner of the Technical College System of Georgia for their respective post-secondary education systems.

IT IS FURTHER

ORDERED: That for the purposes of online learning, each local school district may establish a final day of classes pursuant to each district's authority conveyed by Code Section 20- 2-49 *et seq.*

IT IS FURTHER

ORDERED: That this Order shall not prevent remote learning or online programs developed for students by the University System of Georgia, the Technical College System of Georgia, the Georgia Board of Education, or any local school district.

IT IS FURTHER

ORDERED: That this Order shall not prevent faculty or staff of any system, school district, or school from being asked to work or return to their respective campuses as needed to maintain essential services.

IT IS FURTHER

ORDERED: That the Georgia Department of Public Health and the Georgia Department of Education implement measures providing for the health, nutrition, safety, educational needs, and well-being of students during this mandated school closure period.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

This 1st day of April 2020.



GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

EXECUTIVE ORDER TO ENSURE A SAFE & HEALTHY GEORGIA

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** The number of COVID-19 cases in Georgia continues to rise; and
- WHEREAS:** The Georgia Department of Public Health has determined that COVID-19 is spreading throughout communities, requiring the implementation of certain restrictions to limit the spread; and
- WHEREAS:** The Centers for Disease Control and Prevention has determined that older adults, people of any age who have serious underlying medical conditions, and certain other people groups may be at higher risk for more serious complications from COVID-19; and
- WHEREAS:** Code Section 38-3-51(c)(4) vests the Governor with the power to perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** Code Sections 31-2A-4 and 31-12-4 vests the Department of Public Health with the power to segregate and isolate certain individuals with certain communicable diseases or conditions when said

individuals' exposure to the general population is likely to endanger the health of others; and

WHEREAS: In consultation with the Governor's Coronavirus Task Force and health and emergency preparedness officials, I have determined that the following temporary actions are necessary and appropriate to protect the health, safety, and welfare of Georgia's residents and visitors.

NOW, THEREFORE, PURSUANT TO AFOREMENTIONED GEORGIA LAW AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: All residents and visitors of the State of Georgia shall practice social distancing and sanitation in accordance with this Order and guidelines published by the Centers for Disease Control and Prevention.

IT IS FURTHER

ORDERED: No business, establishment, corporation, non-profit corporation, organization, or county or municipal government shall allow more than ten (10) persons to be gathered at a single location if such gathering requires persons to stand or to be seated within six (6) feet of any other person. This provision shall not apply to cohabitating persons outside of their homes, family units or roommates residing together in private homes, or entities defined as "Critical Infrastructure" by this Order.

IT IS FURTHER

ORDERED: That as used in this Order, the term "single location" shall be interpreted to mean a space where all persons gathered cannot maintain at least six (6) feet of distance between themselves and any other person. The term "single location" shall not include private residences.

IT IS FURTHER

ORDERED: That all residents and visitors of the State of Georgia are required to shelter in place within their homes or places of residence, meaning remaining in their place of residence and taking every possible precaution to limit social interaction to prevent the spread or infection of COVID-19 to themselves or any other person, unless they are:

1. Conducting or participating in Essential Services;

2. Performing Necessary Travel;
3. Are engaged in the performance of, or travel to and from, the performance of Minimum Basic Operations for a business, establishment, corporation, non-profit corporation, or organization not classified as Critical Infrastructure; or
4. Are part of the workforce for Critical Infrastructure and are actively engaged in the performance of, or travel to and from, their respective employment.

IT IS FURTHER

ORDERED: That Essential Services permitted pursuant to the provisions of this Order are limited to the following:

1. Obtaining necessary supplies and services for family or household members, such as food and supplies for household consumption and use, medical supplies or medication, supplies and equipment needed to work from home, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence. Preference should be given to online ordering, home delivery, and curbside pick-up services wherever possible as opposed to in-store shopping.
2. Engaging in activities essential for the health and safety of family or household members, such as seeking medical, behavioral health, or emergency services.
3. Engaging in outdoor exercise activities so long as a minimum distance of six (6) feet is maintained during such activities between all persons who are not occupants of the same household or residence.

IT IS FURTHER

ORDERED: That Necessary Travel permitted under this Order is limited to such travel as is required to conduct or participate in Essential Services, Minimum Basic Operations, or Critical Infrastructure as defined by this Order.

IT IS FURTHER

ORDERED: That Minimum Basic Operations are limited to:

1. The minimum necessary activities to maintain the value of a business, establishment, corporation, non-profit corporation, or organization, provide services, manage inventory, ensure security, process payroll and employee benefits, or for related functions. Such minimum necessary activities include remaining open to the public subject to the restrictions of this Order.

2. The minimum necessary activities to facilitate employees or volunteers being able to work remotely from their residences or members or patrons being able to participate remotely from their residences.
3. Instances where employees are working outdoors without regular contact with other persons, such as delivery services, contractors, landscape businesses, and agricultural industry services.

IT IS FURTHER

ORDERED:

That all businesses, establishments, corporations, non-profit corporations, or organizations that are not Critical Infrastructure shall only engage in Minimum Basic Operations as defined in this Order during the effective dates of this Order. Such entities shall also implement measures which mitigate the exposure and spread of COVID-19 among its workforce. Such measures shall include the following:

1. Screening and evaluating workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. Requiring workers who exhibit signs of illness to not report to work or to seek medical attention;
3. Enhancing sanitation of the workplace as appropriate;
4. Requiring hand washing or sanitation by workers at appropriate places within the business location;
5. Providing personal protective equipment as available and appropriate to the function and location of the worker within the business location;
6. Prohibiting gatherings of workers during working hours;
7. Permitting workers to take breaks and meals outside, in their office or personal workspace, or in such other areas where proper social distancing is attainable;
8. Implementing teleworking for all possible workers;
9. Implementing staggered shifts for all possible workers;
10. Holding all meetings and conferences virtually, wherever possible;
11. Delivering intangible services remotely wherever possible;
12. Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment;
13. Prohibiting handshaking and other unnecessary person-to-person contact in the workplace;
14. Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen;
15. Suspending the use of Personal Identification Number ("PIN") pads, PIN entry devices, electronic signature capture,

- and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies;
16. Enforcing social distancing of non-cohabitating persons while present on such entity's leased or owned property;
 17. For retailers and service providers, providing for alternative points of sale outside of buildings, including curbside pick-up or delivery of products and/or services if an alternative point of sale is permitted under Georgia law;
 18. Increasing physical space between workers and customers;
 19. Providing disinfectant and sanitation products for workers to clean their workspace, equipment, and tools;
 20. Increasing physical space between workers' worksites to at least six (6) feet.

IT IS FURTHER

ORDERED:

The term "Critical Infrastructure" shall refer to businesses, establishments, corporations, non-profit corporations, and organizations as defined by the U.S. Department of Homeland Security as "essential critical infrastructure workforce," in guidance dated March 19, 2020, and revised on March 28, 2020, and those suppliers which provide essential goods and services to the critical infrastructure workforce as well as entities that provide legal services, home hospice, and non-profit corporations or non-profit organizations that offer food distribution or other health or mental health services. The operation of Critical Infrastructure shall not be impeded by county, municipal, or local ordinance.

Critical Infrastructure that continues in-person operation during the effective dates of this Order shall implement measures which mitigate the exposure and spread of COVID-19 among its workforce. Such measures may include, but shall not be limited to:

1. Screening and evaluating workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. Requiring workers who exhibit signs of illness to not report to work or to seek medical attention;
3. Enhancing sanitation of the workplace as appropriate;
4. Requiring hand washing or sanitation by workers at appropriate places within the business location;
5. Providing personal protective equipment as available and appropriate to the function and location of the worker within the business location;
6. Prohibiting gatherings of workers during working hours;

7. Permitting workers to take breaks and lunch outside, in their office or personal workspace, or in such other areas where proper social distancing is attainable;
8. Implementing teleworking for all possible workers;
9. Implementing staggered shifts for all possible workers;
10. Holding all meetings and conferences virtually, wherever possible;
11. Delivering intangible services remotely wherever possible;
12. Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment;
13. Providing disinfectant and sanitation products for workers to clean their workspace, equipment, and tools;
14. Prohibiting handshaking and other unnecessary person-to-person contact in the workplace; and
15. Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen; and
16. Suspending the use of Personal Identification Number ("PIN") pads, PIN entry devices, electronic signature capture, and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies.

IT IS FURTHER

ORDERED: That the Georgia Department of Economic Development is authorized to issue guidance to any business, corporation, organization, or industry trade group regarding its status as Critical Infrastructure. This guidance shall not require a finding of fact but shall be in writing and shall be considered a final agency action for the purpose of proceedings under Code Section 50-13-19.

IT IS FURTHER

ORDERED: All restaurants and private social clubs shall cease providing dine-in services. Takeout, curbside pick-up, and delivery are permitted in accordance with the provisions of this Order.

This provision shall not limit the operation of dine-in services in hospitals, healthcare facilities, nursing homes, or other long-term care facilities; however, to the extent possible, such facilities should offer in-room dining.

IT IS FURTHER

ORDERED: That all gyms, fitness centers, bowling alleys, theaters, live performance venues, operators of amusement rides as defined by

Code Section 25-15-51, body art studios permitted pursuant to Code Section 31-40-2, businesses registered pursuant to Code Sections 43-10-11 and 43-10-18, estheticians as defined by Code Section 43-10-1(8), hair designers as defined by Code Section 43-10-1(9), persons licensed to practice massage therapy pursuant to Code Section 43-24A-8, and businesses which possess a license to operate as or otherwise meet the definition of “bar” as defined by Code Section 3-1-2(2.1), shall cease in-person operations and shall close to the public while this Order is in effect.

IT IS FURTHER

ORDERED: That persons required to shelter in place under any provision of this Order shall not receive visitors, except as follows:

1. Visitors providing medical, behavioral health, or emergency services or medical supplies or medication, including home hospice;
2. Visitors providing support for the person to conduct activities of daily living or instrumental activities of daily living;
3. Visitors providing necessary supplies and services, such as food and supplies for household consumption and use, supplies and equipment needed to work from home, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence; or
4. Visitors received during end-of-life circumstances.

To the extent practicable under the circumstances, visitors shall maintain a minimum distance of six (6) feet between themselves and all other occupants of the person’s home or residence. Any visitors visiting for the sole purpose of delivering medication, supplies, or other tangible goods shall, to the extent practicable, deliver such items in a manner that does not require in-person contact or require the deliverer to enter the person’s home or residence.

IT IS FURTHER

ORDERED: That the provisions of this Order related to visitors listed in the immediately preceding paragraph shall be strictly enforced against nursing homes or other long-term care facilities, including inpatient hospice, assisted living communities, personal care homes, intermediate care homes, community living arrangements, and community integration homes.

IT IS FURTHER

ORDERED: That an exception to any shelter-in-place requirement set forth hereunder applies in the event of an emergency. In such cases,

persons are encouraged to leave their homes or residences and shelter in place in accordance with the rules included in this Order at a safe alternate location. Persons experiencing homelessness are urged to obtain shelter and to contact governmental and other entities for assistance.

IT IS FURTHER

ORDERED: That the Department of Public Health, the Department of Public Safety, or any other state department or state officer deputized by the Governor or the Georgia Emergency Management and Homeland Security Agency are, after providing reasonable notice, authorized to mandate the closure of any business, establishment, corporation, non-profit corporation, or organization not in compliance with this Order for a period not to extend beyond the term of this Order.

IT IS FURTHER

ORDERED: That the Adjutant General of the Georgia National Guard and the Commissioner of the Department of Public Safety shall provide resources as requested to assist in the enforcement of this Order.

IT IS FURTHER

ORDERED: That pursuant to Code Section 38-3-51, the powers of counties and cities conveyed in Titles 36 and 38, including those specific powers enumerated in Code Sections 36-5-22.1 and 36-35-3 are hereby suspended to the extent of suspending enforcement of any local ordinance or order adopted or issued since March 1, 2020, with the stated purpose or effect of responding to a public health state of emergency, ordering residents to shelter-in-place, ordering a quarantine, or combatting the spread of coronavirus or COVID-19 that in any way conflicts, varies, or differs from the terms of this Order. Enforcement of all such ordinances and orders is hereby suspended and no county or municipality shall adopt any similar ordinance or order while this Order is in effect, except for such ordinances or orders as are designed to enforce compliance with this Order.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall conflict with the provisions of any previous Executive Order or Agency Administrative Order, the provisions of this Order shall control. Further, in the event of any conflict, the provisions of any quarantine or isolation Order issued to a specific person by the Department of Public Health shall control.

IT IS FURTHER

ORDERED: That nothing in this Order shall be construed to suspend or limit the sale, dispensing, or transportation of firearms or ammunition, or any component thereof.

IT IS FURTHER

ORDERED: That pursuant to Code Section 38-3-7, any person who violates this Order shall be guilty of a misdemeanor. Officials enforcing this Order should take reasonable steps to provide notice prior to issuing a citation or making an arrest.

IT IS FURTHER

ORDERED: This Order rescinds and replaces Executive Order 03.23.20.01.

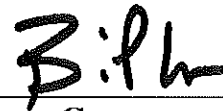
IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

IT IS FURTHER

ORDERED: All provisions of the Order shall become effective for a period beginning at 6:00 P.M. on Friday, April 3, 2020, and expiring at 11:59 P.M. on Monday, April 13, 2020.

This 2nd day of April 2020, at 3:12 P.M.



GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

RENEWAL OF PUBLIC HEALTH STATE OF EMERGENCY

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** Code Section 38-3-51 vests the Governor with the power to renew any State of Emergency for a period not to exceed thirty (30) days; and
- WHEREAS:** In consultation with the Commissioner of Public Health, the Director of the Georgia Emergency Management and Homeland Security Agency, the Adjutant General of the Georgia National Guard, and other state health and emergency preparedness officials, I have determined the public health emergency created by the spread of COVID-19 persists in the State, and that it is necessary and appropriate to renew the Public Health State of Emergency for thirty (30) days.

NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

- ORDERED:** That the Public Health State of Emergency declared by Executive Order 03.14.20.01, which is set to expire on Monday, April 13, 2020 at 11:59 P.M., shall be renewed for thirty (30) days.

IT IS FURTHER

- ORDERED:** That the Public Health State of Emergency shall terminate on May 13, 2020, at 11:59 P.M., unless it is renewed by the Governor.

IT IS FURTHER

ORDERED: That the terms of Executive Order 03.14.20.01 are hereby adopted by reference.

IT IS FURTHER

ORDERED: That Executive Orders 04.02.20.01, 04.03.20.01, and 04.03.20.02 which are set to expire on Monday, April 13, 2020, at 11:59 P.M. are hereby extended for a period of seventeen (17) days, and shall expire on Thursday, April 30, 2020, at 11:59 P.M.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had not been included in the Order.

IT IS FURTHER

ORDERED: All provisions of this Order shall become effective upon signature.

This 8th day of April 2020, at 2:41 PM


GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

REVIVING A HEALTHY GEORGIA

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** On April 8, 2020, I renewed the Public Health State of Emergency until May 13, 2020 by issuing Executive Order 04.08.20.02; and
- WHEREAS:** Code Section 38-3-51(c)(4) vests the Governor with the power to perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population; and
- WHEREAS:** Code Section 38-3-51(d)(1) vests the Governor with the power to suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster; and
- WHEREAS:** Code Sections 31-2A-4 and 31-12-4 vests the Department of Public Health with the power to segregate and isolate certain individuals with certain communicable diseases or conditions when said individuals' exposure to the general population is likely to endanger the health of others; and
- WHEREAS:** Executive Order No. 03.20.20.02 as issued applies to Georgia Business Corporations (governed by Code Title 14, Chapter 2), and it is in the best interests of the State to extend such order to also apply to Georgia Nonprofit Corporations (governed by Code Title 14, Chapter 3); and

WHEREAS: Corporations that are calling and holding meetings of shareholders pursuant to Code Sections 14-2-701 or 14-2-702 are required to deliver advance notice and meet other legal requirements under the laws of the State of Georgia, as well as the federal securities laws of the United States, in advance of convening such meetings; and

WHEREAS: In consultation with the Governor's Coronavirus Task Force and health and emergency preparedness officials, I have determined that the following actions are necessary and appropriate to protect the strength of Georgia's economy and provide for the health, safety, and welfare of Georgia's residents and visitors.

NOW, THEREFORE, PURSUANT TO THE AFOREMENTIONED GEORGIA LAW, CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS THE GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

I. GENERAL PROVISIONS

ORDERED: That unless otherwise noted, the provisions contained in this Order shall be effective from May 1, 2020 at 12:00 A.M. until May 13, 2020 at 11:59 P.M.

IT IS FURTHER

ORDERED: That all residents and visitors of the State of Georgia shall practice Social Distancing as defined herein and refrain from Gathering as defined herein.

IT IS FURTHER

ORDERED: That all residents and visitors of the State of Georgia are strongly encouraged to wear face coverings as practicable while outside their homes or place of residence, except when eating, drinking, or exercising outdoors.

IT IS FURTHER

ORDERED: All residents and visitors of the State of Georgia shall practice sanitation in accordance with the guidelines published by the Centers for Disease Control and Prevention.

IT IS FURTHER

ORDERED: That no business, establishment, corporation, non-profit corporation, organization, or county or municipal government shall

allow Gatherings of persons. This provision shall not apply to cohabitating persons, family units, or roommates residing together in private homes, whether inside or outside of their homes or place of residence. This provision shall also not apply to entities defined as "Critical Infrastructure."

IT IS FURTHER

ORDERED: That Executive Order 04.08.20.04 shall be extended for thirteen days, until Wednesday, May 13, 2020, at 11:59 P.M.

II. DEFINITIONS

IT IS FURTHER

ORDERED: That the following definitions shall apply to this Order:

1. "Critical Infrastructure" shall include all workers, businesses, establishments, corporations, non-profit corporations, and organizations included in versions 1.0, 2.0, and 3.0 of Guidance on Essential Critical Infrastructure Workers released by the U.S. Department of Homeland Security on March 19, 2020, March 28, 2020, and April 17, 2020, respectively. The term "Critical Infrastructure" shall also include those suppliers which provide essential goods and services to the Critical Infrastructure workforce as well as entities that provide legal services, home hospice, and non-profit corporations or non-profit organizations that offer food distribution or other health or mental health services.
2. "Essential Services" shall include those activities outlined below.
 - A. Obtaining necessary supplies and services for family or household members, such as food and supplies for household consumption and use, medical supplies or medication, supplies and equipment needed to work from home, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence. Preference should be given to online ordering, home delivery, and curbside pick-up services wherever possible as opposed to in-store shopping.
 - B. Engaging in activities essential for the health and safety of family or household members.
 - C. Seeking medical, behavioral health, or emergency services.
 - D. Activities that may preserve the health and welfare of persons within this State.

- E. The transport, visitation, and regular care of family members and persons dependent on the services of others, and similar actions that ensure the welfare and best interests of persons in the State of Georgia, specifically including the elderly, children, and disabled populations.
 - F. Children obtaining public internet access to fulfill educational obligations.
 - G. Engaging in outdoor exercise activities so long as Social Distancing is practiced during such activities between all persons who are not occupants of the same household or residence.
- 3. "Gathering" shall mean more than ten (10) persons physically present at a Single Location if, to be present, persons are required to stand or be seated within six (6) feet of any other person. Therefore, groups of more than ten (10) people are permitted if their grouping is transitory or incidental, or if their grouping is the result of being spread across more than one Single Location.
 - 4. "Necessary Travel" shall mean such travel as is required to conduct or participate in Essential Services or Critical Infrastructure as defined by this Order.
 - 5. "Personal Protective Equipment" shall mean surgical masks, N95 masks, respirators, other facemasks, protective gloves, protective clothing, protective garments, and shoe coverings.
 - 6. "Shelter in Place" shall mean a person is required to remain in their home or place of residence and take every possible precaution to limit social interaction to prevent the spread or infection of COVID-19 to themselves or any other person, subject to the provisions and exceptions of this Order.
 - 7. "Single Location" shall mean a space where all persons gathered cannot maintain at least six (6) feet of distance between themselves and any other person.
 - 8. "Social Distancing" means keeping space between yourself and other people outside of your home or place of residence. Persons practicing Social Distancing should stay at least six (6) feet from other people, avoid assembling in groups, avoid crowded places, and avoid large crowds.

III. SHELTERING IN PLACE

IT IS FURTHER

ORDERED:

That all residents and visitors of the State of Georgia who meet the following criteria for higher risk of severe illness as defined by the

Centers for Disease Control and Prevention are required to Shelter in Place within their homes or places of residence:

1. Those persons who are 65 years of age or older.
2. Those persons who live in a nursing home or long-term care facility, including inpatient hospice, assisted living communities, personal care homes, intermediate care homes, community living arrangements, and community integration homes.
3. Those persons who have chronic lung disease.
4. Those persons who have moderate to severe asthma.
5. Those persons who have severe heart disease.
6. Those persons who are immunocompromised. Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medication.
7. Those persons, of any age, with class III or severe obesity.
8. Those persons diagnosed with the following underlying medical conditions: diabetes, liver disease, and persons with chronic kidney disease undergoing dialysis.

IT IS FURTHER

ORDERED: That persons required to Shelter in Place shall be permitted to engage in the following activities:

1. Conducting or participating in Essential Services;
2. Performing Necessary Travel;
3. Engaging in the performance of, or travel to and from the performance of minimum necessary activities to maintain the value of a business, establishment, corporation, non-profit corporation, or organization not classified as Critical Infrastructure; or
4. Working in or for Critical Infrastructure and are actively engaging in the performance of, or travel to and from, their respective employment.

IT IS FURTHER

ORDERED: That persons required to Shelter in Place shall not receive visitors, except as follows:

1. Visitors providing medical, behavioral health, or emergency services or medical supplies or medication, including home hospice;
2. Visitors providing support for the person to conduct activities of daily living or instrumental activities of daily living;

3. Visitors providing necessary supplies and services, such as food and supplies for household consumption and use, supplies and equipment needed to work from home, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence; or
4. Visitors received during end-of-life circumstances.

To the extent practicable under the circumstances, visitors shall maintain a minimum distance of six (6) feet between themselves and all other occupants of the person's home or residence. Any visitors visiting for the sole purpose of delivering medication, supplies, or other tangible goods shall, to the extent practicable, deliver such items in a manner that does not require in-person contact or require the deliverer to enter the person's home or residence.

IT IS FURTHER

ORDERED: That the provisions of this Order related to visitors listed in the immediately preceding paragraph shall be strictly enforced against nursing homes or other long-term care facilities, including inpatient hospice, assisted living communities, personal care homes, intermediate care homes, community living arrangements, and community integration homes.

IT IS FURTHER

ORDERED: That an exception to any Shelter in Place requirement set forth hereunder applies in the event of an emergency. In such cases, persons are encouraged to leave their homes or residences and Shelter in Place in accordance with the rules included in this Order at a safe alternate location. Persons experiencing homelessness are urged to obtain shelter and contact governmental and other entities for assistance.

IV. RESTAURANTS & DINING SERVICES

IT IS FURTHER

ORDERED: That the provisions of Section IV of this Order, titled "Restaurants & Dining Services," shall become effective at 12:00 A.M. on Monday, April 27, 2020, and shall be subject to enforcement as provided herein and in Section X of this Order, titled "Enforcement."

IT IS FURTHER

ORDERED: That for the purposes of Section IV of this Order, titled “Restaurants & Dining Services,” the term “Single Location” as used in the definition of “Gatherings” in Section I of this Order shall mean 500 square feet of public space. This formula shall only apply to patrons. Therefore, for restaurants, no more than ten (10) patrons should be allowed in the facility per 500 square feet of public space. In calculating the total number of public space square feet, such calculation shall include waiting and bar areas, if any, but shall not include hallways, restrooms, and spaces closed to patrons.

IT IS FURTHER

ORDERED: That restaurants and dining rooms, including those at private social clubs, are hereby permitted to resume providing dine-in services. All restaurants and dining rooms that operate during the effective dates of this Order **shall** implement measures which mitigate the exposure and spread of COVID-19 among its patrons and workforce. Such measures **shall** include the following:

1. Screen and evaluate workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. Require workers who exhibit signs of illness to not report to work or to seek medical attention. Per existing U.S. Food and Drug Administration Food Code requirements, employees who are sick should remain home. If an employee becomes ill or presents signs of illness at work, the operator should identify the employee’s condition during a pre-work screening and send the employee home. Restaurants shall create, maintain, and follow established policies regarding when employees who have become ill are permitted to return to work. An employee with known or suspected COVID-19 must follow Centers for Disease Control and Prevention guidelines to self-isolate for at least seven (7) days after symptom onset and end isolation only after symptoms have improved and the employee has been fever-free and/or symptom-free for three (3) consecutive days without medication before returning to work;
3. Implement teleworking for all possible workers;
4. Implement staggered shifts for all possible workers;
5. Hold all meetings and conferences virtually, whenever possible;
6. Train all employees on the importance and expectation of increased frequency of handwashing, the use of hand sanitizers with at least 60% alcohol, and provide clear instruction to avoid touching hands to face;

7. Require all employees to wear face coverings at all times. Such coverings shall be cleaned or replaced daily;
8. Discourage workers from using other workers' phones, desks, offices, or other work tools and equipment;
9. Where possible, stagger workstations to avoid employees standing adjacent to one another or next to each other. Where six (6) feet of separation is not possible, consider spacing options that include other mitigation efforts with increased frequency of cleaning and sanitizing surfaces;
10. Establish limit numbers to reduce contact in employee breakrooms;
11. Prohibit handshaking and other unnecessary person-to-person contact in the workplace;
12. Enforce Social Distancing of non-cohabitating persons while present on such entity's leased or owned property;
13. Increase physical space between workers and patrons;
14. Limit contact between wait staff and patrons;
15. Discard all food items that are out of date;
16. Discontinue use of salad bars and buffets;
17. If providing a "grab and go" service, stock coolers to no more than minimum levels;
18. Ensure the Food Safety Manager certification of the person in charge is up-to-date and provide food handler training to refresh employees;
19. Thoroughly detail, clean, and sanitize the entire facility prior to resuming dine-in services and continue to do so regularly, focussing such cleaning and sanitation on high contact areas that would be touched by employees and patrons;
20. Between diners, clean and sanitize table condiments, digital ordering devices, check presenters, self-service areas, tabletops and commonly touched areas, and discarding single-use items;
21. Use rolled silverware and eliminate table presets;
22. Remove items from self-service drink, condiment, utensil, and tableware stations and have workers provide such items to patrons directly wherever practicable;
23. The use of disposable paper menus is strongly encouraged, which should be discarded after each patron use. Otherwise, businesses subject to this Section shall clean and sanitize reusable menus between each use by a patron. Non-touch menus are also acceptable for use.
24. Clean and sanitize restrooms regularly, check restrooms based on the frequency of use, and ensure adequate supply of soap and paper towels at all times;
25. Implement procedures to increase cleaning and sanitizing frequency of surfaces in the back-of-house. Avoid all food contact surfaces when using disinfectants;

26. Check restrooms regularly and clean and sanitize based on frequency of use;
27. Update floor plans for common dining areas, redesigning seating arrangements to ensure at least six (6) feet of separation from seating to seating. Utilize physical barriers on booth seating when available;
28. Limit party size at tables to no more than six;
29. Where practical, consider a reservations-only business model or call-ahead seating;
30. Remind third-party delivery drivers and any suppliers of your internal distancing requirements;
31. Post signage on entrances that no one with a fever or symptoms of COVID-19 is permitted in the facility;
32. Where practicable, physical barriers such as partitions or Plexiglas at registers should be used;
33. Use technological solutions where possible to reduce person-to-person interaction: mobile ordering, mobile access to menus to plan in advance, text on arrival for seating, and contactless payment options;
34. Provide hand sanitizer for use by patrons, including contactless hand sanitizing stations when available;
35. Do not allow patrons to congregate in waiting areas or bar areas. Design a process to ensure patron separation while waiting to be seated that can include floor markings, outdoor distancing, or waiting in cars;
36. If possible, use an exit from the facility separate from the entrance;
37. Mark ingress/egress to and from restrooms to establish paths that mitigate proximity for patrons and staff;
38. Where practicable, take-out and curbside pick-up services should be prioritized over dine-in services; and
39. All restaurant or dining room playgrounds shall be closed.

IT IS FURTHER

ORDERED: That none of the provisions of Section IV of this Order, titled “Restaurants & Dining Services,” shall apply to the operation of dine-in services in hospitals, healthcare facilities, nursing homes, or other long-term care facilities.

IT IS FURTHER

ORDERED: To the extent that the provisions of Section IV of this Order, titled “Restaurants & Dining Services,” conflict with the provisions of Section V of this Order, titled “Industry & Commerce,” the provisions of Section IV shall control.

V. INDUSTRY, COMMERCE, ORGANIZATIONS, & NON-PROFITS

IT IS FURTHER

ORDERED: That the Georgia Department of Economic Development is authorized to issue guidance to any business, corporation, organization, or industry trade group regarding its status as Critical Infrastructure. This guidance shall not require a finding of fact but shall be in writing and shall be considered a final agency action for the purpose of proceedings under Code Section 50-13-19.

IT IS FURTHER

ORDERED: Critical Infrastructure that continue in-person operation during the effective dates of this Order ***shall*** implement measures which mitigate the exposure and spread of COVID-19. Such measures ***may*** include, but shall not be limited to the following, which shall be implemented to the maximum extent practicable:

1. Screening and evaluating workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. Requiring workers who exhibit signs of illness to not report to work or to seek medical attention;
3. Enhancing sanitation of the workplace as appropriate;
4. Disinfecting common surfaces regularly;
5. Requiring handwashing or sanitation by workers at appropriate places within the business location;
6. Prohibiting Gatherings of workers during working hours;
7. Permitting workers to take breaks and lunch outside, in their office or personal workspace, or in such other areas where proper social distancing is attainable;
8. Implementing teleworking for all possible workers;
9. Implementing staggered shifts for all possible workers;
10. Holding all meetings and conferences virtually, whenever possible;
11. Delivering intangible services remotely, whenever possible;
12. Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment;
13. Prohibiting handshaking and other unnecessary person-to-person contact in the workplace;
14. If in use, open sales registers must be at least six (6) feet apart;
15. Point of sale equipment should be frequently cleaned and sanitized;
16. Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen; and

17. Suspending the use of Personal Identification Number ("PIN") pads, PIN entry devices, electronic signature capture, and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies.

IT IS FURTHER

ORDERED:

That all businesses, establishments, corporations, non-profit corporations, or organizations that are *not* Critical Infrastructure that continue in-person operations during the effective dates of this Order ***shall*** implement measures which mitigate the exposure and spread of COVID-19 among its workforce. Such measures ***shall*** include the following:

1. Screening and evaluating workers who exhibit signs of illness, such as a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. If a retail business, posting a sign on the storefront stating that individuals who have a fever or other symptoms of COVID-19 shall not enter the store;
3. Requiring workers who exhibit signs of illness to not report to work or to seek medical attention;
4. Enhancing sanitation of the workplace as appropriate;
5. Disinfecting common surfaces regularly;
6. Requiring hand washing or sanitation by workers at appropriate places within the business location;
7. Prohibiting Gatherings of workers during working hours;
8. Permitting workers to take breaks and meals outside, in their office or personal workspace, or in such other areas where proper Social Distancing is attainable;
9. Implementing teleworking for all possible workers;
10. Implementing staggered shifts for all possible workers;
11. Holding all meetings and conferences virtually, whenever possible;
12. Delivering intangible services remotely, whenever possible;
13. Discouraging workers from using other workers' phones, desks, offices, or other work tools and equipment;
14. Prohibiting handshaking and other unnecessary person-to-person contact in the workplace;
15. Placing notices that encourage hand hygiene at the entrance to the workplace and in other workplace areas where they are likely to be seen;
16. Enforcing Social Distancing of non-cohabitating persons while present on such entity's leased or owned property;
17. For retailers and service providers, providing for alternative points of sale outside of buildings, including curbside pick-up

- or delivery of products and/or services if an alternative point of sale is permitted under Georgia law;
18. Open sales registers must be at least six (6) feet apart;
 19. Point of sale equipment should be frequently cleaned and sanitized;
 20. Increasing physical space between workers and patrons; and
 21. Suspending the use of Personal Identification Number ("PIN") pads, PIN entry devices, electronic signature capture, and any other credit card receipt signature requirements to the extent such suspension is permitted by agreements with credit card companies and credit agencies.

IT IS FURTHER

- ORDERED:** That Critical Infrastructure and all other businesses, establishments, corporations, non-profit corporations, or organizations that continue in-person operation during the effective dates of this Order ***should*** implement the following measures if practicable:
1. Providing Personal Protective Equipment as available and appropriate to the function and location of the worker within the business location;
 2. Providing disinfectant and sanitation products for workers to clean their workspace, equipment, and tools; and
 3. Increasing physical space between workers' worksites to at least six (6) feet.

IT IS FURTHER

- ORDERED:** That all live public swimming pools, performance venues, operators of amusement rides as defined by Code Section 25-15-51, and businesses which possess a license to operate as or otherwise meet the definition of "bar" as defined by Code Section 3-1-2(2.1) ***shall not*** engage in in-person operations and shall remain closed to the public while this Order is in effect.

IT IS FURTHER

- ORDERED:** That all retail businesses, including Food Establishments (such as retail and wholesale grocery stores), as defined by Ga. Comp. R. & Regs. R. 40-7-1-.02 but not to include food processing plants or wholesale sandwich and salad manufacturers, ***shall*** implement additional measures to prevent the spread of COVID-19, as practicable. Such measures ***shall*** include:
1. Limiting the number of patrons inside the store to 50% of fire capacity occupancy or eight (8) patrons per 1,000 square feet;
 2. Encouraging patrons to use hand sanitizer upon entering;

3. Encouraging non-cash payments when possible;
4. Sanitizing entrance and exit doors at least three times per day;
5. Encouraging workers to report any safety and health concerns to the employer;
6. Installing protective screens or other mitigation measures where worker-patron interactions are likely; and
7. Providing additional hand sanitizer within the business.

IT IS FURTHER

ORDERED:

That in addition to the applicable requirements above, Food Establishments (such as retail and wholesale grocery stores), as defined by Ga. Comp. R. & Regs. R. 40-7-1-.02 but not to include food processing plants or wholesale sandwich and salad manufacturers, ***shall*** implement additional measures to those listed above as practicable. Such measures ***may*** include, but shall not be limited to the following, which shall be implemented to the maximum extent practicable:

1. Scheduling specific hours of operation for vulnerable populations to shop without other patrons;
2. Reducing store hours to allow for increased cleaning and sanitation while the store is closed;
3. Enacting policies and procedures to encourage Social Distancing for patrons and employees. Measures may include:
 - a. Protective Plexiglass screens at service counters and at cash registers;
 - b. Decals on the floor or aisles with messaging on Social Distancing;
 - c. Signs throughout the store giving visuals on Social Distancing;
 - d. Limited occupancy if store becomes too crowded; and
 - e. Use of one-way aisles
4. Providing Personal Protective Equipment as available and appropriate to the function and location of the worker within the business location;
5. Encouraging patrons to wear face coverings;
6. Utilizing in-store messaging to educate and remind patrons and employees on recommended hygiene and Social Distancing;
7. Discontinuing sampling or cooking stations;
8. Closing self-serve salad bars and buffets;
9. Adding additional staff to specifically oversee increased sanitation of grocery carts, and other high-touch areas such as door handles, point of sales equipment, conveyor belts, and other surfaces;

10. Checking restrooms regularly, cleaning and sanitizing based on frequency of use, and ensuring adequate supply of soap and paper towels at all times;
11. Allowing time for frequent hand washing for employees, including cashiers, that interact directly with patrons;
12. Increasing or add hand sanitizing stations around stores for patrons and employees; and
13. Procuring options with third-party cleaning companies to assist with the increased cleaning demands as needed.

IT IS FURTHER

ORDERED:

That, effective immediately, in addition to the applicable requirements above, gyms and fitness centers ***shall*** implement additional measures to prevent the spread of COVID-19, as practicable. Such measures ***shall*** include:

1. Placing signage at any entrance to instruct patrons that they cannot enter if they have been diagnosed with COVID-19, had symptoms of COVID-19, or had contact with a person that has or is suspected to have COVID-19;
2. Placing signage at any entrance and throughout the facility to instruct patrons of the enhanced sanitation procedures, Social Distancing requirements, and other instructions and limitations, as applicable, set forth below;
3. Screening patrons at entrance. Patrons exhibiting a temperature greater than 100.4 degrees Fahrenheit, cough, shortness of breath, or other respiratory symptoms shall not be permitted to enter;
4. Limiting occupancy to enforce Social Distancing requirements and to prohibit Gatherings;
5. Utilizing contactless forms of patron check-in;
6. Providing hand sanitizer stations for patrons and encouraging use;
7. Providing sanitation wipes at or near each piece of equipment and requiring users to wipe down the equipment before and after use;
8. Requiring workers to patrol patron areas to enforce the equipment wipe-down policy and conduct additional cleanings during times when equipment is not being used;
9. Limiting use of cardio machines to every other machine to maintain acceptable Social Distancing between users;
10. Enforcing Social Distancing and prohibiting congregating between non-cohabitating patrons. Patrons should be encouraged to conduct their workout and exit the facility without unnecessary delay;
11. Halting the provision of group classes;

12. Halting the provision of in-facility child care services;
13. Closing the following facilities and equipment within a gym or fitness center: pools, basketball courts and other group sport areas, hot-tubs, saunas, steam rooms, and tanning beds;
14. Limit locker room use and avoid use if possible;
15. Requiring patrons to spray showers with a provided cleaning spray after use; and
16. Requiring workers to clean and sanitize bathrooms and locker rooms regularly throughout the opening hours in addition to the regular cleaning schedule.

IT IS FURTHER

ORDERED:

That, effective immediately, in addition to the applicable requirements above, body art studios permitted pursuant to Code Section 31-40-2, businesses registered pursuant to Code Sections 43-10-11 and 43-10-18, estheticians as defined by Code Section 43-10-1(8), hair designers as defined by Code Section 43-10-1(9), persons licensed to practice massage therapy pursuant to Code Section 43-24A-8, and tanning facilities as defined by Code Section 31-38-1(6) **shall** implement additional measures to prevent the spread of COVID-19, as practicable. Such measures **shall** include:

1. Providing services by appointment only. Walk-in patrons should not be allowed;
2. Patrons should be required to sanitize their hands upon entering the facility and before any treatment;
3. Providing hand sanitizer or sanitization wipes to patrons upon arrival;
4. Posting signs at the entrance and at eye-level at each workstation stating that any patron who has symptoms of COVID-19 must reschedule their appointment;
5. Allowing only one patron per service provider in the business at any one time;
6. Allowing one parent to be within a facility if a minor child is receiving a haircut;
7. Requiring patrons to wait in car their until service provider is ready;
8. Staggering use of every-other workstation or spacing workstations more than ten (10) feet apart, whichever option is practicable given the facility's configuration;
9. Staggering work schedules so that no more than 50% of the normal number of employees providing services will be in the business at a time;
10. Requiring all employees to wear Personal Protective Equipment as available and appropriate to the function and location of the worker within the business location;

11. Sanitizing all equipment, chairs, and tables used by employees and patrons between each client visit;
12. Utilizing disposable materials and supplies as much as practicable according to state rules and regulations; and
13. Training all employees on additional measures both verbally and in writing.

IT IS FURTHER

ORDERED:

That in addition to the applicable requirements above, indoor movie theaters and cinemas choosing to operate during the effective dates of this Order ***shall*** implement additional measures to prevent the spread of COVID-19. Such measures ***shall*** include:

1. Each party of patrons must be seated at least six (6) feet apart. No party seated together may number more than six (6) individuals;
2. At least one usher must be used in each theater room before and at some point, during each showing to ensure that proper Social Distancing protocol is enforced;
3. Seats, armrests, handrails, doors, doorknobs, and door handles in each theater must be thoroughly sanitized before and after each showing;
4. Tape must be applied to floors at ticket counters and concession stands to enforce proper Social Distancing protocol for patrons who are waiting in line;
5. Restrooms must be cleaned and disinfected regularly, and touchpoints must be cleaned no less than once per hour;
6. Food service areas must adhere to the same guidelines set forth in Section IV, titled “Restaurants & Dining Services”, above;
7. Party rooms located at theaters may not host parties or Gatherings; and
8. Closing playgrounds and arcade rooms, if any.

IT IS FURTHER

ORDERED:

That in addition to the applicable requirements above, bowling alleys choosing to operate during the effective dates of this Order ***shall*** implement additional measures to prevent the spread of COVID-19. Such measures ***shall*** include:

1. Placing signage at entrance and throughout the facility to instruct patrons of Social Distancing requirements and other instructions and limitations, as applicable;
2. Providing hand sanitizer stations for patrons throughout the facility;

3. Food service areas must adhere to the same guidelines set forth in Section IV, titled “Restaurants & Dining Services”, above;
4. Tape must be applied to floors at ticket counters and rental stations to enforce proper Social Distancing protocol for patrons who are waiting in line;
5. Removing items from all self-service bowling ball, bowling shoe, and other bowling accessory stations and have workers provide such items to patrons directly;
6. Allowing groups of six (6) patrons or less per lane;
7. Staggering use of lanes so that only every other lane or every third lane is in use to maintain proper Social Distancing between groups of patrons. Each party of patrons must be seated at least six (6) feet apart;
8. Score keeping machines, ball returns, tables, seats, and other fixtures at each bowling lane must be thoroughly sanitized before and after each use;
9. Bowling balls and bowling shoes must be thoroughly sanitized before and after each use;
10. Party rooms located at bowling alleys may not host parties or Gatherings; and
11. Closing playgrounds and arcade rooms, if any.

IT IS FURTHER

ORDERED: That in instances where persons are working outdoors without regular contact with other persons, such as delivery services, contractors, landscape businesses, and agricultural industry services, such persons *shall* only be required to practice Social Distancing and implement sanitation processes in accordance with the guidelines published by the Centers for Disease Control and Prevention.

IT IS FURTHER

ORDERED: That the authorizations to hold meetings of shareholders by remote communications during the Public Health State of Emergency in Georgia in Executive Order No. 03.20.20.02 is hereby extended to apply to meetings being held by remote communication pursuant to Code Sections 14-2-701, 14-2-702, 14-3-701, and 14-3-702 regardless of whether such meeting is to occur during the Public Health State of Emergency. In each case, the notice of meeting required by Code Section 14-2-705 or Code Section 14-3-705 must be duly provided or given during the Public Health State of Emergency.

VI. HEALTHCARE

IT IS FURTHER

ORDERED: That, effective immediately, any person, service, or entity delivering healthcare during the effective dates of this Order shall adhere to the guidelines listed in Section V for Critical Infrastructure in addition to the guidelines listed in this Section.

IT IS FURTHER

ORDERED: That, effective immediately, in addition to compliance with the guidelines for Critical Infrastructure, dental practices, and clinics that continue in-person operation during the effective dates of this Order ***shall*** adhere to the American Dental Association's Interim Guidance for Minimizing Risk of COVID-19 Transmission and Interim Mask and Face Shield Guidelines and that any previous Executive Order or rule which would prevent dental practices and clinics from providing the full scope of their services subject to the above requirements is hereby suspended.

IT IS FURTHER

ORDERED: That, effective immediately, in addition to compliance with the guidelines for Critical Infrastructure, licensed optometrists and their staff that continue in-person operation during the effective dates of this Order ***shall*** adhere to the American Optometric Association's Practice Reactivation Preparedness Guide and the Georgia Optometric Association's COVID-19 guidelines for practices issued March 17, 2020 and updated April 20, 2020. Any previous executive order or departmental rule which would prevent optometrists from providing the full scope of their services subject to the above requirements is hereby suspended.

IT IS FURTHER

ORDERED: That, effective immediately, in addition to compliance with the guidelines for Critical Infrastructure, licensed opticians and their staff that continue in-person operation during the effective dates of this Order ***shall*** adhere to the Centers for Disease Control and Prevention's Recommendations for Office Disinfection and Recommendations for Employers. Any previous executive order or departmental rule which would prevent opticians from providing the full scope of their services subject to the above requirements is hereby suspended.

IT IS FURTHER

ORDERED:

That, effective immediately, in addition to compliance with the guidelines for Critical Infrastructure, Ambulatory Surgical Centers that continue in-person operation during the effective dates of this Order ***shall*** implement additional measures to prevent the spread of COVID-19 as practicable. Such measures ***may*** include, but shall not be limited to the following, which shall be implemented to the maximum extent practicable:

1. Screening patients before visits and monitoring their health prior to starting surgery as part of the pre-operative procedure;
2. Requiring staff to self-monitor and screen for viral symptoms daily;
3. Continuing to use Personal Protective Equipment per the latest Centers for Disease Control and Prevention recommendations for all procedures;
4. Following waiting room spacing guidelines, Social Distancing, face masking, and other recommended procedures for patients and visitors prior to entering the facility;
5. Ensuring heightened disinfection to prevent and mitigate risk of spread;
6. Ensuring patients have been medically cleared by their primary care physician where applicable;
7. Balancing the needs of patient care with the risk of providing that care by prioritizing procedures for patients who have lower co-morbidities and surgical risks and procedures accompanied by lower risk with regard to airborne transmission and those with minimal risk of unintended hospital admissions;
8. Performing regular rapid COVID-19 testing on providers and employees where feasible; and
9. Performing COVID-19 testing on patients suspected to be experiencing COVID-19 and factoring the results of such testing into clinical decisions as to whether or not to proceed with procedures.

IT IS FURTHER

ORDERED:

Any previous executive order or departmental rule which would prevent ambulatory surgical centers from providing the full scope of their services subject to the above requirements is hereby suspended.

IT IS FURTHER

ORDERED: That to the extent possible, hospitals, healthcare institutions, medical facilities, nursing homes, and other long-term care facilities should offer in-room dining.

VII. EDUCATION & CHILDREN

IT IS FURTHER

ORDERED: Nothing in this Order shall prevent any school, technical school, college, or university from requiring faculty and staff to attend meetings or other necessary activities at a school or facility for the purpose of supporting distance learning, research, administration, maintenance, or preparation for the 2020-2021 school year.

IT IS FURTHER

ORDERED: That, effective immediately, for the purposes of all Child Care Learning Centers and Family Child Learning Homes under the jurisdiction of the Georgia Department of Early Care and Learning (hereinafter, “childcare facilities”), the term “Single Location” shall mean a single classroom.

IT IS FURTHER

ORDERED: That, effective immediately, all childcare facilities shall cease transporting children for any purpose other than transporting children between their place of residence and the childcare facility. To the greatest extent possible, all permissible transports shall be conducted in such a way that maintains Social Distancing.

IT IS FURTHER

ORDERED: That, effective immediately, in addition to the requirements for businesses, establishments, corporations, non-profit corporations, or organizations that are not Critical Infrastructure set forth in Section V above and the standard hygiene, sanitation, and disinfection licensing rules promulgated by the Georgia Department of Early Care and Learning, all childcare facilities that operate during the effective dates of this Order ***shall*** implement additional measures to prevent the spread of COVID-19. Such measures ***shall*** include the following:

1. Screening and evaluating all children prior to them entering the classroom for signs of illness or exhibiting a fever over 100.4 degrees Fahrenheit, cough, or shortness of breath;
2. Prohibiting children from entering a classroom if they exhibit any of the symptoms in paragraph 1;
3. Prohibiting unnecessary visitors;
4. Provide meals in classrooms rather than in a congregated or communal setting;
5. Restrict families' access to the front door of the facility or the door of their respective child's classroom only;
6. Surfaces and objects that are frequently touched must be sanitized regularly, including, but not limited to, toys, games, and objects or surfaces not ordinarily cleaned daily;
7. Toys and games that cannot be cleaned and sanitized should not be used;
8. Toys that children have placed in their mouths or that are otherwise contaminated by body secretions or excretions should be set aside until they are cleaned by hand by a person wearing gloves;
9. Machine-washable cloth toys should be used by one individual at a time or should not be used at all and should be laundered before being used by another child;
10. Toys used by a group of children must be washed and sanitized before they may be used by children in a different group or classroom;
11. Items that need to be cleaned should be set aside in a dish pan with soapy water or in a separate container marked for soiled toys;
12. Only bedding (sheets, pillows, blankets, and sleeping bags) that can be washed may be used. Each child's bedding must be kept separate and, to the extent practicable, should be stored in individually labeled bins, cubbies, or bags. Cots and mats should be labeled for each child, and any bedding that touches a child's skin should be cleaned weekly or before use by any other child; and
13. Workers should sign children in and out of the facility for families if a computer or keypad system inside the facility is used. If a tablet located outside the facility is used by families during drop-off and pick-up, the tablet must be disinfected after each use. If a paper sign-in system is used for sign-in, writing utensils should be sanitized after each use if families are permitted to sign children in themselves.

IT IS FURTHER

ORDERED:

That, effective immediately, Code Section 15-11-2(10) relating to the definition of "child" is suspended for the limited purpose of ensuring

that persons in the care of the Georgia Division of Family & Children Services who age out of the definition of “child” during the Public Health State of Emergency shall be eligible to remain in their placement and continue to receive services for a duration of ninety (90) days following the termination of the Public Health State of Emergency or any extension thereof. This suspension shall apply to Code Section 15-11-2(10), effective until July 1, 2020, and upon expiration to Code Section 15-11-2(10), effective July 1, 2020. That any Georgia Division of Family & Children Services policies shall also align with this provision.

IT IS FURTHER

ORDERED: That, effective immediately, no provision of this Order shall limit, infringe, suspend, or supplant any custodial arrangements created pursuant to the laws or constitution of this State or the laws or constitution of the United States, nor shall any person use any provision this Order as a defense to an action in violation of a custodial arrangement by any court created pursuant to the laws or constitution of this State or the laws or constitution of the United States.

VIII. COUNTY AND MUNICIPAL GOVERNMENTS

IT IS FURTHER

ORDERED: That, effective immediately, the requirements of Code Section 36-70-27 and 50-8-8 are hereby suspended to the extent that they would prevent local governments from being eligible to receive state funding for expenditures made during the current Public Health State of Emergency related to the prevention, treatment, or mitigation of COVID-19.

IT IS FURTHER

ORDERED: That, effective immediately, the audit reporting deadline imposed upon local governments by Code Section 36-81-7(d) is hereby extended by ninety (90) days for any local government that by virtue of their fiscal year end date will have an audit due at any time during the Public Health State of Emergency or within ninety (90) days after the Public Health State of Emergency is terminated or ceases to be renewed by the Governor.

IT IS FURTHER

ORDERED: That, effective immediately, the deadline for submission of the local government finances reports and local government indebtedness reports required of local governments under Code Section 36-81-8 shall hereby be extended by ninety (90) days for any local government that by virtue of their fiscal year end date will have such reports due during the Public Health State of Emergency or within 90 days after the Public Health State of Emergency is terminated or ceases to be renewed by the Governor.

IT IS FURTHER

ORDERED: That, effective immediately, the grant certification form reporting deadlines imposed upon local governments by Code Section 36-81-8.1 are hereby extended by ninety (90) days for any local government that by virtue of their fiscal year end date will have a grant certification form due at any time during the Public Health State of Emergency or within ninety (90) days after the Public Health State of Emergency is terminated or ceases to be renewed by the Governor.

IT IS FURTHER

ORDERED: That county and municipal governments are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of this Order, but such orders, rules, and regulations shall not be inconsistent with this Order or any other orders, rules, or regulations promulgated by the Governor or by any state agency exercising a power derived from the Public Health State of Emergency declaration. For the purpose of this provision, orders, rules, and regulations that are promulgated by county and municipal governments that are more or less restrictive than the terms of this Order shall be considered inconsistent with this Order.

IT IS FURTHER

ORDERED: That the operation of Critical Infrastructure shall not be impeded by county, municipal, or local ordinance.

IX. DRIVERS' SERVICES

IT IS FURTHER

ORDERED: That, effective immediately, the provision of Code Section 40-5-27(a) requiring the Department of Driver Services to examine every applicant for a driver's license with a comprehensive on-the-road driving test is hereby suspended and applicants for a driver's license shall not be required to complete a comprehensive on-the-road driving test, provided all other requirements outlined in Code Section 40-5-27 are met. This provision shall expire at the conclusion of the Public Health State of Emergency declared in Executive Order 03.14.20.01 and renewed by Executive Order 04.08.20.02. If the Public Health State of Emergency is renewed, this provision shall carry forward with the Public Health State of Emergency until such State of Emergency is terminated or ceases to be renewed by the Governor.

IT IS FURTHER

ORDERED: That, effective immediately, the provision of Code Section 40-5-24(a)(2) requiring holders of valid instruction permits, which are not under suspension, to hold the valid instruction permit for a period of not less than twelve (12) consecutive months before being eligible for a Class D driver's license is hereby suspended, and drivers turning fifteen (15) years of age from March 14, 2020 until the expiration of the Public Health State of Emergency declared by Executive Order 03.14.20.01 and renewed by Executive Order 04.08.20.02., or any extension thereof, shall be eligible for a Class D driver's license upon turning sixteen (16) years of age, provided all other requirements outlined in Code Sections 40-5-22(a.2) and 40-5-24(a)(2) are met. This provision shall expire at the conclusion of the Public Health State of Emergency declared in Executive Order 03.14.20.01 and renewed by Executive Order 04.08.20.02. If the Public Health State of Emergency is renewed, this provision shall carry forward with the Public Health State of Emergency until such State of Emergency is terminated or ceases to be renewed by the Governor.

X. ENFORCEMENT

IT IS FURTHER

ORDERED: That the state agencies with primary regulatory authority over the entities listed in this Order and the Commissioner of the Department of Public Safety shall provide resources as requested to assist in the enforcement of this Order.

IT IS FURTHER

ORDERED: That pursuant to Code Section 38-3-7, any person who violates this Order shall be guilty of a misdemeanor. Officials enforcing this Order should take reasonable steps to provide notice prior to issuing a citation or making an arrest. No provision of this Order shall limit the ability of law enforcement officers to enforce the laws of this State. Particularly, the provisions of Code Section 38-3-4 remain in effect, and all law enforcement is authorized to enforce the Orders issued pursuant to Title 38, Chapter 3.

IT IS FURTHER

ORDERED: That any law enforcement officer, after providing reasonable notice and issuing at least two citations for violations of Code Section 38-3-7, is authorized to mandate the closure of any business, establishment, corporation, non-profit corporation, or organization not in compliance with this Order for a period not to extend beyond the term of this Order.

IT IS FURTHER

ORDERED: That pursuant to Executive Order 04.02.20.01 and Code Section 38-3-51, enforcement of any county or municipal ordinance or order that is more or less restrictive than this Order is hereby suspended.

XI. MISCELLANEOUS

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall conflict with the provisions of any previous Executive Order or Agency Administrative Order, the provisions of this Order shall control. Further, in the event of any conflict, the provisions of any Quarantine or Isolation Order issued to a specific person by the Department of Public Health shall control.

IT IS FURTHER

ORDERED: That nothing in this Order shall be construed to suspend or limit the sale, dispensing, or transportation of firearms or ammunition, or any component thereof.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

IT IS FURTHER

ORDERED: That no provision of this Order shall limit, infringe, suspend, or supplant any judicial order, judgment, or decree issued pursuant to the laws or constitution of this State or the laws or constitution of the United States, nor shall any person use any provision this Order as a defense to an action in violation of a judicial order, judgment, or decree by any court created pursuant to the laws or constitution of this State or the laws or constitution of the United States.

IT IS FURTHER

ORDERED: This Order does not attempt, nor shall it be construed, to imply that the Governor, in any instance, has the unilateral authority to overturn any judicial order, judgment, or decree.

IT IS FURTHER

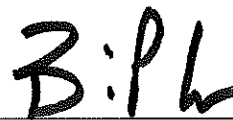
ORDERED: The Office of the Governor may continue to issue guidance on the scope of this Order as needed through communication media, including social media, without need for further Executive Orders.

XII. EFFECTIVE DATE & SIGNATURE

IT IS FURTHER

ORDERED: That this Order shall be effective upon signature.

This 23rd day of April 2020, at 5:51 P.M.

A handwritten signature in black ink, appearing to read "B:PL", is written over a horizontal line.

GOVERNOR



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

RENEWAL OF PUBLIC HEALTH STATE OF EMERGENCY

- WHEREAS:** On March 14, 2020, due to the impact of COVID-19 on the State of Georgia, I issued Executive Order No. 03.14.20.01, declaring a Public Health State of Emergency in Georgia; and
- WHEREAS:** The Georgia General Assembly concurred with Executive Order 03.14.20.01 by joint resolution on March 16, 2020; and
- WHEREAS:** On April 8, 2020, I renewed the Public Health State of Emergency until May 13, 2020 by issuing Executive Order 04.08.20.02; and
- WHEREAS:** Code Section 38-3-51 vests the Governor with the power to renew any State of Emergency for a period not to exceed thirty (30) days; and
- WHEREAS:** There exists a continued need for protecting vulnerable populations, providing comprehensive testing, permitting economic flexibility with reduced regulations, providing increased hospital capacity, and allowing the state expanded flexibility for procurement; and
- WHEREAS:** In consultation with the Commissioner of Public Health, the Director of the Georgia Emergency Management and Homeland Security Agency, the Adjutant General of the Georgia National Guard, and other state health and emergency preparedness officials, I have determined the public health emergency created by the spread of COVID-19 persists in the State, and that it is necessary and appropriate to renew the Public Health State of Emergency for thirty (30) days.

NOW, THEREFORE, PURSUANT TO CODE SECTION 38-3-51, AND THE AUTHORITY VESTED IN ME AS GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

- ORDERED:** That the Public Health State of Emergency declared by Executive Order 03.14.20.01 and renewed by Executive Order 04.08.20.02,

which is set to expire on Wednesday, May 13, 2020 at 11:59 P.M., shall be renewed for thirty (30) days.

IT IS FURTHER

ORDERED: That the Public Health State of Emergency shall terminate on Friday, June 12, 2020, at 11:59 P.M., unless it is renewed by the Governor.

IT IS FURTHER

ORDERED: That the terms of Executive Orders 03.14.20.01 and 04.08.20.02 are hereby adopted by reference.

IT IS FURTHER

ORDERED: That Executive Orders 04.08.20.03, 04.08.20.05, and Section III of Executive Order 04.23.20.02 titled "Sheltering in Place" are hereby extended for a period of forty-three (43) days, and shall expire on Friday, June 12, 2020, at 11:59 P.M.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall conflict with the provisions of any previous Executive Order or Agency Administrative Order, the provisions of this Order shall control. Further, in the event of any conflict, the provisions of any Quarantine or Isolation Order issued to a specific person by the Department of Public Health shall control.

IT IS FURTHER

ORDERED: That nothing in this Order shall be construed to suspend or limit the sale, dispensing, or transportation of firearms or ammunition, or any component thereof.

IT IS FURTHER

ORDERED: That if one or more of the provisions contained in this Order shall be held to be invalid, in violation of the Georgia Constitution, in violation of Georgia law, or unenforceable in any respect, such invalidity, violation, or unenforceability shall not affect any other provisions of this Order, but, in such case, this Order shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within the Order.

IT IS FURTHER

ORDERED: That no provision of this Order shall limit, infringe, suspend, or supplant any rights conferred by or any judicial order, judgment, or decree issued pursuant to the laws or constitution of this State or the

laws or constitution of the United States, nor shall any person use any provision this Order as a defense to an action in violation of a judicial order, judgment, or decree by any court created pursuant to the laws or constitution of this State or the laws or constitution of the United States.


IT IS FURTHER

ORDERED: The Office of the Governor may continue to issue guidance on the scope of this Order as needed through communication media, including social media, without need for further Executive Orders.

IT IS FURTHER

ORDERED: All provisions of this Order shall become effective upon signature.

This 30th day of April 2020.

A handwritten signature in black ink, appearing to read "B: P. L.", is written over a horizontal line.

GOVERNOR

3/23/2020

Secretary Of State Raffensperger Postpones The Presidential Preference Primary | Elections

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SECRETARY OF STATE RAFFENSPERGER POSTPONES THE PRESIDENTIAL PREFERENCE PRIMARY

ATLANTA -- In light of the public health emergency posed by COVID-19, the illness caused by the coronavirus, in-person voting presents increased risk to voters and poll workers. Governor Kemp has declared a public health emergency. President Trump has declared a national emergency, said Secretary of State Brad Raffensperger. "Events are moving rapidly and my highest priority is protecting the health of our poll workers, their families, and the community at large."

Speaker of the Georgia House of Representatives David Ralston agreed.

"I support Secretary Raffensperger's decision to delay the presidential preference primary and other March elections until May," he said. "This will ensure an orderly and safe elections process and is in the best interest of Georgia's citizens."

The Democratic Party of Georgia is also in accordance.

"Our priority is to protect the health and safety of all Georgians and to ensure that as many Georgians as possible have an opportunity to vote," said State Senator Nikema Williams, the Chairwoman of the Democratic Party of Georgia. "Continued in-person voting could compromise both goals. Georgians who have already cast their vote in person or by mail for the March 24 primary will be able to vote again in the May 19 primary for the elections already scheduled for that date. If Georgians who have already cast their vote for the March 24 primary do not vote again in the May 19 primary, their votes for the presidential preference primary will still count."

Secretary Raffensperger has represented that all votes already cast in person and all absentee ballots will be counted and every Georgia voter that has not yet had a chance to cast a ballot in the March 24 elections will be able to do so on May 19, along with the elections already scheduled for that date."

"Given these circumstances, I believe it is necessary and prudent to suspend in-person voting in the Presidential Preference Primary, and the local elections associated with them, and resume in-person voting for those elections as part of the already scheduled May 19 General Primary."

The CDC recommends those, including seniors, who are at greater risk from COVID-19 limit their exposure to the virus by keeping space between themselves and others, avoiding crowds, and staying at home during outbreaks in their community. Dr. Anthony Fauci, the head of the National Institute of Allergy and Infectious Diseases, has likewise identified individuals 65-years-old and older as facing increased risk from COVID-19. He explained that older Americans infected with COVID-19 stand a greater risk of serious difficulty and even death from the virus. All individuals should practice social distancing and minimize contact with others to minimize the risk to them and others.

With this decision, Secretary Raffensperger looks to confront the public health threat to our state, and the health of Georgians, while also maintaining an avenue for the people of Georgia to exercise their fundamental democratic right to vote. In the midst of a public health emergency like the one facing our state, taking strong action to protect all Georgians, including its dedicated poll workers, is paramount.

###

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Secretary of State Raffensperger postpones the Presidential Preference Primary
Saturday, March 14th 2020

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Secretary Of State Raffensperger Postpones The Presidential Preference Primary | Elections

State Sanctions Clarke Board for Violating Uniform
Voting Law

Wednesday, March 11th 2020

Safeguards, Options Available for Voting During Virus
Concerns

Tuesday, March 10th 2020

New National Vote Early Day Announced To Drive Voter
Turnout

Tuesday, March 10th 2020

Voting Machine Use Soars as Georgians Enjoy First Early
Voting Weekend

Monday, March 09th 2020

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4/29/2020

Raffensperger Takes Unprecedented Steps To Protect Safety And Voter Integrity In Georgia | Elections

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RAFFENSPERGER TAKES UNPRECEDENTED STEPS TO PROTECT SAFETY AND VOTER INTEGRITY IN GEORGIA

(ATLANTA) -- Secretary of State Raffensperger is taking unprecedented steps to protect the public health of Georgia voters while also upholding the integrity of the vote. These temporary steps are being made because of the COVID-19 pandemic threatening public health in Georgia and around the world.

Secretary Raffensperger will be mailing absentee ballot request forms to every Georgia voter. This extraordinary effort to ensure all Georgians can vote without fear for their health will supplement extra measures to ensure those who rely on in-person voting to access the ballot can do so safely.

"Times of turbulence and upheaval like the one we Georgians face require decisive action if the liberties we hold so dear are to be preserved," said Raffensperger. "I am acting today because the people of Georgia, from the earliest settlers to heroes like Rev. Dr. Martin Luther King, Jr. and Congressman John Lewis, have fought too long and too hard for their right to vote to have it curtailed. Georgia has faced challenges before and overcome them, and we can do so again through the grit and ingenuity that has made America a shining example for democracies around the world."

Secretary of State Brad Raffensperger is moving to increase Georgia voter access and protect the public health of voters and poll workers during the COVID-19 emergency through increased mail in voting. In the 2016 and 2018 November elections, around 95 percent of Georgia voters opted to cast their ballot in person versus the 5 percent who did so by mail. With social distancing as the most important tool for limiting the spread of coronavirus, providing alternatives to voting in person is crucial. All Georgia voters can request and vote an absentee ballot for any reason.

Raffensperger will send absentee ballot request forms to the Georgia's 6.9 million voters in an effort to allow as many Georgia voters as possible to exercise their right to vote without leaving their homes. In doing so, Raffensperger will literally be dropping a way to vote in safety and security on each Georgia voter's doorstep. They will simply have to fill out and return the application to vote by mail in the upcoming elections with no in-person risk of exposure to COVID-19.

Georgia's most vulnerable, those over age 65 and those with a disability, can request absentee ballots for the primary and general election as well as all elections through the 2020 election cycle with this one application. Other voters will need to submit another application for future elections. The elderly and disabled will be able to vote in safety and security.

While Secretary Raffensperger is encouraging as many voters as possible to vote by mail, some rely on in-person voting to exercise their right to vote privately and securely. People without internet or mail access, such as those experiencing homelessness; Georgians who need language assistance; and people with disabilities who rely on voting machines to cast their ballot will still be able to do so in person on the state's new voting system. Additionally, research from the Brennan Center for Justice at the NYU School of Law shows that eliminating "in-person voting could disproportionately disenfranchise Black, Latino, and young voters". Their right to vote too needs protection.

To that end, Raffensperger is taking extra steps to limit the threat of COVID-19 at the polling place. Poll workers will receive additional resources to clean the equipment regularly. In-person voters who show up to vote in person will be instructed to maintain a safe distance when waiting to vote.

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Secretary of State Brad Raffensperger Appoints Absentee Ballot Fraud Task Force Monday, April 27th 2020

Call for Special Election for State Senator, District 4 Monday, April 13th 2020

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Raffensperger Takes Unprecedented Steps To Protect Safety And Voter Integrity In Georgia | Elections

These measures will protect poll workers as well. Understanding the extra risk Georgia's generally elderly poll workers face, Raffensperger is working to help counties hire more and younger poll workers. Extra staff will allow those who feel sick to be absent from the polls without significantly impacting continuity while a younger pool of workers will increase resiliency in the face of the COVID-19 threat.

Senate President Pro Tempore Butch Miller commended Raffensperger for taking initiative to safeguard health and preserve voter access.

"I want to applaud Secretary of State Brad Raffensperger and his office for taking decisive measures in this time of crisis," Miller said. "These steps are critical in this temporary environment to protect our poll workers and give our counties time to successfully plan for the Georgia General Primary in May. Make no mistake about it, the members of the majority caucus and I remain committed to keep the General Primary on May 19th."

Secretary of State Brad Raffensperger is taking these unprecedented actions for the safety and security of Georgia's voters. Through these decisive steps, Raffensperger is protecting public health and the right to vote in Georgia.

###

Raffensperger Announces Postponement of Primary Election Until June 9

Thursday, April 09th 2020

Statement from Secretary of State Brad Raffensperger

Regarding the Upcoming May 19th Primary

Wednesday, April 01st 2020

Raffensperger Takes Unprecedented Steps to Protect Safety and Voter Integrity in Georgia

Tuesday, March 24th 2020

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RAFFENSPERGER ANNOUNCES POSTPONEMENT OF PRIMARY ELECTION UNTIL JUNE 9

(ATLANTA) — Today, Secretary of State Brad Raffensperger announced that, pursuant to the authority vested in him by O.C.G.A. § 21-2-50.1, he is postponing the Statewide General Primary/Presidential Preference Primary Election until June 9, 2020.

Yesterday, Governor Brian Kemp extended the current public health state of emergency until May 13, 2020. Lieutenant Governor Geoff Duncan and Speaker of the House David Ralston concurred in the Governor's extension of the state of emergency.

"Due to the Governor's extension of the state of emergency through a time period that includes almost every day of in-person voting for an election on May 19, and after careful consideration, I am now comfortable exercising the authority vested in me by Georgia law to postpone the primary election until June 9," said Secretary Raffensperger. "This decision allows our office and county election officials to continue to put in place contingency plans to ensure that voting can be safe and secure when in-person voting begins and prioritizes the health and safety of voters, county election officials, and poll workers."

Throughout this crisis, the Secretary of State's office has been in close contact with county election officials across the state. Over the past week, the reports of mounting difficulties from county election officials, particularly in Southwest Georgia, grew to a point where county election officials could not overcome the challenges brought on by COVID-19 in time for in-person voting to begin on April 27. Additionally, current modeling by the U.S. Centers for Disease Control and Prevention and by the Institute for Health Metrics and Evaluation projects the COVID-19 pandemic in Georgia will peak around April 24, only days before in-person voting was scheduled to begin. While challenges will certainly remain on June 9, these additional three weeks will give the Secretary of State's office and counties time to shore up contingency plans, find and train additional poll workers, and procure supplies and equipment necessary to clean equipment and protect poll workers.

Emergency authority is something that should be exercised carefully, and moving an election should only take place in the rarest of circumstances. While Secretary Raffensperger previously expressed concern that he did not have the authority to move the primary election again, the Governor's extension of the state of emergency to a time that includes almost every day of in-person voting for a May 19 election is sufficient to allow the Secretary to exercise the emergency authority given to him by O.C.G.A. § 21-2-50.1 and move the primary election to June 9.

"I certainly realize that every difficulty will not be completely solved by the time in-person voting begins for the June 9 election, but elections must happen even in less than ideal circumstances," said Raffensperger. "Just like our brave healthcare workers and first responders, our county election officials and poll workers are undertaking work critical to our democracy, and they will continue to do this critical work with all the challenges that the current crisis has brought forth. This postponement allows us to provide additional protection and safety resources to county election officials, poll workers, and voters without affecting the November election."

The voter registration deadline for the June 9, 2020 election will be May 11, 2020. Early voting will begin on May 18, 2020. Pursuant to O.C.G.A. § 21-2-501, moving the primary election to June 9, 2020

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Call for Special Election for State Senator, District 4 Monday, April 13th 2020

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Raffensperger Announces Postponement Of Primary Election Until June 9 | Elections

will move the primary runoff to August 11, 2020. Pushing back the primary to June 9 gives Georgia election officials additional time to put in place contingency plans to allow for safe and secure voting, but pushing back the primary election any further could potentially have negative consequences on preparation for the November 3, 2020 General Election. Given existing deadlines to prepare and send ballots for the November election, particularly for military voters, moving forward on June 9 is the best way to ensure a successful election year in Georgia.

Absentee ballot applications for the upcoming primary election will continue to be accepted and processed by counties even if the application said May 19. Once county election officials properly verify the signature on the application, the voter will be sent an absentee ballot for the primary election now to be held on June 9.

See the attached file to understand how the date was chosen: [Timeline2.jpg](#)

###

Raffensperger Announces Postponement of Primary Election Until June 9

Thursday, April 09th 2020

Statement from Secretary of State Brad Raffensperger
Regarding the Upcoming May 19th Primary
Wednesday, April 01st 2020

Raffensperger Takes Unprecedented Steps to Protect
Safety and Voter Integrity in Georgia
Tuesday, March 24th 2020

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Brad Raffensperger
SECRETARY OF STATE

The Office of Secretary of State

2 Martin Luther King Jr., Drive
802 West Tower
Atlanta, Georgia 30334

Chris Harvey
ELECTIONS DIRECTOR

March 20, 2020

Martin Cowen

[REDACTED]
JONESBORO, GA 30236 - 4179

Re: Extension of Nomination Petition Signature Deadline

Dear Martin Cowen,

The Secretary of State, under his statutory authority in O.C.G.A. § 21-2-50.1, is extending the deadline for independent and political body candidates to turn in nomination petitions for the 2020 general election until **12:00 noon on Friday, August 14, 2020**. Pursuant to O.C.G.A. § 21-2-132(e), the statutory deadline to turn in a nomination petition is currently 12:00 Noon on the second Tuesday in July. The Secretary of State is extending this deadline 31 days, which is the longest period that the deadline can be extended and still allow time for signatures to be verified before November ballots need to be finalized.

Sincerely,

Chris Harvey
Elections Director
Georgia Secretary of State

3/23/2020

Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (20...



©

Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV)

30 January 2020 | Statement | Geneva, Switzerland

The second meeting of the Emergency Committee convened by the WHO Director-General under the International Health Regulations (IHR) (2005) regarding the outbreak of novel coronavirus 2019 in the People's Republic of China, with exportations to other countries, took place on Thursday, 30 January 2020, from

3/23/2020

Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (20...

13:30 to 18:35 Geneva time (CEST). The Committee's role is to give advice to the Director-General, who makes the final decision on the determination of a Public Health Emergency of International Concern (PHEIC). The Committee also provides public health advice or suggests formal Temporary Recommendations as appropriate.

Proceedings of the meeting

Members and advisors of the Emergency Committee were convened by teleconference

The Director-General welcomed the Committee and thanked them for their support. He turned the meeting over to the Chair, Professor Didier Houssin.

Professor Houssin also welcomed the Committee and gave the floor to the Secretariat.

A representative of the department of compliance, risk management, and ethics briefed the Committee members on their roles and responsibilities.

Committee members were reminded of their duty of confidentiality and their responsibility to disclose personal, financial, or professional connections that might be seen to constitute a conflict of interest. Each member who was present was surveyed and no conflicts of interest were judged to be relevant to the meeting. There were no changes since the previous meeting.

The Chair then reviewed the agenda for the meeting and introduced the presenters.

Representatives of the Ministry of Health of the People's Republic of China reported on the current situation and the public health measures being taken. There are now 7711 confirmed and 12167 suspected cases throughout the country. Of the confirmed cases, 1370 are severe and 170 people have died. 124 people have recovered and been discharged from hospital.

3/23/2020

Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (20...

The WHO Secretariat provided an overview of the situation in other countries. There are now 83 cases in 18 countries. Of these, only 7 had no history of travel in China. There has been human-to-human transmission in 3 countries outside China. One of these cases is severe and there have been no deaths.

At its first meeting, the Committee expressed divergent views on whether this event constitutes a PHEIC or not. At that time, the advice was that the event did not constitute a PHEIC, but the Committee members agreed on the urgency of the situation and suggested that the Committee should continue its meeting on the next day, when it reached the same conclusion.

This second meeting takes place in view of significant increases in numbers of cases and additional countries reporting confirmed cases.

Conclusions and advice

The Committee welcomed the leadership and political commitment of the very highest levels of Chinese government, their commitment to transparency, and the efforts made to investigate and contain the current outbreak. China quickly identified the virus and shared its sequence, so that other countries could diagnose it quickly and protect themselves, which has resulted in the rapid development of diagnostic tools.

The very strong measures the country has taken include daily contact with WHO and comprehensive multi-sectoral approaches to prevent further spread. It has also taken public health measures in other cities and provinces; is conducting studies on the severity and transmissibility of the virus, and sharing data and biological material. The country has also agreed to work with other countries who need their support. The measures China has taken are good not only for that country but also for the rest of the world.

The Committee acknowledged the leading role of WHO and its partners.

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The Committee also acknowledged that there are still many unknowns, cases have now been reported in five WHO regions in one month, and human-to-human transmission has occurred outside Wuhan and outside China.

The Committee believes that it is still possible to interrupt virus spread, provided that countries put in place strong measures to detect disease early, isolate and treat cases, trace contacts, and promote social distancing measures commensurate with the risk. It is important to note that as the situation continues to evolve, so will the strategic goals and measures to prevent and reduce spread of the infection. The Committee agreed that the outbreak now meets the criteria for a Public Health Emergency of International Concern and proposed the following advice to be issued as Temporary Recommendations.

The Committee emphasized that the declaration of a PHEIC should be seen in the spirit of support and appreciation for China, its people, and the actions China has taken on the frontlines of this outbreak, with transparency, and, it is to be hoped, with success. In line with the need for global solidarity, the Committee felt that a global coordinated effort is needed to enhance preparedness in other regions of the world that may need additional support for that.

Advice to WHO

The Committee welcomed a forthcoming WHO multidisciplinary technical mission to China, including national and local experts. The mission should review and support efforts to investigate the animal source of the outbreak, the clinical spectrum of the disease and its severity, the extent of human-to-human transmission in the community and in healthcare facilities, and efforts to control the outbreak. This mission will provide information to the international community to aid in understanding the situation and its impact and enable sharing of experience and successful measures.

The Committee wished to re-emphasize the importance of studying the possible source, to rule out hidden transmission and to inform risk management measures

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The Committee also emphasized the need for enhanced surveillance in regions outside Hubei, including pathogen genomic sequencing, to understand whether local cycles of transmission are occurring.

WHO should continue to use its networks of technical experts to assess how best this outbreak can be contained globally.

WHO should provide intensified support for preparation and response, especially in vulnerable countries and regions.

Measures to ensure rapid development and access to potential vaccines, diagnostics, antiviral medicines and other therapeutics for low- and middle-income countries should be developed.

WHO should continue to provide all necessary technical and operational support to respond to this outbreak, including with its extensive networks of partners and collaborating institutions, to implement a comprehensive risk communication strategy, and to allow for the advancement of research and scientific developments in relation to this novel coronavirus.

WHO should continue to explore the advisability of creating an intermediate level of alert between the binary possibilities of PHEIC or no PHEIC, in a way that does not require reopening negotiations on the text of the IHR (2005).

WHO should timely review the situation with transparency and update its evidence-based recommendations.

The Committee does not recommend any travel or trade restriction based on the current information available.

The Director-General declared that the outbreak of 2019-nCoV constitutes a PHEIC and accepted the Committee's advice and issued this advice as Temporary Recommendations under the IHR.

To the People's Republic of China

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Continue to:

- Implement a comprehensive risk communication strategy to regularly inform the population on the evolution of the outbreak, the prevention and protection measures for the population, and the response measures taken for its containment.
- Enhance public health measures for containment of the current outbreak.
- Ensure the resilience of the health system and protect the health workforce.
- Enhance surveillance and active case finding across China.
- Collaborate with WHO and partners to conduct investigations to understand the epidemiology and the evolution of this outbreak and measures to contain it.
- Share relevant data on human cases.
- Continue to identify the zoonotic source of the outbreak, and particularly the potential for circulation with WHO as soon as it becomes available.
- Conduct exit screening at international airports and ports, with the aim of early detection of symptomatic travelers for further evaluation and treatment, while minimizing interference with international traffic.

To all countries

It is expected that further international exportation of cases may appear in any country. Thus, all countries should be prepared for containment, including active surveillance, early detection, isolation and case management, contact tracing and prevention of onward spread of 2019-nCoV infection, and to share full data with WHO. [Technical advice is available on the WHO website.](#)

Countries are reminded that they are legally required to share information with WHO under the IHR.

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Any detection of 2019-nCoV in an animal (including information about the species, diagnostic tests, and relevant epidemiological information) should be reported to the World Organization for Animal Health (OIE) as an emerging disease.

Countries should place particular emphasis on reducing human infection, prevention of secondary transmission and international spread, and contributing to the international response through multi-sectoral communication and collaboration and active participation in increasing knowledge on the virus and the disease, as well as advancing research.

The Committee does not recommend any travel or trade restriction based on the current information available.

Countries must inform WHO about travel measures taken, as required by the IHR. Countries are cautioned against actions that promote stigma or discrimination, in line with the principles of Article 3 of the IHR.

The Committee asked the Director-General to provide further advice on these matters and, if necessary, to make new case-by-case recommendations, in view of this rapidly evolving situation.

To the global community

As this is a new coronavirus, and it has been previously shown that similar coronaviruses required substantial efforts to enable regular information sharing and research, the global community should continue to demonstrate solidarity and cooperation, in compliance with Article 44 of the IHR (2005), in supporting each other on the identification of the source of this new virus, its full potential for human-to-human transmission, preparedness for potential importation of cases, and research for developing necessary treatment.

Provide support to low- and middle-income countries to enable their response to this event, as well as to facilitate access to diagnostics, potential vaccines and therapeutics.

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Under Article 43 of the IHR, States Parties implementing additional health measures that significantly interfere with international traffic (refusal of entry or departure of international travellers, baggage, cargo, containers, conveyances, goods, and the like, or their delay, for more than 24 hours) are obliged to send to WHO the public health rationale and justification within 48 hours of their implementation. WHO will review the justification and may request countries to reconsider their measures. WHO is required to share with other States Parties the information about measures and the justification received.

The Emergency Committee will be reconvened within three months or earlier, at the discretion of the Director-General.

The Director-General thanked the Committee for its work.

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WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020



WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

11 March 2020

Good afternoon.

In the past two weeks, the number of cases of COVID-19 outside China has increased 13-fold, and the number of affected countries has tripled.

There are now more than 118,000 cases in 114 countries, and 4,291 people have lost their lives.

Thousands more are fighting for their lives in hospitals.

In the days and weeks ahead, we expect to see the number of cases, the number of deaths, and the number of affected countries climb even higher.

WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

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We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

Describing the situation as a pandemic does not change WHO's assessment of the threat posed by this virus. It doesn't change what WHO is doing, and it doesn't change what countries should do.

We have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus.

And we have never before seen a pandemic that can be controlled, at the same time.

WHO has been in full response mode since we were notified of the first cases.

And we have called every day for countries to take urgent and aggressive action.

We have rung the alarm bell loud and clear.

===

As I said on Monday, just looking at the number of cases and the number of countries affected does not tell the full story.

Of the 118,000 cases reported globally in 114 countries, more than 90 percent of cases are in just four countries, and two of those – China and the Republic of Korea - have significantly declining epidemics.

81 countries have not reported any cases, and 57 countries have reported 10 cases or less.

We cannot say this loudly enough, or clearly enough, or often enough: all countries can still change the course of this pandemic.

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If countries detect, test, treat, isolate, trace, and mobilize their people in the response, those with a handful of cases can prevent those cases becoming clusters, and those clusters becoming community transmission.

Even those countries with community transmission or large clusters can turn the tide on this virus.

Several countries have demonstrated that this virus can be suppressed and controlled.

The challenge for many countries who are now dealing with large clusters or community transmission is not whether they can do the same – it's whether they will.

Some countries are struggling with a lack of capacity.

Some countries are struggling with a lack of resources.

Some countries are struggling with a lack of resolve.

We are grateful for the measures being taken in Iran, Italy and the Republic of Korea to slow the virus and control their epidemics.

We know that these measures are taking a heavy toll on societies and economies, just as they did in China.

All countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights.

WHO's mandate is public health. But we're working with many partners across all sectors to mitigate the social and economic consequences of this pandemic.

This is not just a public health crisis, it is a crisis that will touch every sector – so every sector and every individual must be involved in the fight.

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I have said from the beginning that countries must take a whole-of-government, whole-of-society approach, built around a comprehensive strategy to prevent infections, save lives and minimize impact.

Let me summarize it in four key areas.

First, prepare and be ready.

Second, detect, protect and treat.

Third, reduce transmission.

Fourth, innovate and learn.

I remind all countries that we are calling on you to activate and scale up your emergency response mechanisms;

Communicate with your people about the risks and how they can protect themselves – this is everybody's business;

Find, isolate, test and treat every case and trace every contact;

Ready your hospitals;

Protect and train your health workers.

And let's all look out for each other, because we need each other.

===

There's been so much attention on one word.

Let me give you some other words that matter much more, and that are much more actionable.

Prevention.

Preparedness.

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Public health.

Political leadership.

And most of all, people.

We're in this together, to do the right things with calm and protect the citizens of the world. It's doable.

I thank you.

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<https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>

U.S. Department of Health & Human Services

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Determination that a Public Health Emergency Exists

As a result of confirmed cases of 2019 Novel Coronavirus (2019-nCoV), on this date and after consultation with public health officials as necessary, I, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority vested in me under section 319 of the Public Health Service Act, do hereby determine that a public health emergency exists and has existed since January 27, 2020, nationwide.

01/31/2020

/s/

Date

Alex M. Azar II

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Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak | The White House

**PROCLAMATIONS**

Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

Issued on: **March 13, 2020**

In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities

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to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation's communities threatens to strain our Nation's healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. Certification and Notice. In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

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Sec. 3. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

DONALD J. TRUMP

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

MARTIN COWEN, *et al.*,

Plaintiffs,

v.

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

Defendant.

CIVIL ACTION NO.
1:17-CV-04660-LMM

ORDER

This matter is before the Court on Plaintiffs' Motion for Summary Judgment [69] and Defendant's Motion for Summary Judgment [73] and Defendant's Motion to Exclude Expert Report of Darcy Richardson [109]. After due consideration, the Court enters the following Order:

I. BACKGROUND¹

This matter arises from a constitutional challenge to Georgia's ballot-access restrictions for third-party candidates seeking election to the United States House of Representatives. Plaintiffs are the Libertarian Party of Georgia, prospective Libertarian candidates, and Libertarian voters. See Dkt. No. [97]

¹ Unless otherwise indicated, the facts relied upon in this section are taken from the statements of material facts provided by the parties. See Dkt. Nos. [69-2; 73-1; 96-2].

¶¶ 5-9. Plaintiffs seek injunctive relief and a declaration that Georgia's ballot-access restrictions (1) unconstitutionally burden Plaintiffs' rights under the First and Fourteenth Amendments; and, (2) violate the Equal Protection Clause of the Fourteenth Amendment. See Dkt. No. [1] ¶¶ 148-52.

A. History of Georgia's Ballot Access Restrictions

Georgia enacted its first ballot-access law in 1922, which provided that an independent candidate, or the nominee of any party, could appear on the general-election ballot as a candidate for any office with no petition and no fee. Dkt. No. [97] ¶ 13. In 1943, Georgia adopted a 5% petition requirement for access to the general-election ballot. Id. ¶ 15. That law allowed candidates of any political party that received at least 5% of the votes in the last general election for the office to appear on the general-election ballot without a petition or fee. Id. All other candidates were required by law to file a petition signed by at least 5% of the registered voters in the territory covered by the office. Id. The deadline for the petition was thirty days before the general election. Id. ¶ 16. Between 1943 and 1999, the Georgia General Assembly adopted a series of incremental changes to the petition deadline, added a filing fee, and imposed a number of other restrictions. Id. ¶¶ 17-26.

B. Georgia's Current Ballot Access Restrictions

Under Georgia law, a "political party" is any political organization whose nominee received at least twenty percent of the vote in the last gubernatorial or presidential election. O.C.G.A. § 21-2-2(25). A candidate may appear on Georgia's

election ballot for any statewide or district office if he or she is nominated in a primary conducted by a political party. O.C.G.A. § 21-2-130(1).

A “political body” is any political organization other than a political party. O.C.G.A. § 21-2-2(23). Political bodies must nominate candidates for partisan offices by convention. O.C.G.A. § 21-2-170(g). Georgia law provides that a political body becomes qualified to nominate candidates for statewide public office by convention if: (1) it submits a qualifying petition signed by at least one percent of the total number of registered voters at the last general election; or (2) it nominated a candidate for statewide public office in the last general election who received votes totaling at least one percent of the total number of registered voters in the election. O.C.G.A. § 21-2-180. Candidates for statewide offices, including the office of the President of the United States, nominated by a political body that is qualified under Section 21-2-180 appear automatically on the general election ballot without a nomination petition. O.C.G.A. § 21-2-132(e)(5). The Libertarian Party is a political body under Georgia law and has been qualified under Section 21-2-180 since 1988. Dkt. No. [14] ¶ 128.

Candidates for non-statewide offices, including the office of U.S. Representative, nominated by a political body that is qualified under Section 21-2-180 do not appear automatically on the general-election ballot; rather, such candidates must submit: (1) a notice of candidacy and qualifying fee², O.C.G.A.

² Pursuant to O.C.G.A. § 21-2-132(g), a candidate may file a pauper’s affidavit in lieu of the qualifying fee.

§ 21-2-132(d); and, (2) a nomination petition signed by 5% of the number of registered voters eligible to vote for that office in the last election, O.C.G.A.

§ 21-2-170(b).

C. Qualifying Fee and Nomination Petition Requirements

The qualifying fee for most partisan public offices, including U.S. Representative, is three percent of the annual salary of the office. O.C.G.A. § 21-2-131(a)(1)(A). The current annual salary for U.S. Representatives is \$174,000. Dkt. No. [97] ¶ 64. As such, the qualifying fee for each candidate for U.S. House of Representatives is \$5,220. *Id.* Among states with a mandatory petition, Georgia's qualifying fees are higher than any other state in the nation. *Id.* ¶ 72.

Qualifying fees for political-party candidates for U.S. Representative are paid directly to the state political party, which retains seventy-five percent and sends twenty-five percent to the Secretary of State. O.C.G.A. § 21-2-131(b)-(c). Qualifying fees for independent and political-body candidates for U.S. Representative are paid to the Secretary of State. O.C.G.A. § 21-2-131(b)(2). For political-body candidates, the Secretary retains twenty-five percent and sends seventy-five percent to the political body. O.C.G.A. § 21-2-131(c)(4)(A). While the statute requires the Secretary of State to distribute the funds "as soon as practicable," the Libertarian Party did not receive their share of the qualifying fees for the 2018 election until after the election was over, in mid-April 2019. O.C.G.A. § 21-2-131(c)(4); Dkt. No. [69-12] ¶¶ 15-16.

The deadline for political-body candidates to file their notice of candidacy and qualifying fee is noon on the Friday following the Monday of the thirty-fifth week before the general election—a date that falls in early March of an election year. O.C.G.A. § 21-2-132(d)(2). The nomination petition is due no later than noon on the second Tuesday in July. O.C.G.A. § 21-2-132(e). The form of the petition is set out by statute. O.C.G.A. § 21-2-183. A nomination petition must be on sheets of uniform size and different sheets must be used by signers residing in different counties or municipalities. O.C.G.A. § 21-2-170(d). Each sheet must also contain a sworn and notarized affidavit of the circular attesting, among other things, that each signature on the sheet was gathered within 180 days of the filing deadline. Id.

According to the Secretary of State, Georgia had 6,434,388 active registered voters as of the 2018 general election. Dkt. No. [97] ¶ 59. Georgia currently has fourteen members of the U.S. House of Representatives, each of which is elected from a single-member district. Id. ¶ 60. The Secretary of State estimates that the Libertarian Party would need to gather 321,713 signatures to run a full slate of candidates for the office of United States Representatives in 2020. Id. ¶ 63; see also Dkt. No. [69-34] at 8. Georgia requires more signatures for third-party candidates for U.S. Representative to appear on the general-election ballot than any other state in the nation, both as a percentage of votes cast and as an absolute number of signatures. Dkt. No. [97] ¶ 65.

D. Past Attempts to Qualify for the General-Election Ballot and Practical Barriers to Petitioning

No political-body candidate for U.S. Representative has ever satisfied the requirements to appear on Georgia's general-election ballot since the 5% petition requirement was adopted in 1943. *Id.* ¶ 76. Plaintiffs have submitted evidence that since 2002, at least twenty independent³ and political body candidates have unsuccessfully attempted to access the ballot. *Id.* ¶¶ 92-131. Plaintiffs also provide evidence of the various practical barriers to gathering enough signatures to satisfy the 5% petition requirement, including: (1) the Secretary of State's signature-checking process, which according to Plaintiffs is error prone; (2) the difficulty and pace of petitioning; (3) the cost of petitioning and the impact of federal campaign finance law; (4) petition-circulators' lack of access to voters; and; (5) public concern about disclosing the confidential information required by the form of a nomination petition. *Id.* ¶¶ 144, 149-154, 171, 173-74, 181-84.

E. Support for the Libertarian Party Nationwide and in Georgia

The Libertarian Party was founded in 1971 and is organized in all fifty states, plus the District of Columbia. Dkt. No. [97] ¶ 189. Nationwide, the

³ Independent candidates do not appear automatically on the ballot for any office unless the candidate is an incumbent; to appear on the general-election ballot independent candidates for non-statewide partisan public offices must submit (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and, (2) a nomination petition signed by 5% of the number of registered voters eligible to vote for that office in the last election, O.C.G.A. § 21-2-170(b).

Libertarian Party is currently the third-largest political party in the United States by voter registration. Id. ¶ 190. In 2018, the National Libertarian Party counted as members, including persons that paid no annual dues, 5,851 persons residing in Georgia. Dkt. No. [96-1] ¶ 24. The most recent data from the parties shows that in 2016, the Libertarian Party of Georgia had 161 due-paying members. Id. ¶ 25.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56 provides “[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a).

A factual dispute is genuine if the evidence would allow a reasonable jury to find for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is “material” if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997).

The moving party bears the initial burden of showing the Court, by reference to materials in the record, that there is no genuine dispute as to any material fact that should be decided at trial. Hickson Corp. v. N. Crossarm Co., 357 F.3d 1256, 1260 (11th Cir. 2004) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The moving party’s burden is discharged merely by “‘showing’—that is, pointing out to the district court—that there is an absence of evidence to support [an essential element of] the nonmoving party’s case.” Celotex Corp., 477

U.S. at 325. In determining whether the moving party has met this burden, the district court must view the evidence and all factual inferences in the light most favorable to the party opposing the motion. Johnson v. Clifton, 74 F.3d 1087, 1090 (11th Cir. 1996).

Once the moving party has adequately supported its motion, the non-movant then has the burden of showing that summary judgment is improper by coming forward with specific facts showing a genuine dispute. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). There is no “genuine [dispute] for trial” when the record as a whole could not lead a rational trier of fact to find for the nonmoving party. Id. (citations omitted). All reasonable doubts, however, are resolved in the favor of the non-movant. Fitzpatrick v. City of Atlanta, 2 F.3d 1112, 1115 (11th Cir. 1993).

The same standard of review applies to cross-motions for summary judgment, but the Court must determine whether either of the parties deserves judgment as a matter of law on the undisputed facts. S. Pilot Ins. Co. v. CECS, Inc., 52 F. Supp. 3d 1240, 1242-43 (N.D. Ga. 2014) (citing Am. Bankers Ins. Grp. v. United States, 408 F.3d 1328, 1331 (11th Cir. 2005)). Each motion must be considered “on its own merits, [with] all reasonable inferences [resolved] against the party whose motion is under consideration.” Id. at 1243.

III. DISCUSSION

In moving for summary judgment, Plaintiffs argue that Georgia’s ballot-

access laws for political-body candidates for U.S. Representative—namely O.C.G.A. § 21-2-170—unconstitutionally burden their First and Fourteenth Amendment rights. Dkt. Nos. [1] ¶ 148; [69-1] at 1. Plaintiffs further challenge Georgia’s ballot-access laws under the Equal Protection Clause, in that Georgia law creates a classification by treating Libertarian Party candidates for U.S. Representative differently than Libertarian Party candidates for statewide offices. Dkt. No. [1] ¶ 149; [69-1] at 41.

Defendants have moved for summary judgment on both⁴ of Plaintiffs’ claims, as well as on Plaintiffs’ possible⁵ claim that Georgia’s petition requirement was enacted with a discriminatory intent. See Dkt. No. [73]. Defendants first argue that the very statutory scheme at issue has been repeatedly upheld by both the Eleventh Circuit and the Supreme Court. See Dkt. No. [73-2]

⁴ Plaintiffs argue that Defendant’s brief only addresses Plaintiffs’ First Amendment claim and therefore urge the Court to treat Defendant’s motion as one for partial summary judgment. See Dkt. No. [96] at 2 n.1. The Court, however, reads Defendant’s motion as one for summary judgment on both of Plaintiffs’ claims and will therefore treat it as such. See Dkt. No. [73-2] at 1-2 (discussing Plaintiffs’ claims under the First and Fourteenth Amendment and the Equal Protection clause).

⁵ Plaintiffs point out that although their claims under the First and Fourteenth Amendment and the Equal Protection Clause could “conceivably encompass a claim of discriminatory intent or viewpoint discrimination,” they have not sought summary judgment on this issue. See Dkt. No. [96] at 20 n.4. Moreover, Defendant has since filed a Motion to Exclude the Expert Report of Darcy Richardson [109], which is largely redundant of Defendant’s argument in his motion for summary judgment on this point. As discussed *infra*, because both the Eleventh Circuit and the Supreme Court have held the challenged provisions constitutional, the issue of discriminatory intent is moot. Thus, both this portion of Defendant’s motion for summary judgment and the Expert Report of Darcy Richardson [109] are **DENIED as MOOT**.

at 7-14. Because this Court is bound by such rulings, it is to this argument that the Court first turns.

A. Prior Cases Upholding Georgia's Ballot-Access Restrictions

In Jenness v. Fortson, the Supreme Court rejected a constitutional challenge to essentially the same ballot-access restrictions that Plaintiffs challenge today—that is, the provisions of the Georgia Election Code requiring political body candidates to submit (1) a nominating petition signed by at least 5% of the number of registered voters in the last general election for the office in question; and (2) a filing fee equal to 5% of the annual salary of the office sought. 403 U.S. 431, 432 (1971). In upholding Georgia's statutory scheme, the Supreme Court explained that “[t]here is a surely an important state interest in requiring some preliminary showing of a significant modicum of support before printing the name of a political organization's candidate on the ballot.” Id. at 442. The Supreme Court acknowledged that “[t]he 5% figure is, to be sure, apparently somewhat higher than the percentage of support required to be shown in many States,” but determined that this was “balanced by the fact that Georgia has imposed no arbitrary restrictions whatever upon the eligibility of any registered voter to sign as many nominating petitions as he wishes.” Id.

In the years following the Jenness decision, the Eleventh Circuit has repeatedly affirmed the constitutionality of Georgia's 5% signature requirement. See Coffield v. Kemp, 599 F.3d 1276, 1277 (11th Cir. 2010) (upholding Georgia's 5% petition requirement as not “too burdensome”); Cartwright v. Barnes, 304

F.3d 1138, 1139 (11th Cir. 2002) (upholding 5% petition requirement under Georgia law); McCrary v. Poythress, 638 F.2d 1308, 1313 (5th Cir. Mar. 1981) (provisions of Georgia Election Code did not place unconstitutional restrictions upon the plaintiffs' access to general election ballot). Nevertheless, Plaintiffs aver that such cases do not foreclose their claims for two primary reasons. See Dkt. No. [96] at 8-11.

First, Plaintiffs argue that the Eleventh Circuit has "repeatedly rejected" such a "litmus-paper test" approach and instead require district courts to follow the three-step process for analyzing constitutional challenges to state statutes restricting ballot access set forth by the Supreme Court in Anderson v. Celebrezze, 460 U.S. 780 (1983). See id. at 8-9. By way of background, in Anderson, the Supreme Court laid out the following approach for determining whether a ballot access law violates the First and Fourteenth Amendments:

It must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests; it also must consider the extent to which those interests make it necessary to burden the plaintiff's rights.

460 U.S. at 789. Relying on Bergland v. Harris, Plaintiffs urge the Court that "cases which have upheld the Georgia provisions against constitutional attack by prospective candidates and minor political parties do not foreclose the parties' right to present the evidence necessary to undertake the balancing approach

outlined in Anderson v. Celebrezze.” Id. at 8 (citing 767 F.2d 1551, 1554 (11th Cir. 1985)). In Bergland, the district court dismissed the plaintiffs’ constitutional challenges to provisions of the Georgia Election Code, including the signature requirements for nominating petitions, for failure to state a claim. 767 F.2d at 1552. On appeal, the Eleventh Circuit reversed and remanded, finding “an insufficient factual record to carry out the Anderson requirements.” Id. at 1554. In holding that Jenness and McCrary did not bar the plaintiffs’ claims, however, the court emphasized the uniqueness of a constitutional challenge by a prospective presidential candidate. See id. at 1554-55.

As further support for their argument that prior cases upholding Georgia’s 5% requirement are not controlling, Plaintiffs cite to Green Party of Georgia v. Georgia, an unpublished decision from the Eleventh Circuit. Dkt. No. [96] at 8-9 (citing 551 F. App’x 982, 983 (11th Cir. 2014)). In Green Party, the Eleventh Circuit determined that the district court had erred in dismissing the plaintiffs’ constitutional challenges to Georgia’s petition-signature requirement for presidential candidates not affiliated with any recognized political party based on Jenness and subsequent cases. 551 F. App’x at 982-83. The court remanded the matter to the district court with instructions to apply the Anderson balancing approach, explaining that “we previously addressed whether our past decisions upholding a 5% petition-signature requirement preclude a challenge to a lower petition-signature requirement for a presidential candidate and we concluded that our past decisions are distinguishable.” Id. at 983.

Plaintiffs' reliance on Bergland and Green Party is misplaced. As set forth above, both cases emphasized the uniqueness of presidential elections, citing Anderson for the proposition that the State has "a less important interest in regulating Presidential elections than statewide or local elections, because the outcome of the former will largely be determined by voters beyond the State's boundaries." Bergland, 767 F.2d at 1554 (citing Anderson, 460 U.S. at 795); Green Party, 551 F. App'x at 984 (same). Plaintiffs argue that the State "has even less interest in regulating elections for U.S. Representative than it does in regulating elections for president" because the Constitution establishes federal law as the "ultimate authority over elections for U.S. Representative." Dkt. No. [105] at 18 (citing U.S. Const. art. I, §§ 1, 4-5). But following Bergland, the Eleventh Circuit has continued to reject challenges to Georgia's 5% rule brought by prospective candidates for the United States House of Representatives *without* engaging in the analysis set forth in Anderson. See Coffield, 599 F.3d at 1277; Cartwright, 304 F.3d at 1139. Thus, the case law in this circuit simply does not support Plaintiff's argument that this Court must analyze Plaintiffs' claims under Anderson, notwithstanding the clear ruling in Jenness. See Dkt. No. [96] at 9.

Second, Plaintiffs contend that "the facts and the law before the Court are distinguishable from those earlier cases." Dkt. No. [96] at 10. Plaintiffs stress that no Libertarian Party candidate for U.S. Representative has ever satisfied the requirements to appear on Georgia's general-election ballot since the 5% petition requirement was adopted in 1943. See id. While the Court is sympathetic to

Plaintiffs' plights, the Eleventh Circuit squarely rejected this argument in Cartwright, on the basis that "Jenness directly addressed the 5% figure" 304 F.3d at 1141. In a similar vein, the current federal campaign finance laws that Plaintiffs claim limit their ability to fund petition drives is not sufficient to establish that Jenness no longer applies. See Dkt No. [96] at 10; cf. Cartwright, 304 F.3d at 1141 (refusing to find that the plaintiffs' evidence with respect to reapportionment imposed "suffocating restrictions" sufficient to render Jenness inapplicable).

Plaintiffs' attempts to distinguish their claims from prior cases likewise fall short. See Dkt. No. [96] at 10-11. Although Cartwright primarily involved a claim under the Qualifications Clause, the Eleventh Circuit explicitly stated that the "analysis in Jenness still equally pertains today" with respect to the Supreme Court's holdings under the First and Fourteenth Amendments and the Equal Protection Clause. 304 F.3d at 1141. In Coffield, the Eleventh Circuit noted that Plaintiff failed to "allege how many candidates have tried" to qualify for the ballot. Dkt. No. [96] at 11 (citing 599 F.3d at 1277). However, contrary to Plaintiffs' argument, the Court does not find that this language provides a sufficient foothold for distinguishing Coffield from the instant case because the Coffield court ultimately emphasized that "[t]he pertinent laws of Georgia have not changed materially since the decisions in Jenness and Cartwright were made." 599 F.3d at 1277.


Thus, while Plaintiffs present a robust record and some compelling arguments, the Court cannot ignore the fact that similar challenges to the Georgia Election Code have been rejected by higher courts. The Court is bound by the clear rulings of both the Eleventh Circuit and the Supreme Court. Therefore, Plaintiffs' Motion for Summary Judgment [69] is **DENIED** and Defendant's Motion for Summary Judgment [73] is **GRANTED** as to Plaintiff's claims under the First and Fourteenth Amendments and the Equal Protection Clause.

IV. CONCLUSION

Plaintiffs' Motion for Summary Judgment [69] is **DENIED**. Defendant's Motion for Summary Judgment [73] is **GRANTED in PART and DENIED IN PART AS MOOT**. Defendant's Motion to Exclude Expert Report of Darcy Richardson [109] is **DENIED AS MOOT**.

The Clerk is **DIRECTED** to **CLOSE** this case.

IT IS SO ORDERED this 23rd day of September, 2019.



Leigh Martin May
United States District Judge

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

MARTIN COWEN, ALLEN	*	
BUCKLEY, AARON GILMER, JOHN	*	
MONDS, and the LIBERTARIAN	*	
PARTY OF GEORGIA, INC., a	*	
Georgia nonprofit corporation,	*	CASE NO.: 1:17cv04660-LMM
	*	
Plaintiffs,	*	
	*	
v.	*	
	*	
BRAD RAFFENSPERGER, Georgia	*	
Secretary of State,	*	
	*	
Defendant.	*	

**DEFENDANT BRAD RAFFENSPERGER’S RESPONSE TO PLAINTIFFS’
STATEMENT OF MATERIAL FACTS**

Defendant Brad Rafensperger (“Defendant”) submits the following response to Plaintiffs’ Statement of Material Facts for Which There is No Genuine Issue to be Tried in support of Plaintiffs’ Motion for Summary Judgment.

I. Jurisdiction and Venue

1. This Court has original jurisdiction over this case under Article III of the U.S. Constitution and 28 U.S.C. §§ 1331 and 1343(a)(3). (Ex. 33: Answer (ECF 14) ¶ 3.)

Response: Defendant objects to paragraph 1 as a statement of law and not fact. Subject to this objection, Defendant does not dispute the Court's jurisdiction over this case.

2. This suit is authorized by 42 U.S.C. § 1983. (Ex. 33: Answer ¶ 4.)

Response: Defendant objects to paragraph 2 as a statement of law and not fact. Subject to this objection, Defendant does not dispute that this action is authorized by statute.

3. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. (Ex. 33: Answer ¶ 5.)

Response: Defendant objects to paragraph 3 as a statement of law and not fact. Defendant does not dispute that declaratory relief is authorized by statute but denies that Plaintiffs are entitled to the relief requested in this action.

4. Venue is proper in the Northern District of Georgia under 28 U.S.C. § 1391(b) and in the Atlanta Division under Local Rule 3.1. (Ex. 33: Answer ¶ 6.)

Response: Defendant objects to paragraph 4 as a statement of law and not fact. Subject to this objection, Defendant does not dispute that venue is proper in this Court.

II. Parties

5. Plaintiff Martin Cowen is a prospective political-body candidate in Georgia's Thirteenth Congressional District. (Ex. 33: Answer ¶ 7.) He meets all of the qualifications for the office of U.S. Representative and wants to appear on the general-election ballot as the nominee of the Libertarian Party of Georgia. He was the Libertarian Party's nominee for that seat in 2018, but he was unable to qualify for the general-election ballot. He intends to run again for that seat in 2020. (Ex. 5: Cowen decl. ¶¶ 1, 8, 10, 18, 20, 22-23.)

Response: Admitted.

6. Plaintiff Allen Buckley is a registered voter in Georgia's Thirteenth Congressional District. He wants to vote for Martin Cowen as the Libertarian Party of Georgia's nominee for the office of U.S. Representative in his district. (Ex. 33: Buckley decl. ¶¶ 15-16).

Response: Admitted.

7. Plaintiff Aaron Gilmer, whose full name is Robin Aaron Gilmer, is a prospective political-body candidate in Georgia's Ninth Congressional District. (Ex. 27: Def's Resp Pls.' Corrected First Req. Admis. ¶ 1 ("First Admissions").) He meets all of the qualifications for the office of U.S. Representative. He was the Libertarian Party's nominee for that seat in 2018, but he was unable to qualify for

the ballot. He is planning to run for office again as a Libertarian Party candidate in 2020 and would prefer to run for the office of U.S. Representative.

Response: Admitted.

8. Plaintiff John Monds is a registered voter in Georgia's Second Congressional District. (Ex. 33: Answer ¶10.) He wants to vote for the Libertarian Party of Georgia's nominee for the office of U.S. Representative in his district. (Ex. 13: Monds decl. ¶¶ 10-11.)

Response: Admitted.

9. Plaintiff Libertarian Party of Georgia, Inc. is a Georgia nonprofit corporation and a political body within the meaning of O.C.G.A. § 21-2-170. (Ex. 33: Answer ¶ 11.)

Response: Admitted.

10. The Libertarian Party of Georgia was founded in 1972 and is the official Georgia affiliate of the national Libertarian Party, which was founded in 1971. (Ex. 33: Answer ¶ 12.)

Response: Defendant objects to paragraph 10 because the facts stated are not material. Subject to this objection, Defendant does not dispute paragraph 10.

11. Since its founding, the Libertarian Party of Georgia has run candidates for statewide public offices and for state legislative offices. (Ex. 33: Answer ¶ 13.)

The party has never had any nominee for U.S. Representative appear on Georgia's general-election ballot. (Ex. 33: Answer ¶ 13.) The party wants to nominate a candidate for U.S. Representative in all of Georgia's congressional districts and to have those nominees appear on the general election ballot. (Ex. 9: Graham decl. ¶ 19.)

Response: Admitted.

12. Defendant Brad Raffensperger is the Secretary of State of the State of Georgia (hereinafter, the "Secretary"). (ECF 48.) He is the chief election official of the State of Georgia. (Ex. 33: Answer ¶ 14.) He is charged by statute with enforcing Georgia's ballot-access restrictions for candidates for U.S. Representative. (Ex. 33: Answer ¶ 14.) At all relevant times, the Secretary exercised his authority under color of state law within the meaning of 42 U.S.C. §1983. (Ex. 33: Answer ¶ 14.) He is sued in his official capacity only. (Ex. 33: Answer ¶ 14.)

Response: Admitted.

III. The History of Georgia's Ballot-Access Restrictions

13. Georgia enacted its first ballot-access law in 1922. Act of Aug. 21, 1922, ch. 530, § 3, 1922 Ga. Laws 97, 100 (codified at 1933 Ga. Code § 34-1904). That law provided that an independent candidate, or the nominee of any party,

could appear on the general-election ballot as a candidate for any office with no petition and no fee. (Ex. 33: Answer ¶ 15.)

Response: Admitted.

14. Before 1922, Georgia did not use government-printed ballots. Voters had to use their own ballots, and these were generally provided to voters by a political party. (Ex. 33: Answer ¶ 16.)

Response: Admitted.

15. In 1943, Georgia added a five-percent petition requirement for access to the general-election ballot. Act of March 20, 1943, ch. 415, § 1, 1943 Ga. Laws 292. That law allowed candidates of any political party that received at least five percent of the votes in the last general election for the office to appear on the general-election ballot without a petition or fee. (Ex. 33: Answer ¶ 17.) The law required all other candidates to file a petition signed by at least five percent of the registered voters in the territory covered by the office. (Ex. 33: Answer ¶ 17.)

Response: Admitted.

16. When Georgia first enacted its five-percent petition requirement in 1943, the petition deadline was 30 days before the general election. *See* Act of March 20, 1943, ch. 415, § 1, 1943 Ga. Laws 292 (amending 1933 Ga. Code § 34-1904, which provided that “All candidates for National and State offices, or the

proper authorities of the political party nominating them, shall file notice of their candidacy, giving their names and the offices for which they are candidates, with the Secretary of State, at least thirty days prior to the regular election, except in cases where a second primary election is necessary.”). (Ex. 27: First Admissions ¶ 2.)

Response: Admitted.

17. In 1964, the State added a time limit for gathering signatures on a nomination petition, providing that candidates could not begin circulating a nomination petition more than 180 days before the filing deadline. Georgia Election Code, ch. 26, § 1, 1964 Ga. Laws Ex. Sess. 26, 93 (codified at 1933 Ga. Code § 34-1010). That law also changed the petition filing deadline to 50 days before the general election. *Id.* at 87 (codified at 1933 Ga. Code § 34-1001). (Ex. 33: Answer ¶ 20.)

Response: Admitted.

18. In 1965, the General Assembly moved the petition deadline to 60 days before the general election. Act of March 22, 1965, Ch. 118, § 1, 1965 Ga. Laws 224, 225 (codified at 1933 Ga. Code § 34-1001). (Ex. 33: Answer ¶ 21.)

Response: Admitted.

19. In 1969, the petition deadline was moved to the second Wednesday in June. Act of April 9, 1969, ch. 89, § 8B, 1969 Ga Laws. 329, 336 (codified at 1933 Ga. Code § 34-1001). In 1977, the petition deadline was moved to the second Wednesday in July. Act of March 30, 1977, ch. 294, § 3(c), 1977 Ga. Laws 1053, 1056 (codified at 1933 Ga. Code § 34-1002). (Ex. 33: Answer ¶ 22.)

Response: Admitted.

20. In 1969, the petition deadline was moved to the second Wednesday in June. Act of April 9, 1969, ch. 89, § 8B, 1969 Ga Laws. 329, 336 (codified at 1933 Ga. Code § 34-1001). In 1977, the petition deadline was moved to the second Wednesday in July. Act of March 30, 1977, ch. 294, § 3(c), 1977 Ga. Laws 1053, 1056 (codified at 1933 Ga. Code § 34-1002). (Ex. 33: Answer ¶ 22.)

Response: Admitted.

21. In 1974, the General Assembly lowered the qualifying fee to three percent of the annual salary of the office, where it remains today. Act of January 29, 1974, ch. 757, § 2, 1974 Ga. Laws 4, 6. (Ex. 27: First Admissions ¶ 19.)

Response: Admitted.

22. In 1979, the General Assembly created a separate petition requirement for statewide offices. Act of April 12, 1979, ch. 436, 1979 Ga Laws 617 (codified at 1933 Ga. Code § 34-1010). Under that provision, an independent or political-

body candidate seeking a statewide office needed to file a petition signed by at least two and a half percent of the registered voters eligible to vote in the last election for the office. Candidates for all other offices still had to meet the five-percent threshold. (Ex. 33: Answer ¶23.)

Response: Admitted.

23. In 1986, the General Assembly lowered the petition threshold for statewide candidates to one percent. Act of April 3, 1986, ch. 1517, § 3, 1986 Ga. Laws 890, 892-93 (codified at Ga. Code § 21-2-170). The threshold for all other independent and political-body candidates remained at five percent. (Ex. 33: Answer ¶ 24.)

Response: Admitted.

24. In 1986, the General Assembly also moved the petition deadline to the first Tuesday in August. *Id.* at 891-92 (codified at Ga. Code § 21-2-132). (Ex. 33: Answer ¶ 25.)

Response: Admitted.

25. In 1989, the General Assembly moved the petition deadline to the second Tuesday in July, where it remains today. Act of April 4, 1989, ch. 492, § 2, 1989 Ga. Laws 643, 647 (codified at Ga. Code § 21-2-132). (Ex. 33: Answer ¶ 26.)

Response: Admitted.

26. In 1999, the General Assembly added a further requirement that each sheet of a nomination petition be notarized. Act of April 1, 1999, ch. 23, § 2, 1999 Ga. Laws 23, 24-25 (codified at Ga. Code § 21-2-170). (Ex. 27: First Admissions ¶ 9.)

Response: Admitted.

IV. The Purpose of Georgia’s Petition Requirement

27. Georgia’s five-percent petition requirement was enacted with the discriminatory purpose of preventing Communist Party candidates from appearing on Georgia’s ballots. (Ex. 17: Richardson decl. ¶ 15.)

Response: Defendant objects to the cited testimony in the Richardson Declaration because the witness is not qualified to testify as an expert and his testimony is unreliable. Defendant will file a motion to exclude Richardson’s testimony as inadmissible under *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579 (1993). Defendant also disputes this statement as contradicted by Richardson in his deposition, wherein he admitted that the basis for his claim was limited to newspaper archives from 1940 through 1943. *See* Doc. 77-1, Richardson Dep. at 18:18 – 19:4. Richardson also conceded that “there was never really a communist party in Georgia ever.” *Id.* at 18:9-12. This statement is further disputed by the 1948 Attorney General Opinion (which Mr. Richardson did not review), which

noted that the purpose of the 1943 statute “was to prevent persons with little or no following encumbering the official ballot.” 1948 Ga. AG Op. at 158 (attached as Exhibit C to Defendant’s Motion for Summary Judgment).

28. Prior to its enactment in 1943, Georgia had never had a problem with crowded ballots. (Ex. 24: Richardson dep. 14:14-17:6.) Between 1922 and 1943 Georgia had never had more than 5 candidates on its presidential ballot, and there had never been more than 2 senatorial candidates in a general election. (Ex. 17: Richardson decl. ¶ 14.).)

Response: Defendant objects to the cited testimony in the Richardson Declaration because the witness is not qualified to testify as an expert and his testimony is unreliable.

29. In 1940, Georgia’s Secretary of State, John B. Wilson, had unilaterally barred Earl Browder, the Communist Party’s nominee for president, and other members of the party from appearing on the state’s ballots in the 1940 election. Wilson justified his ruling on the grounds of public policy: “It would be against public policy to place on our ballot the names of candidates of a party which seeks to overthrow our democratic constitutional form of government.” Wilson also relied on advice from Georgia’s Attorney General, Ellis Arnall, a noted anti-communist politician who had waged a campaign to keep communist

candidates off of Georgia's ballots. (Ex. 17: Richardson decl. ¶ 10; Ex. 34 at 1-2: newspaper articles.)

Response: Defendant objects to the cited testimony in the Richardson Declaration because the witness is not qualified to testify as an expert and his testimony is unreliable.

30. Wilson's action came in the midst of a wave of anti-communist and nativist sentiment in the United States. (Ex. 17: Richardson decl. ¶ 11.) Eleven states took similar action to arbitrarily keep the communist party off the ballot in 1940. (Ex. 24: Richardson dep. 20:4-7.)

Response: Defendant objects to the cited testimony because the witness is not qualified to testify as an expert and his testimony is unreliable.

31. Shortly after the 1940 presidential election, Wilson was reported to be seeking legislation to keep the Communist party permanently off the ballot. At the time, Wilson proposed to require all candidates for state and national office in Georgia to file with the secretary of state sufficient information to determine whether the party is designed to overthrow our constitutional form of government. Although the communist party would not be mentioned in the bill, Wilson said that it and any other similar party would be the primary target. (Ex. 17: Richardson decl. ¶ 12; Ex. 34 at 3: newspaper articles.)

Response: Defendant objects to the cited testimony because the witness is not qualified to testify as an expert and his testimony is unreliable. Defendant also objects to the newspaper articles in Ex. 34 as inadmissible hearsay.

32. Although the General Assembly did not adopt Wilson's proposal in 1941 or 1942, it did adopt the five-percent petition requirement in 1943, when hostility to the Soviet Union and communism was still high. (Ex. 24: Richardson dep. 20:19-21:9, 23:5-11.) The bill was signed into law by Ellis Arnall, who had been elected governor of Georgia in 1942. (Ex. 24: Richardson dep. 25:3-7.)

Response: Defendant objects to the cited testimony because the witness is not qualified to testify as an expert and his testimony is unreliable.

33. Even though the Communist Party was never a significant force in Georgia, Wilson and Arnall knew that the issue would be popular with the voters. (Ex. 24: Richardson dep. 17:21-18:16, 20:15-18.)

Response: Defendant objects to the cited testimony because the witness is not qualified to testify as an expert and his testimony is unreliable.

34. A contemporaneous article in the Atlanta Constitution indicated that the five-percent petition requirement "sustained Secretary of State John B. Wilson in refusing a Communist candidate for president a place on the Georgia ballot in the 1940 election." (Ex. 34 at 4-5: newspaper articles.) The article offered no other

justification for the bill, and no other justification for the bill appears in the contemporaneous historical record. (Ex. 33: Answer ¶ 19; Ex. 17: Richardson decl. ¶13; Ex. 24: Richardson dep. 18:17-19:4, 28:6-29:21.)

Response: Defendant objects to the cited testimony because the witness is not qualified to testify as an expert and his testimony is unreliable.

V. Georgia’s Current Ballot-Access Restrictions

35. Georgia’s current ballot-access laws distinguish between three kinds of candidates for partisan public offices: (1) candidates nominated by a political party; (2) candidates nominated by a political body; and (3) independent candidates. (Ex. 33: Answer ¶27.)

Response: Admitted.

36. A “political party” is any political organization whose nominee received at least 20 percent of the vote in the last gubernatorial or presidential election. O.C.G.A. § 21-2-2 (25). (Ex. 33: Answer ¶ 28.)

Response: Admitted.

37. Political parties choose nominees in partisan primaries, and the candidate nominated by the party appears automatically on the ballot for any statewide or district office. O.C.G.A. § 21-2-130(1). No nomination petition is

required of a political party or any nominee of a political party. (Ex. 33: Answer ¶ 29.)

Response: Admitted.

38. The only political parties that meet the current definition of “political party” under Georgia law are the Democratic Party of Georgia and the Georgia Republican Party. (Ex. 33: Answer ¶ 30.)

Response: Admitted, although any political organization can become a political party by nominating a candidate for Governor or President that receives at least 10 percent of the total votes cast for that office. *See* O.C.G.A. § 21-2-2(25).

39. A “political body” is any political organization other than a political party. O.C.G.A. § 21-2-2(25). (Ex. 33: Answer ¶ 31.)

Response: Admitted.

40. Political bodies must nominate candidates for partisan public offices by convention. O.C.G.A. § 21-2-170(g). (Ex. 33: Answer ¶ 32.)

Response: Admitted.

41. Georgia law permits a political body to become “qualified to nominate candidates for statewide public office by convention.” O.C.G.A. § 21-2-180. (Ex. 27: First Admissions ¶ 3.)

Response: Admitted

42. A political body becomes qualified to nominate candidates for statewide public office by convention if: (a) it submits a qualifying petition signed by at least one percent of the total number of registered voters at the last general election; or (b) it nominated a candidate for statewide public office in the last general election who received votes totaling at least one percent of the total number of registered voters in the election. O.C.G.A. § 21-2-180. (Ex. 27: First Admissions ¶ 4.)

Response: Admitted.

43. Petitions seeking to qualify a political body to nominate candidates for statewide public office by convention are due no later than the second Tuesday in July, O.C.G.A. § 21-2-185, and all signatures must be gathered within 15 months of the date on which the petition is submitted, O.C.G.A. § 21-2-182. (Ex. 27: First Admissions ¶ 5.)

Response: Admitted.

44. Candidates for statewide partisan public offices nominated by a political body that is qualified under Section 21-2-180 appear automatically on the ballot without a nomination petition. O.C.G.A. § 21-2-132(e)(5). Each such nominee must submit a notice of candidacy and pay the applicable qualifying fee

by the deadlines prescribed in O.C.G.A. § 21-2-132(d), but no nomination petition is required. (Ex. 27: First Admissions ¶ 6.)

Response: Admitted.

45. Candidates for all other partisan public offices, including the office of U.S. Representative, nominated by a political body that is qualified under Section 21-2-180 do not appear automatically on the ballot. In order to appear on the general-election ballot, such candidates must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition signed by five percent of the number of registered voters eligible to vote for that office in the last election, O.C.G.A. § 21-2-170(b). (Ex. 33: Answer ¶ 37.)

Response: Admitted.

46. The qualifying fee for most partisan public offices, including U.S. Representative, is three percent of the annual salary of the office; however, the qualifying fee for candidates for the General Assembly is a flat \$400. O.C.G.A. § 21-2-131. (Ex. 33: Answer ¶ 38.)

Response: Admitted.

47. Qualifying fees for political-party candidates for U.S. Representative are paid directly to the state political party, which retains 75 percent and sends 25 percent to the Secretary of State. O.C.G.A. § 21-2-131(b)-(c). Qualifying fees for

independent and political-body candidates for U.S. Representative are paid to the Secretary of State. O.C.G.A. § 21-2-131(b)(2). For independent candidates, the Secretary of State retains the entire fee. O.C.G.A. § 21-2-131(c)(4)(B). For political-body candidates, the Secretary of State retains 25 percent and sends 75 percent to the political body after the election is over. O.C.G.A. § 21-2-131(c)(4)(A). (Ex. 9: Graham decl. ¶¶ 15-16; Ex. 12: Metz decl. ¶ 13.)

Response: Defendant disputes that the statute mandates distributing funds after the election. The statute requires only that the Secretary of State distribute the funds “as soon as practicable.” O.C.G.A. 21-2-131(c)(4)(A).

48. A nomination petition must be on sheets of uniform size and different sheets must be used by signers residing in different counties or municipalities. O.C.G.A. § 21-2-170(d). Each sheet of the nomination petition must also contain a sworn and notarized affidavit of the circulator attesting, among other things, that each signature on the sheet was gathered within 180 days of the filing deadline. *Id.* The nomination petition is due no later than noon on the second Tuesday in July. O.C.G.A. § 21-2-132(e). (Ex. 33: Answer ¶ 39.)

Response: Admitted.

49. Candidates nominated by political bodies that are not qualified under Section 21-2-180 do not appear automatically on the ballot for any office. In order

to appear on the general-election ballot, such candidates for statewide public offices (other than president) must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition signed by one percent of the number of registered voters eligible to vote for that office in the last general election, O.C.G.A. § 21-2-170(b). Such candidates for all other partisan public offices must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition signed by five percent of the number of registered voters eligible to vote for that office in the last general election, O.C.G.A. § 21-2-170(b). Nomination petitions are due no later than noon on the second Tuesday in July. O.C.G.A. § 21-2-132(e). (Ex. 27: First Admissions ¶ 8.)

Response: Admitted.

50. Independent candidates do not appear automatically on the ballot for any office unless the candidate is an incumbent. In order to appear on the general-election ballot, independent candidates for statewide public offices (other than president) must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a nomination petition signed by one percent of the number of registered voters eligible to vote for that office in the last election, O.C.G.A. § 21-2-170(b). Such candidates for all other partisan public offices must submit: (1) a notice of candidacy and qualifying fee, O.C.G.A. § 21-2-132(d); and (2) a

nomination petition signed by five percent of the number of registered voters eligible to vote for that office in the last election, O.C.G.A. § 21-2-170(b). Nomination petitions are due no later than noon on the second Tuesday in July. O.C.G.A. § 21-2-132(e). (Ex. 33: Answer ¶ 41.)

Response: Admitted.

51. Because of recent litigation, the signature requirements for independent presidential candidates and presidential candidates nominated by political bodies that are not qualified under Section 21-2-180 is currently lower than prescribed by Georgia law. In 2016, U.S. District Judge Richard Story ruled that the one-percent signature requirement in O.C.G.A. § 21-2-170(b) is unconstitutional as applied to presidential candidates. *See Green Party of Georgia v. Kemp*, 171 F. Supp. 3d 1340, 1372 (N.D. Ga. 2016), *aff'd* No. 16-11689 (11th Cir. Feb. 1, 2017) (per curiam). As a remedy, he lowered the signature requirement for presidential candidates from one percent (about 50,000 signatures) to 7,500 signatures until the Georgia General Assembly enacts a different measure. *Id.* at 1374. To date, the General Assembly has not done so. (Ex. 33: Answer ¶ 42.)

Response: Admitted.

52. In light of Judge Story's order and the General Assembly's acquiescence in it, the number of signatures required for independent presidential

candidates and presidential candidates nominated by political bodies that are not qualified to appear on the ballot statewide is now less than half the number of signatures required for an independent or political-body candidate for U.S. Representative to appear on the general-election ballot in any one of Georgia's fourteen congressional districts. (Ex. 33: Answer ¶ 43.)

Response: Admitted.

VI. The Pauper's Affidavit in Lieu of Filing Fee

53. Georgia law permits candidates to file a pauper's affidavit in lieu of paying an applicable qualifying fee. O.C.G.A. § 21-2-132(g). (Ex. 29: Def's Resp. Pls.' Second Req. Admis. 3 ¶ 47 ("Second Admissions").)

Response: Defendant objects to paragraph 53 as a conclusion of law and not a statement of fact. Subject to this objection, Defendant admits this paragraph.

54. A pauper's affidavit requires the candidate to swear under oath that the candidate has neither the assets nor the income to pay the filing fee, and it requires the candidate to submit a personal financial statement. O.C.G.A. § 21-2-132(g). (Ex. 29: Second Admissions ¶ 48.)

Response: Defendant objects to paragraph 54 as a conclusion of law and not a statement of fact. Subject to this objection, Defendant admits this paragraph.

55. In addition, a pauper's affidavit for a candidate for U.S. Representative must be accompanied by a petition signed by one percent of the number of registered voters eligible to vote for the office in the last election. O.C.G.A. § 21-2-132(h). (Ex. 23: Harvey dep. 170:4-13.)

Response: Defendant objects to paragraph 55 as a conclusion of law and not a statement of fact. Subject to this objection, Defendant admits this paragraph.

56. Each sheet of the petition must also contain a sworn and notarized affidavit of the circulator attesting, among other things, that each signature on the sheet was gathered within 180 days of the filing deadline. O.C.G.A. § 21-2-132(h). (Ex. 29: Second Admissions ¶ 50.)

Response: Defendant objects to paragraph 56 as a conclusion of law and not a statement of fact. Subject to this objection, Defendant admits this paragraph.

57. For a political-body candidate, the petition is due at the same time that a candidate's notice of candidacy is due—no later than noon on the Friday following the Monday of the thirty-fifth week before the general election—a date that falls in early March of an election year. O.C.G.A. § 21-2-132(d). (Ex. 23: Harvey dep. 169:15-170:3.)

Response: Defendant objects to paragraph 57 as a conclusion of law and not a statement of fact. Subject to this objection, Defendant admits this paragraph.

VII. The Number of Valid Signatures and Qualifying Fee Required for Political-Body Candidates.

58. In determining the number of petition signatures needed by independent or political body candidates to appear on a general election ballot, the Secretary of State uses only the total number of “active” voters. (Ex. 33: Answer ¶ 49.)

Response: Admitted.

59. According to figures provided by the Secretary of State’s office, Georgia had 6,434,388 active registered voters as of the 2018 general election. (Ex. 31: Def’s Resp. Pls.’ Second Interrogs.)

Response: Admitted.

60. Georgia currently has 14 members of the U.S. House of Representatives, each of which is elected from a single-member district. (Ex. 33: Answer ¶ 52.)

Response: Admitted.

61. Because the actual number of registered voters in each congressional district varies from district to district, the actual number of valid signatures required for an independent or political-body candidate for the U.S. House of

Representative to appear on the 2020 general election ballot also varies from district to district. (Ex. 33: Answer ¶ 53.)

Response: Admitted.

62. According to the Secretary of State, the number of active voters and petition signatures projected to be required for an independent or political-body candidate to appear on the 2020 general election ballot in each of Georgia's 14 congressional districts is as follows:

District	Active Voters (11/06/18)	Signatures Required 2020
1	447,321	22,367
2	397,565	19,879
3	474,044	23,703
4	485,112	24,256
5	530,774	26,539
6	479,056	23,953
7	469,959	23,498
8	414,387	20,720
9	459,485	22,975
10	472,606	23,631
11	499,459	24,973
12	418,996	20,950
13	490,064	24,504
14	395,560	19,778
TOTAL	6,434,388	321,726

(Ex. 31: Def's Resp. Pls.' Second Interrogs.)

Response: Defendant disputes this statement as inaccurate. The numbers listed in the "Signatures Required 2020" column in the chart above are not

consistent with the numbers provided in Defendant's Responses to Plaintiffs' Second Interrogatories (Ex. 31). All numbers (except for District 14) in this column have been increased by one from the original document.

63. As a result, the Libertarian Party would need to gather at least 321,726 valid signatures in order to run a full slate of candidates for the office of U.S. Representative. (Ex. 31: Def's Resp. Pls.' Second Interrogs.)

Response: Defendant disputes this statement as inaccurate. The cited number of valid signatures differs from the numbers provided in Defendant's Responses to Plaintiffs' Second Interrogatories (Ex. 31). The correct number is 321,713.

64. The current annual salary for U.S. Representatives is \$174,000. As a result, the qualifying fee for each candidate for U.S. Representative in 2020 is \$5,220, and the Libertarian Party would need to pay \$73,080 in qualifying fees in order to run a full slate of candidates for the office of U.S. Representative in 2020. (Ex. 33: Answer ¶ 55.)

Response: Defendant admits that the qualifying fee for any candidate for U.S. House of Representatives is \$5,220, regardless of party. Defendant disputes this statement to the extent it is not consistent with O.C.G.A. § 21-2-131, which governs qualification fees.

VIII. Other States' Signature Requirements

65. Georgia requires more signatures for third-party candidates for U.S. Representative to appear on the general-election ballot than any other state in the nation, both as a percentage of votes cast and as an absolute number of signatures. (Ex. 22: Winger decl. ¶¶ 8-9.)

Response: Defendant objects to this statement as immaterial and irrelevant. Whether a state election law violates the Constitution is not dependent on how other states choose to run their elections. *Libertarian Party of Florida v. Florida*, 710 F.2d 790, 794 (11th Cir. 1983) (explaining that “[a] court is no more free to impose the legislative judgments of other states on a sister state than it is free to substitute its own judgment for that of the state legislature.”).

66. In 2016, Georgia law required more than 259,500 valid signatures for a third party to run a full slate of candidates for U.S. Representative. This number represents more than 6.3 percent of all votes cast in Georgia for president in 2016. (Ex. 33: Answer ¶ 77.)

Response: Defendant admits this statement with the qualification that if fourteen candidates were qualifying by petition for U.S. House of Representatives in 2016, those fourteen candidates would have cumulatively required approximately 259,500 signatures.

67. In 2018, Georgia law required more than 272,000 valid signatures for a third party to run a full slate of candidates for U.S. Representative. This number represents more than 6.6 percent of all votes cast in Georgia for president in 2016. (Ex. 22: Winger decl. ¶ 11.)

Response: Defendant admits this statement with the qualification that if fourteen candidates were qualifying by petition for U.S. House of Representatives in 2018, the full slate of candidates would have cumulatively required more than 272,000 signatures.

68. The state that required the next-highest number of signatures for a third party to run a full slate of candidates for U.S. Representative was Illinois, which required approximately 178,400 valid signatures in 2016 and 262,000 valid signatures in 2018. These numbers represent approximately 3.2 percent and 4.7 percent of all votes cast in Illinois for president in 2016, and they would have qualified 18 candidates. (Ex. 22: Winger decl. ¶ 12.)

Response: Defendant objects to this statement as immaterial and irrelevant.

69. The state that required the third-highest number of signatures for a third party to run a full slate of candidates for U.S. Representative in 2016 and 2018 was New York, which required approximately 94,500 valid signatures. This number represents approximately 1.2 percent of all votes cast in New York for

president in 2016, and it would have qualified 27 candidates. (Ex. 22: Winger decl. ¶ 13.)

Response: Defendant objects to this statement as immaterial and irrelevant.

70. Thirty states required 10,000 or fewer signatures for an unqualified third party to run a full slate of candidates for U.S. Representative in 2016. In 2018, that number was 29. (Ex. 22: Winger decl. ¶ 14.)

Response: Defendant objects to this statement as immaterial and irrelevant.

71. In some states, moreover, it is possible for third parties to qualify to nominate candidates for U.S. Representative without submitting any signatures. (Ex. 22: Winger decl. ¶ 15.)

Response: Defendant objects to this statement as immaterial and irrelevant.

IX. Other State's Qualifying Fees

72. Unlike Georgia, most other states do not require third-party candidates for U.S. Representative who qualify for the general-election ballot by petition to pay a qualifying fee at all. Among the states with a mandatory petition, Georgia's qualifying fees are higher than any other state in the nation. (Ex. 22: Winger decl. ¶¶ 16-17.)

Response: Defendant objects to this statement as immaterial and irrelevant.

73. In 2016, the last year for which complete data are available, Georgia law required \$5,220 for a single congressional candidate and \$73,080 for a third party to run a full slate of candidates for U.S. Representative. (Ex. 33: Answer ¶ 83.)

Response: Defendant admits that the filing fee in 2016 was \$5,229 for every candidate seeking the office of U.S. House of Representative, regardless of party. Defendant disputes this statement to the extent it is not consistent with O.C.G.A. § 21-2-131, which governs qualification fees.

74. The state that requires the second highest qualifying fees for third-party candidates for U.S. Representative who qualify for the general election ballot by petition is North Carolina, which has a qualifying fee of \$1,740 (one percent of the annual salary of U.S. Representative) for a single candidate and \$22,620 for a third-party to run a full slate of thirteen candidates for U.S. Representative. (Ex. 22: Winger decl. ¶ 19.)

Response: Defendant objects to this statement as immaterial and irrelevant.

75. The state that requires the third highest qualifying fees for third party candidates for U.S. Representative who qualify for the general-election ballot by petition is West Virginia, which has a qualifying fee of \$1,740 (one percent of the annual salary of U.S. Representative) for a single candidate and \$5,220 for a third-

party to run a full slate of three candidates for U.S. Representative. (Ex. 22: Winger decl. ¶ 20.)

Response: Defendant objects to this statement as immaterial and irrelevant.

X. The Impact of Georgia's Ballot-Access Restrictions

76. No candidate for U.S. Representative nominated by a political body has ever satisfied the five-percent signature requirement to appear on Georgia's general-election ballot. (Ex. 33: Answer ¶44.)

Response: Admitted.

77. No independent candidate for U.S. Representative has satisfied the five-percent signature requirement to appear on Georgia's general-election ballot since 1964, when Milton Lent qualified to be an independent candidate in Georgia's First Congressional District. (Ex. 33: Answer ¶45.)

Response: Admitted.

78. In 1964, when an independent candidate for U.S. Representative last satisfied the five-percent signature requirement to appear on Georgia's general-election ballots, the congressional district in which the candidate qualified did not split any county boundaries. *See* Act of March 13, 1964, ch. 923, 1964 Ga. Laws 478. (Ex. 27: First Admissions ¶ 10.)

Response: Admitted.

79. In 1964, when an independent candidate for U.S. Representative last satisfied the five-percent signature requirement to appear on Georgia's general-election ballots, only 25 percent of Georgia's nonwhite voting-age population was registered to vote. *See* S. Rep. No. 89-162, at 44 (1965), reprinted in 1965 U.S.C.C.A.N. 2508. (Ex. 27: First Admissions ¶ 11.)

Response: Admitted.

80. In 1964, when an independent candidate for U.S. Representative last satisfied the five-percent signature requirement to appear on Georgia's general-election ballots, the overall registration rate was approximately 63 percent of voting-age population, which is below where it is today (approximately 86 percent). *See* S. Rep. No. 89-162, at 41 (1965), reprinted in 1965 U.S.C.C.A.N. 2508. (Ex. 27: First Admissions ¶ 12.)

Response: Admitted

81. Only one independent candidate for U.S. Representative, Billy McKinney, has appeared on Georgia's general-election ballot since 1964. (Ex. 33: Answer ¶47.) However, when McKinney qualified for the ballot in 1982, a federal court in *Busbee v. Smith*, civ. no. 82-0665 (D.D.C. 1982), had suspended the five-percent signature requirement due to preclearance litigation over the State's redistricting plan that delayed the adoption of new districts following the 1980

Census. McKinney, who was an African-American and Democratic state representative from Atlanta, needed only 4,037 signatures to have his name placed on the general-election ballot alongside the white Democratic incumbent, Wyche Fowler, in Georgia's Fifth Congressional District. (Ex 35: Application for Writ of Mandamus, *Dixon v. Poythress*, Civ. A. No. C-92177, (Fulton Cnty. Sup. Ct. 1982); Ex. 36: Jerry Schwartz and Ron Taylor, *McKinney Petition OK'd for 5th District Election*, Atlanta Constitution, Oct 30, 1982, at 1-B.)

Response: Admitted.

82. No independent candidate for U.S. Representative has ever satisfied Georgia's ballot-access laws as they exist today, including the signature requirement, the filing deadline, the qualifying fee, and the technical requirements as to the form of the petition. (Ex. 37: Election Results 2000-2018 (excerpts) ("election results").)

Response: Defendant objects to paragraph 82 as argumentative. Defendant does not dispute the authenticity of the election results shown in Exhibit 37.

XI. Signature Requirements Met by Independent and Third-Party Candidates for U.S. Representative in Other States.

83. In the entire history of the United States, only six independent or third-party candidates for U.S. Representative have ever overcome a signature

requirement as high as 10,000 signatures. Only one such candidate has ever overcome a petition requirement higher than 15,000 signatures. (Ex. 22: Winger decl. ¶ 29.)

Response: Defendant objects to this statement as immaterial and irrelevant.

84. The first was in Ohio in 1954, when the incumbent in the Ninth Congressional District in Toledo, Frazier Reams, met the requirement of 12,919 signatures. (Ex. 22: Winger decl. ¶ 30.)

Response: Defendant objects to this statement as immaterial and irrelevant.

85. The second was in Montana in the regular at-large election in 1994, when Steve Kelly successfully met the requirement of 10,186 signatures. (Ex. 22: Winger decl. ¶ 31.)

Response: Defendant objects to this statement as immaterial and irrelevant.

86. The third was in California in 1996, when Steven Wheeler in the Twenty-Second Congressional District met the requirement of 10,191 signatures. (Ex. 22: Winger decl. ¶ 32.)

Response: Defendant objects to this statement as immaterial and irrelevant.

87. The fourth was in 1998, when the Reform Party nominee in the Fifth Congressional District in Florida, Jack Gargan, met the requirement of 12,141 signatures. (Ex. 22: Winger decl. ¶ 33.)

Response: Defendant objects to this statement as immaterial and irrelevant.

88. The fifth was in 2008, when Cindy Sheehan in California's Eighth Congressional District in San Francisco met the requirement of 10,198 signatures. (Ex. 22: Winger decl. ¶ 34.)

Response: Defendant objects to this statement as immaterial and irrelevant.

89. The last instance was in 2010, when the Service Employees International Union drafted independent candidate Wendall Fant and successfully collected the needed 16,292 signatures in the Eighth Congressional District in North Carolina. However, after the petition was checked, Fant declined to run, so the petition success had no observable concrete consequence. (Ex. 22: Winger decl. ¶ 35.)

Response: Defendant objects to this statement as immaterial and irrelevant.

90. In four of the six instances when an independent or minor-party candidate for U.S. Representative satisfied a signature requirement as high as 10,000 signatures, the time period to collect the signatures was unlimited. (Ex. 22: Winger decl. ¶ 36.)

Response: Defendant objects to this statement as immaterial and irrelevant.

91. Illinois has never had a successful petition attempt for U.S. House if the petition requirement was 10,000 or greater and the petition was challenged.

(Illinois has a unique system in which all petitions are deemed valid unless they are challenged. Petitions are not checked unless someone files a challenge, even if the petition has only a single signature.) (Ex. 22: Winger decl. ¶ 37.)

Response: Defendant objects to this statement as immaterial and irrelevant.

XII. Past Attempts to Qualify for the General-Election Ballot

92. Independent and political-body candidates for U.S. Representative have sought unsuccessfully to qualify for the general-election ballot under Georgia's current ballot-access laws. (Ex. 33: Answer ¶ 86.)

Response: Admitted.

93. In 2018, plaintiff Martin Cowen made a genuine effort to qualify for the general-election ballot as the Libertarian candidate in Georgia's Thirteenth Congressional District. He submitted a notice of candidacy and paid the qualifying fee. With the help of volunteer circulators, he spent more than 120 hours gathering signatures over 40 days. He timely submitted 620 signatures to the Secretary of State and did not qualify for the ballot. (Ex. 5: Cowen decl. ¶¶ 8-14, 17.)

Response: Defendant does not dispute that plaintiff Martin Cowen attempted to qualify for the general-election ballot in 2018 and failed to qualify. Defendant disputes that the collection of only 620 signatures over 180 days is a "genuine effort."

94. In 2018, plaintiff Aaron Gilmer made a genuine effort to qualify for the general-election ballot as the Libertarian candidate in Georgia's Ninth Congressional District. He submitted a notice of candidacy and paid the qualifying fee. With the help of volunteer and paid circulators, he and his team spent approximately 150 hours gathering signatures over 60 days. He submitted 308 raw signatures to the Secretary of State and did not qualify for the ballot. (Ex. 8: Ex. 8: Gilmer decl. ¶¶ 10-17.)

Response: Defendant does not dispute that plaintiff Aaron Gilmer attempted to qualify for the general-election ballot in 2018 and failed to qualify. Defendant disputes that the collection of only 308 signatures over 180 days is a "genuine effort."

95. In 2018, Steve "Fred" Abrams made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Fourteenth Congressional District. In email correspondence with the Secretary of State's office, he declared his intention to run and inquired about the number of signatures required on both the pauper's affidavit and nomination petition. He subsequently set up a campaign website, produced campaign materials, and held events to gather signatures. He did not qualify for the ballot. (Ex. 37 at 6: election results; Ex. 38 at 1-24: candidate materials.)

Response: Defendant disputes this statement, which is unsupported by the cited record excerpts. There is no evidence that Abrams attempted to gather signatures and there is no evidence in the record that Abrams actually submitted a petition to the Secretary of State. Defendant also objects to the materials attached as Exhibit 38, which have not been authenticated and contain inadmissible hearsay.

96. In 2018, Jimmy Cooper made a genuine effort to qualify for the general-election ballot as a Green candidate in Georgia's Eighth Congressional District. He submitted a statement of candidacy to the Federal Elections Commission and set up a campaign website. He sought volunteers for his petition drive and gathered 171 signatures in January and February of 2018 before abandoning his effort. He filed as a write-in candidate. (Ex. 6: Esco decl. ¶ 14; Ex. 37 at 8: election results; Ex. 38 at 25-36: candidate materials.)

Response: Defendant disputes this statement of fact as unsupported by the record citations. Defendant also objects to this statement of fact as based upon inadmissible hearsay in the Esco Declaration (Ex. 6) and Exhibit 38. *See* Defendant's Objections to Plaintiffs' Evidence, submitted contemporaneously herewith.

97. In 2016, Hien Dai Nguyen made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Fourth

Congressional District. He submitted a notice of candidacy and paid the qualifying fee. He had a team of mostly volunteer petition circulators who gathered approximately 25,000 raw signatures in the predominantly minority communities of Dekalb, Gwinnett, and Rockdale counties. But the Secretary of State's office invalidated almost 98 percent of them, and he therefore did not qualify for the ballot. (Ex. 15: Nguyen decl. ¶¶ 6-10.)

Response: Defendant objects to the statement that the "Secretary of State's office invalidated almost 98 percent" of the signatures in the petition as based upon inadmissible hearsay. *See* Defendant's Objections to Plaintiffs' Evidence. Defendant does not dispute the remaining statements in this paragraph.

98. In 2016, Lincoln Nunnally made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Fourth Congressional District. He submitted a statement of candidacy to the Federal Elections Commission and set up a campaign website. He reported having at least 50 volunteer petition circulators, and he promoted his signature gathering efforts on social media. He did not submit any signatures and did not qualify for the ballot. (Ex. 37 at 13: election results; Ex. 38 at 37-53: candidate materials.)

Response: Defendant disputes this statement, which is unsupported by the record citations. Defendant also objects to the materials in Exhibit 38, which have not been authenticated and contain inadmissible hearsay.

99. In 2016, Leonard Ware made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Tenth Congressional District. He filed a statement of candidacy with the Federal Elections Commission, set up a campaign website and Facebook page, and sought out volunteers to gather signatures. He did not gather enough signatures to qualify for the ballot but did qualify as a write-in candidate. The incumbent in that district ultimately ran unopposed on the general-election ballot. (Ex. 37 at 14: election results; Ex. 38 at 54-88: candidate materials.)

Response: Defendant disputes this statement, which is unsupported by the record citations. Defendant also objects to the materials in Exhibit 38, which have not been authenticated and contain inadmissible hearsay.

100. In 2012, Cynthia McKinney made a genuine effort to qualify for the general-election ballot as the Green candidate in Georgia's Fourth Congressional District. She submitted a statement of candidacy form with the Federal Elections Commission declaring her intention to run and then began trying to raise the money necessary to mount a successful petition drive. McKinney found that

raising money for a petition drive proved to be difficult and time consuming. In her experience, donors do not like to spend their money on gathering signatures for ballot access when success is far from assured. McKinney soon determined that she would not be able to raise the resources necessary to mount a successful ballot-access campaign *and* a competitive campaign in the general election once ballot access had been secured, and she therefore withdrew from the race. (Ex. 11: McKinney decl. ¶¶ 7-13.)

Response: Defendant disputes this statement and objects to the admissibility of the McKinney Declaration. *See* Defendant's Objections to Plaintiffs' Evidence. By her own admission, McKinney never attempted a signature gathering campaign, and her testimony is neither competent nor based upon personal knowledge. The cited testimony is also based upon inadmissible hearsay.

101. In 2010, Jeff Anderson made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Eleventh Congressional District. He had a team of approximately 24 volunteer petition circulators who spent hundreds, if not thousands of hours on the effort and gathered somewhere between 11,000 and 12,000 signatures. Because that number was far short of what he needed, he did not file the signatures with the Secretary of

State. The incumbent in his district ultimately ran unopposed in the 2010 general election. (Ex. 1: Anderson decl. ¶¶ 5-9, 11.)

Response: Defendant does not dispute that Jeff Anderson attempted to qualify for the general-election ballot in 2010 and failed to qualify. However, Defendant disputes and objects to Anderson's testimony that volunteers spent "hundreds if not thousands of hours" gathering signatures. This testimony is speculative and not based upon the witness's personal knowledge. *See* Defendant's Objections to Plaintiffs' Evidence.

102. In 2010, Eugene Moon made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Ninth Congressional District. He had a team of volunteers in each of the counties covered by his district. His teams gathered approximately 13,000 raw signatures, but he did not turn them in because he knew that he would not qualify for the ballot. The Republican nominee ultimately ran unopposed on the ballot in the 2010 general election. (Ex. 14: Moon decl. ¶¶ 4-8.)

Response: Defendant does not dispute that Eugene Moon attempted to qualify for the general-election ballot in 2010 and failed to qualify.

103. In 2010, Victor Armendariz made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Fourth

Congressional District. He used volunteers to gather signatures door to door. Although his team gathered quite a few signatures, he quickly realized that he would not be able to gather enough, and he decided to run instead for the Republican nomination. (Ex. 2: Armendariz decl. ¶¶ 4-8; Ex. 29: Second Admissions ¶ 29.)

Response: Defendant disputes this statement and objects to the Armendariz Declaration because it consists entirely of conclusory statements and inadmissible opinion testimony. *See* Defendant’s Objections to Plaintiffs’ Evidence. The allegation that Armendariz made a “genuine effort” is not supported by the record evidence. By his own admission, Armendariz stopped gathering signatures shortly after beginning his signature gathering campaign. Subject to these objections, Defendant does not dispute that Armendariz ran as a Republican candidate in 2010.

104. In 2008, Faye Coffield made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia’s Fourth Congressional District. She assembled a team of volunteers and spent hundreds of hours trying to gather signatures over approximately two months. She gathered approximately 2,000 raw signatures—well short of the approximately 15,000 she needed—and therefore did not qualify for the ballot. The incumbent in her district

ultimately ran unopposed in the 2008 general election. (Ex. 4: Coffield decl. ¶¶ 3-10.)

Response: Defendant does not dispute that Faye Coffield attempted to qualify for the general-election ballot in 2008 and failed to qualify.

105. In 2008, James P. Mason made a genuine effort to qualify for the general-election ballot as an independent candidate in Georgia's Tenth Congressional District. He filed a statement of candidacy with the Federal Elections Commission, informed the Secretary of State's office of his intention to run, set up a campaign website, and kicked off "PROJECT: PETITION" with a two-day tour of the district. He did not qualify for the ballot. (Ex. 37 at 33: election results; Ex. 38 at 89-95: candidate materials.)

Response: Defendant disputes this statement, which is unsupported by the record citations. Defendant furthermore objects to the materials in Exhibit 38, which have not been authenticated and contain inadmissible hearsay.

106. In 2006, Jay Fisher made a genuine effort to qualify for the general-election ballot as the Libertarian candidate in Georgia's Sixth Congressional District. He announced his candidacy in the media and in correspondence with the Secretary of State's office. He ran on a platform of opposition to the Iraq War and to the Patriot Act, both of which were supported by the then-incumbent Republican

representative, Dr. Tom Price. He assembled a team of approximately five volunteers and went door to door. After a while, he realized that he would not be able to qualify for the ballot with volunteer petitions, and the option of using paid petitioners was too expensive. He therefore abandoned his effort to qualify for the ballot and did not submit any signatures. (Ex. 7: Fisher decl. ¶¶ 4-10; Ex. 33: Answer ¶93.)

Response: Defendant does not dispute that Jay Fisher announced his candidacy as a Libertarian candidate in the 2006 election and attempted but failed to qualify for the general-election ballot.

107. In 2004, Philip Bradley made a genuine effort to qualify for the general-election ballot as the Libertarian candidate in Georgia's Thirteenth Congressional District. He announced intention to run correspondence with the Secretary of State's office, and it was reported in the media that he had gathered 500 signatures as of March of that year. He did not qualify for the ballot. The Democratic nominee ultimately ran unopposed on the general-election ballot. (Ex. 33: Answer ¶ 103; Ex. 37 at 40: election results; Ex. 38 at 96-99: candidate materials.)

Response: Defendant disputes this statement, which is unsupported by the record citations. Defendant furthermore objects to the materials in Exhibit 38, which have not been authenticated and contain inadmissible hearsay.

108. In 2002, the Libertarian Party made a genuine effort to qualify three candidates for U.S. Representative: Wayne Parker in Georgia's Eleventh Congressional District, Carol Ann Rand in Georgia's Sixth Congressional District, and Chad Elwartowski in Georgia's Ninth Congressional District. Because the 2002 redistricting process had reduced the time available for petitioning, a federal judge reduced the signature requirement by about half. The party raised approximately \$40,000 for the effort and used 35 professional, paid petition circulators. The party ultimately decided to focus on Parker's campaign, and Parker submitted more than 20,000 raw signatures. But the Secretary of State's office rejected more than half of them, leaving Parker about 1,100 valid signatures shy of the court-adjusted requirement. (Ex. 16: Parker decl. ¶¶ 5-15; Ex. 33: Answer ¶ 111.)

Response: Defendant disputes this statement, which is unsupported by the record citations. This statement relies on the Parker Declaration, which provides no foundation for the basis of Parker's knowledge of the campaigns of other candidates or the Libertarian Party's campaign strategies in 2002. Defendant also

objects to the Parker Declaration as including conclusory statements, testimony beyond Parker's personal knowledge, and inadmissible hearsay. *See* Defendant's Objections to Plaintiffs' Evidence.

109. In 2002, Joyce Griggs made a genuine effort to qualify for the general-election ballot as the Green candidate in Georgia's First Congressional District. With approximately eight volunteers, Griggs gathered approximately 400 signatures over a period of six to eight weeks. (Ex. 6: Esco decl. ¶ 12.)

Response: Defendant disputes this statement of fact as unsupported by the record citations. Defendant also objects to this statement of fact as based upon inadmissible hearsay in the Esco Declaration (Ex. 6). *See* Defendant's Objections to Plaintiffs' Evidence.

110. In 2002, Al Herman made a genuine effort to qualify for the general-election ballot as the Green candidate in Georgia's Seventh Congressional District. With approximately ten volunteers, Herman collected more than 2,000 signatures over a five-month period. (Ex. 6: Esco decl. ¶ 13.)

Response: Defendant disputes this statement of fact as unsupported by the record citations. Defendant also objects to this statement of fact as based upon inadmissible hearsay in the Esco Declaration (Ex. 6). *See* Defendant's Objections to Plaintiffs' Evidence.

111. In 1982, Maceo Dixon made a genuine effort to qualify for the general-election ballot as the Socialist Workers Party's candidate in Georgia's Fifth Congressional District. Because the 1982 redistricting process had reduced the time available for petitioning, a federal judge reduced the signature requirement to approximately 4,037. Dixon submitted 7,821 raw signatures, but the Secretary of State's Office rejected more than 3,000 of them. As a result, Dixon did not qualify for the general-election ballot. (Ex 35: Application for Writ of Mandamus, *Dixon v. Poythress*, Civ. A. No. C-92177, (Fulton Cnty. Sup. Ct. 1982; Ex. 36: Jerry Schwartz and Ron Taylor, *McKinney Petition OK'd for 5th District Election*, Atlanta Constitution, Oct 30, 1982, at 1-B; Ex. 39: Sara Jean Johnston, *Atlanta Socialist Worker Fights for Ballot Status*, The Militant, Nov. 26, 1982, at 4.)

Response: Defendant admits only that Dixon did not qualify for the general election ballot, that Dixon submitted about 7,281 signatures to the Secretary of State, that over 3,000 signatures were rejected, and that the signature requirement was reduced in 1982.

112. John Monds, who has run three times as a Libertarian candidate for statewide office in Georgia and has cumulatively received millions of votes, would

have run for U.S. Representative but was deterred from doing so by the ballot-access restrictions. (Ex. 13: Monds decl. ¶¶ 9-10.)

Response: Defendant admits only that John Monds has run for statewide office three times and that he cumulatively received millions of votes. Defendant objects to the Monds Declaration as irrelevant and not based upon the witness's personal knowledge. *See* Defendant's Objections to Plaintiffs' Evidence.

113. In 2018, Luanne Taylor wanted to qualify for the general-election ballot as an independent candidate for U.S. Representative in Georgia's Sixth Congressional District. She called the Secretary of State's office to inquire about the number of signatures required on her nomination petition. When the Secretary of State's office responded by email that she would need 20,918 valid signatures, she was shocked at how high the number was. She was immediately deterred from running for Congress and decided instead to try to run for state representative. (Ex. 19: Taylor decl. ¶¶ 2-4.)

Response: Defendant admits that Luanne Taylor contacted the Secretary of State's office, and the Secretary of State responded with the number of valid signatures she would be required to submit. Defendant objects to the Taylor Declaration because the witness lacks personal knowledge and is not competent

to testify regarding the subject matter. *See* Defendant's Objections to Plaintiffs' Evidence.

114. In 2016, David Moreland inquired to the Secretary of State's office about qualifying for the general-election ballot as an independent candidate in Georgia's First Congressional District. The Secretary of State's office then informed him of the filing fee, signature requirement and other legal requirements for qualifying for the ballot. Moreland did not qualify for the ballot. The incumbent in that district ultimately ran unopposed on the ballot in the 2016 general election. (Ex. 29: Second Admissions ¶ 30; Ex. 37 at 12: election results; Ex. 38 at 100-101: candidate materials.)

Response: Defendant objects to this statement of fact as not relevant. The mere fact that Moreland received information from the Secretary of State about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant also objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

115. In 2016, Raymond Beckwith declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's First Congressional District. The Secretary of State's office then informed him of the filing fee, signature requirement and other legal requirements for qualifying for the

ballot. Beckwith did not qualify for the ballot. The incumbent in that district ultimately ran unopposed on the ballot in the 2016 general election. (Ex. 29: Second Admissions ¶ 31; Ex. 37 at 12: election results; Ex. 38 at 102-103: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Raymond Beckwith received a letter from the Secretary of State's office containing information about qualifying for the general election ballot. *See* Ex. 38 at 102-103. There is no evidence that Beckwith "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

116. In 2010, Charles Perry declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Thirteenth Congressional District. The Secretary of State's office then informed him of the filing fee, signature requirement and other legal requirements for qualifying for the ballot. Perry did not qualify for the ballot. (Ex. 29: Second Admissions ¶ 28; Ex. 37 at 29: election results; Ex. 38 at 104-105: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Charles Perry merely wrote a letter to the Secretary of State's office requesting information about qualifying for the general election ballot. *See* Ex. 38 at 104-105. There is no evidence that Perry "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

117. In 2008, Timothy J. Payne declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Fifth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Payne did not qualify for the ballot. (Ex. 29: Second Admissions ¶ 26; Ex. 37 at 32: election results; Ex. 38 at 106-107: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Timothy J. Payne merely wrote a letter to the Secretary of State's office requesting information about qualifying for the general election ballot. *See* Ex. 38 at 106-107. There is no evidence that Payne

“declared his intention to qualify for the general election ballot.” Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

118. In 2006, Loren Collins declared his intention to qualify for the general-election ballot as an independent candidate in Georgia’s Fourth Congressional District. The Secretary of State’s office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Collins did not qualify for the ballot. (Ex. 33: Answer ¶ 92; Ex. 37 at 37: election results; Ex. 38 at 108: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Loren Collins received a letter from the Secretary of State’s office containing information about qualifying for the general election ballot. *See* Ex. 38 at 108. There is no evidence that Collins “declared his intention to qualify for the general election ballot.” Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in

this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

119. In 2006, Chip Shirley declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Tenth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Shirley did not qualify for the ballot. (Ex. 33: Answer ¶ 94; Ex. 37 at 38: election results; Ex. 38 at 109-110: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Chip Shirley received a letter from the Secretary of State's office containing information about qualifying for the general election ballot. *See* Ex. 38 at 109-110. There is no evidence that Shirley "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

120. In 2006, Richard Clarke declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Twelfth

Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Clarke did not qualify for the ballot. (Ex. 33: Answer ¶ 95; Ex. 37 at 38: election results; Ex. 38 at 111-112: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Richard Clarke requested and received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 111-12. There is no evidence that Clarke "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

121. In 2005, the Veterans Party of America declared its intention to qualify a candidate as a political-body candidate in Georgia's Second Congressional District. The Secretary of State's office then informed the party of the signature requirement and other legal requirements for qualifying for the ballot. The party did not qualify a candidate for the ballot. (Ex. 33: Answer ¶ 91; Ex. 37 at 37: election results; Ex. 38 at 113-115: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that a representative of the Veterans Party of America contacted the Secretary of State's office requesting information about qualifying a candidate for the general election ballot and received information in response. *See* Ex. 38 at 113-15. There is no evidence of a "declaration" of intent to qualify a candidate. Defendant also objects to this statement of fact as not relevant; the fact that a party inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

122. In 2004, the Veterans Party of America declared its intention to qualify a candidate a political-body candidate in Georgia's Second Congressional District. The Secretary of State's office then informed the party of the signature requirements and other legal requirements for qualifying for the ballot. The party did not qualify a candidate for the ballot. (Ex. 33: Answer ¶ 96; Ex. 37 at 39: election results; Ex. 38 at 116-117: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that a representative of the Veterans Party of America contacted the Secretary of State's office requesting information about qualifying a candidate for the general election ballot and received information in

response. *See* Ex. 38 at 116-17. There is no evidence of a “declaration” of intent to qualify a candidate. Defendant also objects to this statement of fact as not relevant; the fact that a party inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

123. In 2004, Steven Muhammad declared his intention to qualify for the general-election ballot as an independent candidate in Georgia’s Fifth Congressional District. The Secretary of State’s office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Muhammad did not qualify for the ballot. The incumbent in that district ran unopposed on the ballot in the 2004 general election. (Ex. 33: Answer ¶ 97; Ex. 37 at 40: election results; Ex. 38 at 118: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Steven Muhammad received information from the Secretary of State’s office regarding qualifying for the general election ballot. *See* Ex. 38 at 118. There is no evidence that Muhammad “declared his intention to qualify for the general election ballot.” Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in

this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

124. In 2004, Andy Altizer declared his intention to qualify for the general election ballot as an independent candidate in Georgia's Sixth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Altizer did not qualify for the ballot. The Republican nominee in that district ultimately ran unopposed on the ballot in the 2004 general election. (Ex. 33: Answer ¶ 98; Ex. 37 at 40: election results; Ex. 38 at 119-120: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Andy Altizer requested and received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 119-20. There is no evidence that Altizer "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

125. In 2004, Chris Borcik declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Eighth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Borcik did not qualify for the ballot. (Ex. 33: Answer ¶ 99; Ex. 37 at 40: election results; Ex. 38 at 121: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Chris Borcik received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 121. There is no evidence that Borcik "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

126. In 2004, Malcolm Rogers declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Thirteenth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot.

Rogers did not qualify for the ballot. The Democratic nominee in that district ultimately ran unopposed on the ballot in the 2004 general election. (Ex. 33: Answer ¶ 102; Ex. 37 at 40: election results; Ex. 38 at 122-123: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Malcolm received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 122-23. There is no evidence that Malcolm "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

127. In 2002, Ryan Anthony Cancio declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Sixth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Cancio did not qualify for the ballot. (Ex. 33: Answer ¶ 105; Ex. 37 at 43: election results; Ex. 38 at 124-126: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Ryan Anthony Cancio received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 124-26. There is no evidence that Cancio "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

128. In 2002, Daniel Kozarich declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Tenth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Kozarich did not qualify for the ballot. The Republican nominee in that district ultimately ran unopposed on the ballot in the 2002 general election. (Ex. 33: Answer ¶ 109; Ex. 37 at 44: election results; Ex. 38 at 127-129: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Daniel Kozarich received information from

the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 127-29. There is no evidence that Kozarich "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

129. In 2002, Brian Brown declared his intention to qualify for the general election ballot as an independent candidate in Georgia's Tenth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Brown did not qualify for the ballot. The Republican nominee in that district ultimately ran unopposed on the ballot in the 2002 general election. (Ex. 33: Answer ¶ 110; Ex. 37 at 44: election results; Ex. 38 at 130: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Brian Brown received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 130. There is no evidence that Brown "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as

not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

130. In 2002, Ron Smith declared his intention to qualify for the general-election ballot as an independent candidate in Georgia's Thirteenth Congressional District. The Secretary of State's office then informed him of the signature requirement and other legal requirements for qualifying for the ballot. Smith did not qualify for the ballot. (Ex. 33: Answer ¶ 111; Ex. 37 at 44: election results; Ex. 38 at 131-134: candidate materials.)

Response: Defendant disputes this statement, which is not supported by the record citations. The record shows that Ron Smith received information from the Secretary of State's office regarding qualifying for the general election ballot. *See* Ex. 38 at 124-26. There is no evidence that Smith "declared his intention to qualify for the general election ballot." Defendant also objects to this statement of fact as not relevant; the fact that a person inquired about the requirements for qualifying for the general election is not probative of the issues in this case. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

131. In 2000, Gail Debra Allen-Cartwright declared her intention to qualify for the general-election ballot as an independent candidate in Georgia's Eleventh Congressional District. She filed a statement of candidacy with the federal elections commission. She also filed a notice of candidacy with the Secretary of State's office and paid the filing fee. Allen-Cartwright did not qualify for the ballot. The Republican nominee in that district ultimately ran unopposed on the ballot in the 2000 general election. (Ex. 29: Second Admissions ¶ 35; Ex. 37 at 46: election results; Ex. 38 at 135-139: candidate materials.)

Response: Defendant does not dispute that Gail Allen-Cartwright filed a notice of candidacy and paid the filing fee. However, Defendant objects to this statement of fact as not relevant; the fact that a person paid a filing fee but did not appear on the ballot is not probative of the issues in this case. There are no additional facts regarding Allen-Cartwright's efforts to qualify. Defendant further objects to the materials attached as Exhibit 38 as unauthenticated and inadmissible hearsay.

XIII. The Petition-Checking Process

132. Under Georgia law, it is the duty of the Secretary of State to check the validity of signatures on nomination petitions submitted by candidates for

President, U.S. Senator, U.S. Representative, and all state offices. O.C.G.A. §§ 21-2-132(d), -171(a). (Ex. 33: Answer ¶ 56.)

Response: Admitted.

133. A signature on a nomination petition is valid and must be counted if it matches the signature on file of a duly qualified and registered voter who is eligible to vote for the office to be filled. (Ex. 33: Answer ¶ 57.)

Response: Admitted.

134. Georgia law does not prescribe any particular method for checking signatures, but the Georgia Supreme Court has indicated that Secretary of State must choose a method which “can reasonably be expected to operate in a thorough and professional way so as to produce accurate results.” *Anderson v. Poythress*, 246 Ga. 435, 271 S.E.2d 834 (1980). (Ex. 33: Answer ¶ 58.)

Response: Admitted.

135. The current petition-checking process is as follows. When a candidate submits a nomination petition, the Secretary sends a duplicate of the petition to county election officials along with a one-page letter asking them to use certain codes on the petition when verifying signatures to indicate why a particular signature was deemed invalid. (Ex. 33: Answer ¶ 60.) The counties send back their results. And, if there is more than one county involved, the Secretary of State’s

office then adds up the total number of signatures validated by the counties and makes a determination as to whether or not the petition contains a sufficient number of valid signatures for the candidate to qualify for the ballot. (Ex. 23: Harvey dep. 32:11-33:16, 38:4-39:2; Ex. 40: petition-verification instruction letters.)

Response: Admitted.

136. The Secretary of State's office provides no instructions other than the one-page letter when transmitting petitions to county election officials, and it provides no guidance on what constitutes a valid signature unless county election officials affirmatively ask for specific guidance. (Ex. 23: Harvey dep. 36:4-19, 47:12-49:1.)

Response: Defendant disputes this statement because it misstates the cited testimony of Chris Harvey. Mr. Harvey testified that the Secretary of State's office provides training to county election workers on signature verification, and that the requirements for signature verification are set out in O.C.G.A. § 21-2-170 and § 21-2-171. *See* Harvey dep. 36:4-19; 47:17-25; 52:2-9.

137. The Secretary of State's office does nothing to ensure that county election officials follow the instructions set out in the one-page letter that accompanies each petition. (Ex. 23: Harvey dep. 45:21-46:2). The Secretary of

State's office conducts no audit of the verifications returned from the counties to determine whether the county election officials have complied with the instructions. (Ex. 23: Harvey dep. 46:3-8, 70:5-71:3.) There are no possible repercussions from the Secretary of State's office for a county election official who fails to follow the Secretary's instructions, and county election officials are not required to attest to the results. (Ex. 23: Harvey dep. 46:9-47:11.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations. Defendant admits that county election officials and offices determine the process by which the Secretary of State's guidance is implemented.

138. The Secretary of State's office takes no action, audit, or review even when it is apparent on the face of a petition returned by county election officials that they did not comply with the Secretary's one-page instruction letter. (Ex. 23: Harvey dep. 91:13-92:9.) The office could conduct an audit or review if it wished to do so; it has the necessary tools (access to the petitions and the state's voter-registration database). (Ex. 23: Harvey dep. 84:20-23, 86:24-87:3.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations.

139. The Secretary of State's office does nothing to ensure that the workers who verify petitions in the county election offices have undertaken any form of training. (Ex. 23: Harvey dep. 52:11-16.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations.

140. The Secretary of State's office provides no training on handwriting analysis even though it admits that a voter's signature can change over time and based on the conditions under which the voter signs. (Ex. 23: Harvey dep. 60:22-61:9.) And the office conducts no review of a county's determination that a signature does not match. (Ex. 23: Harvey dep. 61:22-25.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations.

141. In fact, the Secretary of State's office keeps no records as to the basis on which counties have rejected signatures. (Ex. 23: Harvey dep. 62:1-10.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations.

142. The Secretary of State's signature validation process results in valid signatures being improperly rejected. (Ex. 23: Harvey dep. 113:20-25, 118:22-119:4, 140:24-141:1, 158:5-11.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations.

143. In addition, unlike most other states, Georgia does not grant petition-circulators access to the records they need in order to check their petitions before they turn them in. Most states provide public-access terminals that allow petition-circulators to see if they can find a person who signed their petition and to check whether the signature matches. Georgia does not offer this kind of access. It offers only one public access terminal with limited data and search capabilities. There are no instructions for the public on how to use the software, and it does not give access to a voter's signature. (Ex. 10: Lee decl. ¶ 9.)

Response: Defendant objects to a comparison with other states' requirements as irrelevant and not material. Defendant further objects to the admissibility of the Lee Declaration because it contains improper opinion testimony from a lay witness who has not been designated as an expert.

144. The Secretary's signature-verification process leads to signature-validation rates that are well below industry norms and those of other states. (Ex. 10: Lee decl. ¶ 11.) A validation rate of 65 to 75 percent is the standard for candidacy petitions. (Ex. 10: Lee decl. ¶ 12.)

Response: Defendant objects to a comparison with other states without specification of those states' requirements as irrelevant and not material. Defendant further objects to the admissibility of the Lee Declaration because it contains improper opinion testimony from a lay witness who has not been designated as an expert.

145. In 2016, for example, Rocky De La Fuente submitted approximately 15,000 signatures on a nomination petition in an attempt to qualify for the general-election ballot as an independent candidate for President. He used professional, experienced petition circulators to gather his signatures. (Ex. 10: Lee decl. ¶¶ 5-17.) The Secretary verified only 2,964 signatures—a validation rate of approximately 20 percent. (Ex. 33: Answer ¶ 68.)

Response: Defendant objects to the admissibility of the Lee Declaration because it is improper opinion testimony from a lay witness who has not been designated by Plaintiffs as an expert. Subject to this objection, Defendant admits that De La Fuente submitted 15,000 signatures; that the Secretary of State verified 2,964 of those signatures; and that De La Fuente employed at least one paid professional petition circulator.

146. De La Fuente's petition contains numerous signatures that were improperly rejected. (Ex. 23: Harvey dep. 110:19-158:11; Ex. 41: De La Fuente

petition sheets and ENET printouts.) After reviewing only a small number of signatures from De La Fuente's petition that were rejected by county election officials, the Secretary of State's office admitted that there were "more than a handful of errors from Cobb, Dekalb, Fulton, and Clayton counties." (Ex. 23: Harvey dep. 158:5-11.)

Response: Defendant admits that some signatures from De La Fuente's petition were improperly rejected.

147. Since 2014, the Secretary of State's office has validated only one petition for an independent or political-body candidate for U.S. Representative. In 2016, Hien Dai Nguyen submitted a nomination petition containing approximately 25,000 raw signatures. (Ex. 15: Nguyen decl. ¶ 8.) Election officials in Dekalb, Gwinnett, Newton and Rockdale counties validated only 556 of them—a validation rate of approximately two percent. (Ex. 23: Harvey dep. 100:6-18.)

Response: Defendant objects to the first sentence of this paragraph as lacking any citation to the record. Defendant admits that Nguyen submitted a nomination petition and that approximately 2% of those signatures were validated. *See* Harvey dep. 100:6-18.

148. The Secretary of State's office has validated only one other nomination petition for an independent or political-body candidate for U.S.

Representative since 2000. In 2002, Wayne Parker submitted almost 20,000 raw signatures, and the Secretary of State's office validated only 8,346 of them—a validation rate of approximately 40 percent. (Ex. 10: Lee decl. ¶ 20; Ex. 16: Parker decl. ¶¶ 13-14.)

Response: Defendant objects to the first sentence of this paragraph as lacking any citation to the record. Defendant admits that Parker submitted a nomination petition and that approximately 40% of those signatures were validated.

149. Because of the Secretary's error-prone signature-verification process, independent and political-body candidates for U.S. Representative must gather signatures far in excess of the number of valid signatures required to obtain ballot access under Georgia law. (Ex. 1: Anderson decl. ¶ 6; Ex. 2: Armendariz decl. ¶ 8; Ex. 6: Esco decl. ¶ 7; Ex. 7: Fisher decl. ¶ 7; Ex. 10: Lee decl. ¶ 21.) For one candidate for U.S. Representative, that might mean somewhere between 40,000 and 75,000 signatures. For a full slate of 14 candidates for U.S. Representative, that might be somewhere between 600,000 and 1,000,000 signatures. (Ex. 10: Lee decl. ¶21.)

Response: Defendant objects to this statement as argumentative and disputes the statement as not supported by the record citations. None of the cited

testimony provides evidence that the Secretary of State's verification process is "error-prone." Defendant also objects to the testimony in the cited declarations as mere conclusory allegations not supported by specific facts. *See* Defendant's Objections to Plaintiffs' Evidence.

XIV. The Difficulty and Pace of Petitioning

150. Gathering signatures is difficult, labor-intensive work. (Ex. 5: Cowen decl. ¶ 12; Ex. 7: Fisher decl. ¶ 8; Ex. 20: Webb decl. ¶ 7.)

Response: Defendant objects to this statement as a conclusory allegation not supported by specific facts. Subject to this objection, Defendant does not dispute that gathering voter signatures is difficult.

151. Don Webb, an experienced paid petition circulator, is only able to gather 30 to 40 raw signatures in an eight- or nine-hour day on a Saturday. He is able to collect 15 to 25 raw signatures on other days. That averages out to less than five signatures per hour over the course of a week. (Ex. 20: Webb decl. ¶ 7.)

Response: Defendant does not dispute Webb's testimony regarding the specifics of his personal experience but does not concede that his limited experience is generally applicable.

152. Even if he spent eight hours per day, seven days per week, going door to door over the course of the 180-day petitioning window (a total of 1,440 hours),

he would be able to gather fewer than 4,800 raw signatures, which is well short of the number required for a single political-body candidate for U.S. Representative. (Ex. 20: Webb decl. ¶ 11.)

Response: Defendant objects to this statement as a conclusory allegation not supported by specific facts.

153. It is hard to convince people to volunteer to gather signatures for ballot access. (Ex. 12: Metz decl. ¶ 12; Ex. 20: Webb decl. ¶ 10.)

Response: Defendant objects to this statement as a conclusory allegation not supported by specific facts. Defendant further objects to the cited testimony in the Metz and Webb declarations as based upon inadmissible hearsay. *See* Defendant's Objections to Plaintiffs' Evidence.

154. Volunteer signature-gatherers tend to be slower and less effective than paid signature-gatherers, and they are rarely willing or able to work for more than a few hours at a time. (Ex. 6: Esco decl. ¶ 9; Ex. 20: Webb decl. ¶ 9.)

Response: Defendant objects to this statement as a conclusory allegation not supported by specific facts.

155. Luanne Taylor, who attempted to qualify for the ballot as an independent candidate in 2018, was only able to gather about one signature per hour. (Ex. 19: Taylor decl. ¶ 9.)

Response: Admitted.

156. Aaron Gilmer, who attempted to qualify for the ballot as a Libertarian candidate for U.S. Representative in 2018, was only able to gather about two signatures per hour using a mixture of professional and volunteer circulators. (Ex. 8: Gilmer decl. ¶¶16-17.)

Response: Admitted.

157. Martin Cowen, who attempted to qualify for the ballot as a Libertarian candidate for U.S. Representative in 2018, was able to gather less than three signatures per hour circulating his own petition. (Ex. 5: Cowen decl. ¶¶ 10, 14.)

Response: Defendant objects to this statement of fact as not supported by the cited testimony in the Cowen Declaration.

XV. The Cost of Petitioning in Georgia

158. As a practical matter, it would be impossible for the Libertarian Party to qualify a full slate of candidates for the office of U.S. Representative in 2020 without making extensive use of paid, professional petition circulators. (Ex. 1: Anderson decl. ¶ 4; Ex. 6: Esco decl. ¶ 10; Ex. 7: Fisher decl. ¶ 11; Ex. 10: Lee decl. ¶ 22; Ex. 13: Monds decl. ¶ 8; Ex. 20: Webb decl. ¶ 12.)

Response: Defendant objects to this statement as a conclusory allegation not supported by admissible evidence. Defendant objects to the testimony in the

cited declarations as inadmissible opinion testimony from lay witnesses not designated as experts. Furthermore, this statement is inconsistent with the testimony of the 30(b)(6) representative of the Libertarian Party, who testified that the party prefers to use volunteer circulators, rather than professional, because they collect signatures with a higher validity rate. *See* Wilson Dep. at 59:24 to 61:10.

159. Professional petition circulators typically charge \$2-\$5 per signature collected, plus expenses for travel, lodging and incidentals. (Ex. 10: Lee decl. ¶ 23.)

Response: Defendant objects to this statement of fact as not supported by admissible evidence and based upon inadmissible hearsay and improper opinion testimony from a lay witness.

160. In order to be assured of gathering a sufficient number of valid signatures to qualify a full slate of candidates for the office of U.S. Representative, the Libertarian Party would need to gather somewhere between 600,000 and \$1,000,000 signatures. (Ex. 10: Lee decl. ¶ 21.)

Response: Defendant objects to this statement of fact as not supported by admissible evidence and based upon inadmissible hearsay and improper opinion testimony from a lay witness.

161. The cost of gathering the signatures necessary to qualify a full slate of candidates for the office of U.S. Representative would likely exceed \$1,000,000 and could exceed \$2,500,000. (Ex. 1: Anderson decl. ¶ 7; Ex. 10: Lee decl. ¶ 24; Ex. 16: Parker decl. ¶ 17; Ex. 20: Webb decl. ¶ 12; Ex. 21: Wilson decl. ¶¶ 6-8.)

Response: Defendant objects to this statement of fact as not supported by admissible evidence and based upon inadmissible hearsay and improper opinion testimony from a lay witness.

XVI. The Impact of Federal Campaign-Finance Law

162. Federal campaign-finance laws set certain limits on campaign contributions to candidates for federal offices, including political-body candidates for U.S. Representative. Federal Elections Campaign Act of 1971, Pub L. 92-225, 86 Stat. 3, 52 U.S.C. § 30101 *et seq.* (Ex. 29: Second Admissions ¶ 36.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

163. Under these laws, the maximum amount that a state or national party may contribute to one candidate for U.S. Representative is \$5,000 per election. 52 U.S.C. § 30116(a)(2)(A); 11 C.F.R. § 110.2(b)(1). *See* <https://www.fec.gov/help->

candidates-and-committees/candidate-takingreceipts/contribution-limits/. (Ex. 29: Second Admissions ¶ 37.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

164. The limits on contributions to candidates apply separately to each federal election in which the candidate participates. A primary election, general election, runoff election and special election are each considered a separate election with a separate limit. (Ex. 29: Second Admissions ¶ 38.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

165. Even when candidates are not involved in an actual primary, they are entitled to a primary limit. They may choose one of the following dates to be their “primary” date, and, until that date, they may collect contributions that count towards the contributor’s primary limits: (1) the last day on which, under state law, a candidate may qualify for a position on the general election ballot; or (2) the date of the last major primary election, caucus or convention in that state. Political-body

candidates may also choose the date of the nomination by their party as their primary date. (Ex. 29: Second Admissions ¶ 39.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits statement.

166. As a result, the maximum amount that a state or national party may contribute to one candidate for U.S. Representative (except in the event of a runoff election) is \$10,000 per election cycle. (Ex. 9: Graham decl. ¶17; Ex. 18: Sarwark decl. ¶ 32; Ex. 21: Wilson decl. ¶¶ 5, 17; Ex. 29: Second Admissions ¶ 40.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

167. The maximum that an individual donor can give to a candidate is \$5,600 per election cycle. (Ex. 21: Wilson decl. ¶ 5.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

168. The value of an in-kind contribution counts against the contribution limits just as a contribution of money does. 11 C.F.R. § 100.51. (Ex. 29: Second Admissions ¶ 41.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

169. Any amount paid by a state or national party for petition circulators or other petitioning efforts in support of a candidate for U.S. Representative must be reported to federal authorities as an in-kind contribution and is subject to campaign contribution limits. 11 C.F.R. §§ 100.52(d)(1), 100.54. (Ex. 29: Second Admissions ¶ 42.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

170. Any amount paid by a state or national party for qualifying fees in support of a candidate for U.S. Representative must be reported to federal authorities as an in-kind contribution and is subject to campaign contribution limits. 11 C.F.R. § 100.52. (Ex. 29: Second Admissions ¶ 43.)

Response: Defendant objects to this statement as irrelevant and not material. Federal campaign finance laws are not at issue in this action. Subject to this objection, Defendant admits this statement.

171. Federal law thus prohibits the Libertarian Party or any other large donor from contributing enough money to cover a substantial number of signatures. (Ex. 9: Graham decl. ¶ 17; Ex. 18: Sarwark decl. ¶ 32; Ex. 21: Wilson decl. ¶¶ 5, 17.)

Response: Defendant objects to this statement as argumentative and a conclusory allegation not supported by specific facts. There is nothing in federal law that specifically prohibits a candidate from raising sufficient funds to cover a signature gathering campaign.

172. Donors, moreover, generally do not want to give money for signature-gathering on a ballot-access petition when success is far from assured. (Ex. 6: Esco decl. ¶ 10; Ex. 9: Graham decl. ¶ 18; Ex. 11: McKinney decl. ¶¶ 10-12; Ex. 12: Metz decl. ¶ 11; Ex. 21: Wilson decl. ¶ 4.). They want to promote ideas and policies, and they recognize that candidates who are not on the ballot are not taken seriously by the media or by the voters. (Ex. 21: Wilson decl. ¶ 4.)

Response: Defendant objects to this statement as argumentative. Defendant further objects to the testimony in the cited declarations as containing conclusory allegations not supported by specific facts and inadmissible hearsay statements.

XVII. Lack of Access to Voters

173. Petition-circulators in Georgia may not lawfully solicit signatures on private property without the permission of the property owner. *See Cahill v. Cobb Place Associates*, 271 Ga. 322 (1999); *Citizens for Ethical Gov't v. Gwinnett Place Associates*, 260 Ga. 245 (1990). That includes places of public accommodation, such as shopping malls, as well as property owned by common-interest community associations, such as homeowners' associations. (Ex. 29: Second Admissions ¶ 46.)

Response: Defendant does not dispute this statement as an accurate statement of law. However, the Libertarian Party's 30(b)(6) representative conceded that he has known of circulators who have asked permission from property owners and the owners have said yes. *See* Craig Dep. at 58:2-11.

174. Virtually all of the places where large numbers of people congregate, like grocery stores and shopping malls, are on private property. Petition-circulators are consequently relegated to gathering signatures on public sidewalks, which are

often far away from where voters park to enter the stores. (Ex. 4: Coffield decl. ¶ 13; Ex. 6: Esco decl. ¶ 8; Ex. 19: Taylor decl. ¶ 11.)

Response: Defendant objects to the statement as argumentative. The allegations that “virtually all” places where there are large numbers of people are on private property or that sidewalks are “often far away from” stores are not supported by admissible evidence. Defendant further objects to the testimony in the cited declarations to the extent that it is based upon inadmissible hearsay statements.

175. Entire subdivisions are often off-limits to petition-circulators because private homeowners’ associations own the streets and sidewalks and have signs that bar all forms of soliciting. (Ex. 1: Anderson decl. ¶ 13; Ex. 5: Cowen decl. ¶ 15.)

Response: Defendant objects to this statement as an incorrect statement of law. No-solicitation signs do not render these environments off limits. *See Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton*, 536 U.S. 150 (2002). Second, the statement is not supported by the cited testimony.

176. Even when canvassing legally on public property, petition circulators are often confronted by police officers or business owners unaware of their right to do so. (Ex. 6: Esco decl. ¶ 8; Ex. 16: Parker decl. ¶ 8; Ex. 19: Taylor decl. ¶ 12.)

Response: Defendants objects to this statement as not supported by admissible evidence. The testimony in the cited declarations is not based upon the witnesses' personal knowledge and contains inadmissible hearsay statements.

177. Primary elections are generally not a good time to gather signatures. (Ex. 21: Wilson decl. ¶ 13.)

Response: Defendant objects to this statement as argumentative and disputes that the statement is supported by the cited testimony in the Wilson Declaration.

178. Many counties consolidate polling places in primary elections, with voters from more than one congressional district voting at the same location. This makes it difficult to figure out whether the voter lives in the right district to sign a petition. (Ex. 21: Wilson decl. ¶ 14).

Response: Defendant objects to this statement as argumentative and disputes that the statement is supported by the cited testimony in the Wilson Declaration.

179. Turnout in primaries tends to be lower than in general elections, and many of those who do turn out are ardent partisans who refuse to sign petitions for candidates who do not belong to their favored party. (Ex. 21: Wilson decl. ¶ 16.)

Response: Defendant objects to this statement of fact as not supported by admissible evidence. The cited testimony in the Wilson Declaration offers no support for the claim that primary elections have lower turnout and the voters present on primary day are “ardent partisans.” Furthermore, Wilson was not designated an expert witness by Plaintiffs, and his opinions on voter turnout trends and the political demographics of primary electorates are not admissible.

180. Georgia law prohibits petition-circulators from canvassing for signatures within 150 feet of a polling place. O.C.G.A. § 21-2-414(a). This often means that signature-gatherers never have the chance to interact with voters at a polling place. In many areas, the parking lot for a polling place is within the 150-foot radius. In others, the polling place is so close to the street that -petition circulators can only stand across the street. In rural areas, the 150-foot radius sometimes puts signature gatherers in the middle of the woods because there is no sidewalk or other place to stand. (Ex. 21: Wilson decl. ¶ 15.)

Response: Defendant objects to this statement as argumentative, irrelevant, and not material. Subject to these objections, Defendant admits that Georgia law prohibits petition-circulators from canvassing for signatures within 150 feet of a polling place.

XVIII. Public Concern about Disclosing Confidential Information

181. The form of a nomination petition calls for a voter to provide a name, signature, date of birth, residential address, county of residence, and date of signing. (Ex. 41: De La Fuente petition sheets and ENET printouts.)

Response: Admitted.

182. Georgia law considers a voter's date of birth and address to be confidential information. O.C.G.A. § 21-2-225(b).

Response: Defendant objects to this statement as an incorrect statement of law. The statute prevents the Secretary of State from disclosing this information; it does not prevent individuals from revealing this information to anyone.

183. In order to decrease the risk of identity theft, the Consumer Protection Division of the Georgia Department of Law advises individuals not to disclose their date of birth or residential address to members of the public. *See, e.g.*, <http://www.consumer.ga.gov/consumer-topics/identity-theft-socialnetworking>; <http://www.consumer.ga.gov/consumer-topics/identity-theftchild-identity-theft>.

Response: Defendant objects to this statement of fact as not material and not supported by the cited evidence. The referenced websites include information on not sharing personal information, such as date of birth and address, on social media or on the internet.

184. “A lot of people are terribly concerned about addresses being public.” (Ex. 23: Harvey dep. 109:14-24.) This was a significant issue in 2015 when the Secretary of State’s office inadvertently distributed copies of the state’s voter list with dates of birth and residential addresses exposed. The Secretary of State issued a statement warning affected voters to be vigilant for the possibility of identity theft as a result of the disclosure.

Response: Defendant disputes this statement as not supported by the cited transcript. The correct quote from Harvey says, “I don’t know that a lot of people are terribly concerned about addresses being public.” (Ex. 23: Harvey dep. 109:14-24).

185. The designee of the Secretary of State’s office admits that he would not disclose his date of birth to a stranger knocking on his door “without a very compelling reason.” (Ex. 23: Harvey dep. 107:20-24.) The designee concedes that requiring candidates to ask strangers for legally-protected confidential information in order to appear on the ballot is “a concern.” (Ex. 23: Harvey dep. 108-17-24.)

Response: Defendant disputes this statement as not supported by the cited transcript. There is nothing in the Harvey testimony that supports the claim that requiring candidates to ask for protected confidential information in order on the ballot is “a concern.”

186. Although a voter's date of birth and residential address are not required on a nomination petition, providing that information increases the chance that county election officials will be able to identify the signature. (Ex. 23: Harvey dep. 107:25-108:9.)

Response: Admitted.

187. In many cases, petition-signers do not supply their full date of birth or residential address. (Ex. 23: Harvey dep. 108:25-109:13.)

Response: Admitted.

188. Many potential petition-signers express reluctance to sign, or refuse to sign altogether, because of the confidential information called-for by the form and the possibility that it could be used for identity theft or other nefarious purposes. (Ex. 4: Coffield decl. ¶ 11-12; Ex. 6: Esco decl. ¶ 8; Ex. 7: Fisher decl. ¶ 8; Ex. 8: Gilmer decl. ¶ 13; Ex. 9: Graham decl. ¶ 13.)

Response: Defendant objects to this statement of fact as not supported by admissible evidence. The testimony in the cited witness declarations includes inadmissible hearsay statements.

XIX. Support for the Libertarian Party Nationwide and in Georgia

189. The Libertarian Party was founded in 1971 and is organized in all 50 states plus the District of Columbia. (Ex. 18: Sarwark decl. ¶¶ 5-6.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

190. The Libertarian Party is currently the third largest political party in the United States by voter registration. Among the 50 states plus the District of Columbia, there are 31 jurisdictions where a voter can register as a Libertarian. (Georgia does not register voters by party.) According to the most recent data collected by the party, there were 567,157 active voters registered as Libertarians in the fall of 2018—a 92 percent increase over the last 10 years. (Ex. 18: Sarwark decl. ¶ 14.)

Response: Defendant objects to this statement of fact as not material and irrelevant.

191. A 2010 study by David Boaz and David Kirby found that at least 14 percent of American voters have libertarian-leaning views. (Ex. 18: Sarwark decl. ¶ 15.)

Response: Defendant objects to this statement of fact as not material and irrelevant.

192. The Gallup Poll found in its 2015 Governance survey that 27 percent of respondents could be characterized as libertarians—the highest number that poll has ever found. And, in 2018, the same Gallup poll found that 57 percent of

Americans say that a third major political party is needed, marking the fifth straight year in which the poll found a majority support for a new third party. (Ex. 18: Sarwark decl. ¶ 16.)

Response: Defendant objects to this statement of fact as based upon inadmissible hearsay in the Sarwark Declaration. *See* Defendant's Objections to Plaintiffs' Evidence. A copy of the poll was not submitted or authenticated.

193. The Libertarian Party currently has automatic ballot access in 33 states plus the District of Columbia. Georgia is the only state in the nation that considers the Libertarian Party ballot-qualified for statewide offices but not for district offices. (Ex. 18: Sarwark decl. ¶ 17.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

194. The Libertarian Party runs hundreds of candidates in every election cycle. These candidates seek positions ranging from city council to President of the United States. The Libertarian Party had 833 candidates on ballots in 2018. (Ex. 18: Sarwark decl. ¶ 18.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

195. The Libertarian Party has placed a presidential candidate on the ballot in all 50 states and the District of Columbia on five separate occasions, most recently in 2016. (Ex. 18: Sarwark decl. ¶ 19.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

196. Nationwide, the Libertarian Party runs numerous candidates for U.S. Representative. It is only the third political party since 1916 to have had a candidate for U.S. Representative on the ballot in a majority of congressional districts across the country. (Ex. 18: Sarwark decl. ¶ 20.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

197. The Libertarian Party has had candidates for U.S. Representative appear on the ballot in every state in the nation except Georgia. (Ex. 18: Sarwark decl. ¶ 21.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

198. There are currently more than 180 elected officials affiliated with the Libertarian Party nationwide. There has been one statewide elected official and

members of five state legislatures affiliated with the Libertarian Party. (Ex. 18: Sarwark decl. ¶ 22.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

199. Fifty-four Libertarians were elected to office in 2018—a 59 percent increase over 2016. This includes the election of Jeff Hewitt as county supervisor in Riverside County, California. Hewitt’s district has a population larger than 15 different states and an annual budget of more than \$5 billion. (Ex. 18: Sarwark decl. ¶ 23.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

200. In the last ten years, Libertarian Party candidates have received tens of millions of votes. (Ex. 18: Sarwark decl. ¶ 24.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

201. The Libertarian Party’s nominee for President of the United States in the 2016 election, Gary Johnson, received 4,489,341 votes—the highest-ever vote total for a Libertarian candidate—which represented 3.28 percent of the popular

vote and the third highest vote total among the candidates in the race. (Ex. 18: Sarwark decl. ¶ 25.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

202. Nine different Libertarian candidates have received more than one million votes in statewide races since 2008. The first to do so was John Monds, the Libertarian Party's 2008 candidate of the Public Service Commission District 1 in Georgia. Three of the nine million-vote candidates were in Georgia. (Ex. 18: Sarwark decl. ¶ 26.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to these objections, Defendant does not dispute this statement.

203. The Libertarian Party has demonstrated that it has substantial support among Georgia's electorate. (Ex. 33: Answer ¶ 127; Ex. 37: election results.)

Response: Defendant objects to the statement that the Libertarian Party has "substantial support" as argumentative and not supported by admissible evidence. Subject to this objection, Defendant does not dispute the election results shown in Exhibit 37.

204. In 1988, the Libertarian Party of Georgia qualified to nominate candidates for statewide public office by convention when it submitted a party-

qualifying petition signed by at least one percent of the number of total number of registered voters at the preceding general election. *See* O.C.G.A. § 21-2-180(1). The party has retained that qualification under Georgia law in each election cycle since 1988 by nominating at least one candidate for statewide public office who received votes totaling at least one percent of the total number of registered voters who were registered and eligible to vote in that election. *See* O.C.G.A. § 21-2-180(2). (Ex. 33: Answer ¶ 128.)

Response: Admitted.

205. In the last ten years, Libertarian Party candidates for statewide public offices in Georgia have received more than five million votes. (Ex. 33: Answer ¶ 131; Ex. 37: election results.)

Response: Admitted.

206. In 2016, the Libertarian Party of Georgia's nominee for the Public Service Commission, Eric Hoskins, received 1,200,076 votes, which represents 33.4 percent of all votes cast in that contest and 22.0 percent of the total number of registered voters who were registered and eligible to vote in that election. Hoskins carried Clayton and DeKalb counties in that election. (Ex. 33: Answer ¶ 132.)

Response: Admitted.

207. In 2014, one of the Libertarian Party of Georgia’s nominees for the Public Service Commission, John H. Monds, received 710,408 votes, which represents 31.7 percent of all votes cast in that contest and 11.7 percent of the total number of registered voters who were registered and eligible to vote in that election. Monds carried Clayton, DeKalb, and Hancock counties. (Ex. 33: Answer ¶ 133.)

Response: Admitted.

208. In 2012, one of the Libertarian Party of Georgia’s nominees for the Public Service Commission, David Staples, received 1,095,115 votes, which represents 34.2 percent of all votes cast in that contest and 18.0 percent of the total number of registered voters who were registered and eligible to vote in that election. Staples carried Clayton, DeKalb, and Hancock counties. (Ex. 33: Answer ¶ 134.)

Response: Admitted.

209. In *Green Party of Georgia v. Kemp*, the Secretary of State repeatedly described the Libertarian Party as a political body “with significant support” in Georgia. (Ex. 33: Answer ¶ 135; Ex. 42: excerpts from appellant’s briefs.)

Response: Defendant admits that with respect to statewide elections, as was the case in *Green Party of Georgia v. Kemp*, candidates in the Libertarian Party of Georgia have at times received support from voters.

XX. The Libertarian Party's Platform and Policy Positions

210. The Libertarian Party's platform and position on contemporary issues reflect policy preferences that are distinct from those of the Democratic and Republican parties. (Ex. 18: Sarwark decl. ¶ 11.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

211. The Libertarian Party has adopted a national platform emphasizing personal liberty, economic liberty, balanced budgets, and national defense. The party has also taken policy positions on a number of contemporary issues. (Ex. 18: Sarwark decl. ¶¶9-10.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

212. On some contemporary issues, the Libertarian Party takes policy positions that are different from those offered by either the Democratic or the Republican party. For example, the Libertarian Party platform favors the repeal of laws creating victimless crimes, such as gambling, the use of drugs for medicinal

or recreational purposes, and consensual transactions for sexual services. The Party supports abolishing the Internal Revenue Service and phasing out the Social Security system. (Ex. 18: Sarwark decl. ¶ 12.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

213. On other contemporary issues, the Libertarian Party takes policy positions that align with those offered by the Democratic or Republican parties. For example, the Libertarian Party supports abolishing the death penalty, a position that the Democratic Party shares. The Libertarian Party also supports the individual right to keep and bear arms under the Second Amendment, a position that the Republican Party shares. (Ex. 18: Sarwark decl. ¶ 13.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

214. Candidates nominated by the Libertarian Party of Georgia have run on the party's national platform in addition to emphasizing unique or local campaign issues. (Ex. 3: Buckley decl. ¶ 11; Ex. 5: Cowen decl. ¶ 9; Ex. 8: Gilmer decl. ¶¶ 19-20.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

XXI. The National Impact of Georgia's Ballot-Access Restrictions

215. The national Libertarian Party has identified a set of Libertarian policy issues that a plurality of Americans supports, which the Republican and Democratic parties are not addressing. The national Libertarian Party would like to run a coordinated nationwide electoral campaign, pursuant to which Libertarian candidates for U.S. House in all 50 states and the District of Columbia will focus on promoting those policy issues. (Ex. 18: Sarwark decl. ¶ 27.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

216. In 1994, the Republican Party ran a coordinated nationwide campaign based on the “Contract with America.” Rather than campaign independently within each district, Republican candidates rallied behind the national message crafted by then-congressman Newt Gingrich. As part of that campaign strategy, the Republican Party attempted to run candidates in every congressional district in America, including districts in which they were almost certain to lose. The party succeeded in fielding candidates for more than 90 percent of the available seats and went on to win control of both houses of Congress in the 1994 election. (Ex. 18: Sarwark decl. ¶ 28; Ex. 33: Answer ¶ 137.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

217. Leading up to the 1994 campaign, the Georgia Republican Party waged a similar party-building campaign in Georgia. It ran a full slate of candidates for U.S. Representative in Georgia in 1990, 1992, and 1994. (Ex. 33: Answer ¶ 138.)

Response: Admitted.

218. Similarly, with coordination and support from the national Libertarian Party, Libertarian candidates for the U.S. House can run in all 50 states and the District of Columbia on a unified platform that presents the Libertarian Party as a viable alternative to the Republican and Democratic parties. That coordinated strategy and messaging will support Libertarian candidates for U.S. Representative and promote the party as a whole. (Ex. 9: Graham decl. ¶ 22; Ex. 18: Sarwark decl. ¶ 29.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

219. The exclusion of Libertarian candidates for U.S. Representative from the ballot in Georgia harms our coordinated national electoral strategy and prevents

us from presenting the Libertarian Party as a viable alternative for all voters nationwide. (Ex. 9: Graham decl. ¶ 23; Ex. 18: Sarwark decl. ¶ 30.)

Response: Defendant objects to this statement as argumentative and not supported by admissible evidence. Defendant further objects to the cited testimony as inadmissible opinion testimony by lay witnesses.

220. Georgia's ballot-access restrictions thereby have a ripple-effect across the nation. (Ex. 18: Sarwark decl. ¶ 31.)

Response: Defendant objects to this statement as argumentative and not supported by admissible evidence. Defendant further objects to the cited testimony as inadmissible opinion testimony by a lay witness.

XXII. Uncontested Congressional Elections in Georgia

221. Georgia's elections for U.S. Representative are among the most uncompetitive in the nation. (Ex. 22: Winger decl. ¶¶ 21-22.)

Response: Defendant objects to this statement as argumentative and a conclusory allegation not supported by admissible evidence. Defendant admits only that the evidence shows Georgia often has several uncontested general elections.

222. In the three election cycles from 2012 through 2016, Georgia has had 15 unopposed races for U.S. Representative—more than any other state in the

nation. That number represents almost 36 percent of its races for U.S. Representative over that period, which is a greater share than any other state in the nation except Massachusetts. (Ex. 22: Winger decl. ¶ 23; Ex. 33: Answer ¶ 118) *See* Federal Election Commission, *Federal Elections 2016* at 89-184 (2017); Federal Election Commission, *Federal Elections 2014* at 33-125 (2015); Federal Election Commission, *Federal Elections 2012* at 77-177(2013).

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute the cited reports from the Federal Election Commission.

223. In 2016, the winning candidate ran unopposed in the general election in five (35.7%) of Georgia's 14 congressional districts: the First, Ninth, Tenth, Thirteenth, and Fourteenth. No other state had more than four unopposed races for U.S. Representative in 2016, and only two states, Alabama (42.8%) and Massachusetts (44.4%), had a greater share of their races for U.S. Representative unopposed. (Ex. 22: Winger decl. ¶ 24; Ex. 33: Answer ¶ 119.) *See* Federal Election Commission, *Federal Elections 2016* at 89-184 (2017).

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

224. In 2014, the winning candidate ran unopposed in the general election in seven (50.0%) of Georgia's 14 congressional districts: the Third, Fourth, Fifth, Eighth, Eleventh, Thirteenth, and Fourteenth. No other state had more than six unopposed races for U.S. Representative in 2014, and only one state, Massachusetts (66.7%), had a greater share of its races for U.S. Representative unopposed. (Ex. 22: Winger decl. ¶ 25; Ex. 33: Answer ¶ 120.) *See* Federal Election Commission, *Federal Elections 2014* at 33-125 (2015).

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

225. In 2012, the winning candidate ran unopposed in the general election in three (21.4%) of Georgia's 14 congressional districts: the Third, Eighth, and Tenth. No other state had more than two unopposed races for U.S. Representative in 2012, and only two states, Kansas (25%) and Massachusetts (22.2%), had a greater share of their races for U.S. Representative unopposed. (Ex. 22: Winger decl. ¶ 26; Ex. 33: Answer ¶ 121.) *See* Federal Election Commission, *Federal Elections 2012* at 77-177 (2013).

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

XXIII. Special Elections for U.S. Representative in Georgia

226. Georgia uses a different set of ballot-access rules in special elections to fill vacancies in the office of U.S. Representative. (Ex. 27: First Admissions ¶ 20.)

Response: Admitted.

227. Those rules do not distinguish between candidates affiliated with a political party, candidates affiliated with a political body, and independent candidates. (Ex. 27: First Admissions ¶ 21.)

Response: Admitted.

228. In order to appear on the ballot in a special election for U.S. Representative, each candidate must submit a notice of candidacy and the qualifying fee by the date specified for that election. No nomination petition is required. Every candidate who submits a notice of candidacy and qualifying fee, and who otherwise meets the qualifications for the office, appears automatically on the special-election ballot. (Ex. 27: First Admissions ¶ 22.)

Response: Admitted.

229. In the last 50 years, Georgia has held six special elections to fill a vacancy in the office of U.S. Representative. In 2017, Georgia held a special election in the Sixth Congressional District. In 2010, Georgia held a special

election in the Ninth Congressional District. In 2007, Georgia held a special election in the Tenth Congressional District. In 1999, Georgia held a special election in the Sixth Congressional District. In 1983, Georgia held a special election in the Seventh Congressional District. And, in 1977, Georgia held a special election in the Fifth Congressional District. (Ex. 27: First Admissions ¶ 23.)

Response: Admitted.

230. In each special election for U.S. Representative in Georgia in the last 50 years, at least one independent candidate or candidate affiliated with a political body appeared on the special-election ballot. (Ex. 27: First Admissions ¶ 24.)

Response: Admitted.

231. There were two independent candidates on the ballot in the special congressional election held in 2017. (Ex. 37 at 11: election results.)

Response: Admitted.

232. There was one independent candidate on the ballot in the special congressional election held in 2010. (Ex. 37 at 30: election results.)

Response: Admitted.

233. There was one political-body candidate on the ballot in the special congressional election held in 2007. (Ex. 37 at 35: election results.)

Response: Admitted.

234. There were “a lot of candidates on the ballot” in the most recent special congressional election, held in 2017, and the Secretary of State’s office is not aware of any widespread reports of voter confusion in that race. (Ex. 23: Harvey dep. 182:13-183:15.)

Response: Admitted.

235. The Secretary of State’s office is not aware of any elections where voters have reported significant amounts of confusion based on the number of candidates on the ballot. (Ex. 23: Harvey dep. 183:16-19.)

Response: Admitted.

XXIV. Runoff Elections in Georgia

236. Georgia’s ballot-access restrictions are not necessary to reduce the number of run-off elections, especially runoffs in a general election for federal offices. (Ex. 22: Winger decl. ¶ 38.)

Response: Disputed. Dr. Stein testified that addition of third party and Independent candidates on the ballot increases the likelihood of a runoff election. Doc. 73-15 at 7 ¶ 23.

237. Run-off elections in contests for U.S. Representative are not required by federal law: Georgia could simply eliminate them. (Ex. 25: Winger dep. 38:10.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant admits that the United States Constitution allocates the power of state election regulation to the states and not the federal government.

238. Georgia is one of only two states to use runoffs in any general elections. Louisiana is the other. (Ex. 22: Winger decl. ¶ 39.)

Response: Admitted.

239. Runoff elections can be avoided altogether by using ranked-choice voting. (Ex. 22: Winger decl. ¶ 41.)

Response: Defendant objects to this statement of fact as not material. Defendant objects further to Winger's testimony on this subject as he is not qualified to testify as a political scientist.

240. The State of Maine uses ranked-choice voting in general elections to elect U.S. Senators and U.S. Representatives. In 2018, a federal district court upheld the state's ranked-choice system against a constitutional challenge brought by a losing congressional candidate. The court of appeals denied the candidate's motion for an emergency injunction against the system, and the candidate later dropped his appeal. (Ex. 29: Second Admissions ¶ 44.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

241. Five states (Arkansas, Alabama, Louisiana, Mississippi and South Carolina) use ranked-choice voting for overseas voters in runoff elections for federal offices. (Ex. 29: Second Admissions ¶ 45.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

242. The Secretary of State's office is not aware of any voter confusion in the states where instant runoff voting has been used. (Ex. 23: Harvey dep. 182:4-7.)

Response: Defendant objects to this statement of fact as it misstates the cited testimony. Harvey testified that instant runoff voting "can be very confusing to voters and that it could cause voters to spoil their ballot or mis-vote their ballot or not get their choices in a run-off done properly." *See* Ex. 23: Harvey Dep. at 181:15-24.

243. Runoffs in general elections for federal office are rare. Georgia has had only two general runoffs for the United States Senate since 1988, when the Libertarian Party became qualified to nominate candidates for U.S. Senator without a petition. (Ex. 22: Winger decl. ¶ 40.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

244. The Secretary of State's office has not quantified the expense to the State of holding a runoff election. (Ex. 23: Harvey dep. 178:12-15.)

Response: Defendant objects to this statement of fact as it misstates the cited testimony. Defendant admits only that the Secretary of State's office has not quantified the expense of run-off elections that have occurred in statewide races featuring a Libertarian Party candidate.

245. There is no significant marginal cost for having a congressional runoff in addition to a runoff for a statewide race. (Ex. 23: Harvey dep. 179:7-12.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement so long as both run-off elections were held on the same day. Georgia law provides for separate run-offs. *See* O.C.G.A. § 21-2-501(a)(3) (general election run-off for federal office) and § 21-2-501(a)(4) (general election run-off for state office).

246. In the 2016 election cycle across the country, there were only nine general elections for U.S. Representative out of 435 (2.1 percent) where the winner received less than 50 percent of the vote. (Ex. 25: Winger dep. 38:13- 22.) Among the 370 contests for U.S. Representative where there were more than two

candidates on the ballot, there were only eight general elections (2.2 percent) where the winner received less than 50 percent of the vote. (Ex. 25: Winger dep. 40:15-41:7.)

Response: Defendant objects to this statement of fact as not material and irrelevant. Subject to this objection, Defendant does not dispute this statement.

247. The Secretary of State's office has done no analysis to determine how many additional runoffs would result if the Libertarian Party had ballot access and has no factual support for its claim that allowing the Libertarian Party to have ballot access could conceivably result in more runoffs. (Ex. 23: Harvey dep. 176:21-177:10.)

Response: Defendant objects to this statement of fact as it misstates the cited testimony. Harvey testified that the Secretary of State's office had not done an analysis to determine whether it would increase the number of run-offs if the Libertarian Party were included in non-statewide races.

248. Georgia has runoff elections in virtually every election cycle because of contested primary elections for political-party candidates. (Ex. 23: Harvey dep. 175:24-175:13, 180:1-4.) Primary runoffs are slightly more expensive than general runoffs. (Ex. 23: Harvey dep. 179:13-25.)

Response: Admitted.

Respectfully submitted,

Christopher M. Carr 112505
Attorney General

Annette M. Cowart 191199
Deputy Attorney General

Russell D. Willard 760280
Senior Assistant Attorney General

/s/Cristina M. Correia
Cristina M. Correia 188620
Senior Assistant Attorney General

/s/ Charlene S. McGowan
Charlene S. McGowan 697316
Assistant Attorney General

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404-656-7063
Fax: 404-651-9325

CERTIFICATE OF COMPLIANCE

I hereby certify that the forgoing Defendant's Response to Plaintiffs' Statement of Facts was prepared in 14-point Times New Roman in compliance with Local Rules 5.1(C) and 7.1(D).

Certificate of Service

I hereby certify that I have electronically filed **Defendant Brad Raffensperger's Response to Plaintiffs' Statement of Material Facts** using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: NONE

This 7th day of August, 2019.

/s/Cristina Correia
Cristina Correia 188620
Senior Assistant Attorney General

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

James L. "Jimmy" Cooper, III, et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his official
capacity as Secretary of State of
the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Declaration of
Scott Cambers**

1. My name is Scott Cambers. I am 28 years old. I am a registered voter in Georgia's House District 124, and I meet all of the qualifications for the office of State Representative.
2. I am running as an independent candidate for State Representative in Georgia's House District 124, which is centered in Richmond County.
3. I am running because I am a true independent. The incumbents in my district have generally run unopposed, and I want to give the voters a choice.
4. My top three issues are implementing term limits, improving public transit, and reforming the bail system.

5. I filed my notice of candidacy with the Secretary of State on March 4, 2020, and I paid the qualifying fee on the same day.

6. The incumbent in my district is again running without opposition in the primary or general election.

7. According to the Secretary of State, I am required to file a nomination petition containing at least 1,551 valid signatures in order to appear on the general-election ballot.

8. I had planned to go door to door collecting signatures in my district, and I had eight to ten volunteers lined up to help me.

9. I requested a list of registered voters in my district from the Secretary of State in early March, but it did not arrive until the last week of March.

10. By then, my volunteers had withdrawn due to the pandemic and soon there was a shelter-in-place order preventing all petitioning.

11. In my view, the Secretary of State's decision to extend the deadline for nomination petitions by 31 days is not enough to make up for the effect of the pandemic. As a practical matter, I lost more than 31 days due to the Secretary's slow response to my request for a voter list, public fear over the emerging crisis, and, of course, the time under the governor's shelter-in-place order.

12. I also think that voters are going to be hesitant to interact with strangers for some time. I am hesitant to do so, fearing for my own health and

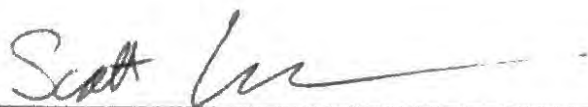
safety. My friends and potential campaign volunteers remain hesitant to resume petitioning.

13. If and when I do decide to resume petitioning, I don't think I'll be able to gather signatures at the same rate as I was before the pandemic hit. Based on the reactions I've received since then, I don't think petitioning will be back to normal at all this summer.

14. I will certainly try, but, under the circumstances of this pandemic, I don't think I have a realistic means of obtaining the signatures I need for ballot access.

15. The coronavirus pandemic has hurt my candidacy in another way. I want to set up a bank account for my campaign committee in order to raise money online. But my bank requires a copy of the paperwork that I submitted to the Georgia Government Transparency and Campaign Finance Commission to register my committee. Because of the coronavirus, my paperwork didn't get scanned into the Commission's system before the government lockdown. And because the Commission's office remains closed, Commission staff are unable to go into the office to make a copy for me. As a result, I cannot get the paperwork that I need to raise money for my campaign. I certainly would have used that money to support my petitioning efforts.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May 7th, 2020.

A handwritten signature in black ink, appearing to read "Scott Cambers", written over a horizontal line.

Scott Cambers
Augusta, Georgia

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

**James L. “Jimmy” Cooper,
III**, et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Declaration of
Jimmy Cooper**

1. My name is James L. Cooper, III. I go by “Jimmy.”
2. I am a registered voter in the State of Georgia, and I meet all of the qualifications for the office of U.S. Representative in Georgia’s Eighth Congressional District.
3. I am 51 years old.
4. I am a member of the Georgia Green Party.
5. I was nominated on February 22, 2020, to be the Georgia Green Party’s candidate for U.S. Representative in Georgia’s Eighth Congressional District.

6. I want to appear on the general-election ballot in 2020 as the nominee of the Georgia Green Party.

7. I have developed an extensive platform, which is available on my website: <https://jimmycooperforcongress.com/>.

8. Once I earned the Green Party's nomination, I focused my efforts on raising the money necessary to pay the qualifying fee.

9. I filed my notice of candidacy with the Secretary of State on March 3, 2020, and I paid the qualifying fee on the same day.

10. According to the Secretary of State, I am required to file a nomination petition containing at least 20,719 valid signatures in order to appear on the general-election ballot.

11. I had planned to gather the signatures required for ballot access by coordinating with the Green Party's presidential candidates. I had been in discussions with the two leading candidates to fund as many as three full-time petition-circulators in the Eighth District. Those circulators would then gather signatures for the presidential campaigns and for my campaign at the same time. The circulators would also recruit and organize volunteers to assist in the petitioning efforts. Those plans fell through, however, when the public health crises caused by the coronavirus emerged in the middle of March.

12. Even now that the governor has partially lifted the shelter-in-place order, I am hesitant to resume petitioning out of concern for my own health and safety and the health and safety of others. Public health officials have expressed concern that Georgia has reopened too soon, and they continue to recommend social-distancing measures. Although I am reasonably young and healthy, I take care of my elderly mother who has a variety of health problems. I also work closely with an individual who has a compromised immune system. I would not want to catch the virus through petitioning efforts and then expose people who are more at risk than I am.

13. This is not my first experience with petitioning. I gathered signatures for the Green Party's presidential nominee, Jill Stein, in 2016, and I gathered signatures for my own campaign as the Green Party's nominee for U.S. Representative in 2018.

14. Based on my experience over three election cycles, I don't think it's reasonable to expect petitioning to return to normal any time soon. There are basically two ways to petition: go door-to-door or find large crowds of like-minded people. People are not going to open their doors to masked strangers or be willing to share pens and clipboards with them until after the threat of the coronavirus has passed. And there are no crowds anymore even under the governor's current orders.


15. I am hesitant to petition myself under these circumstances, and I don't think I could get volunteers to petition, either.

16. Under normal circumstances, a single petitioner might gather six to eight signatures per hour, but that is likely to be much less now. And I would need an army of petitioners to have a chance to meet the signature requirement.

17. I believe that, in light of the coronavirus pandemic, it would be impossible for me to gather the required number of signatures to appear on the general-election ballot. As a result, I do not have any reasonable way to obtain ballot access in 2020.

18. I believe that the requirement to pay \$5,220 to the Secretary of State of Georgia as a condition to appear on the ballot is a sufficient barrier to ballot access for the purpose of excluding frivolous candidates.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct. Executed on May 7, 2020.


Jimmy Cooper
Lizella, Georgia

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

**James L. “Jimmy” Cooper, III, et
al.,**

Plaintiffs,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Declaration of
Martin Cowen**

1. My name is Martin Cowen. I am 68 years old. I am a registered voter in Georgia’s Thirteenth Congressional District, and I meet all of the qualifications for the office of U.S. Representative.

2. I was admitted to the practice of law in Georgia in 1975. While I am presently a mostly retired lawyer, I practiced law from 1975 to present. For a period of a few years until December 2015, I was, by appointment, an Associate Judge of the Probate Court of Clayton County, Georgia.

3. I am married. My wife and I have two young-adult sons, the oldest of which is totally disabled, and my most important function in life is that of stay-at-home dad.

4. To the best of my recollection I attended the first state convention of the Libertarian Party of Georgia in 1972.

5. I have self-identified as a Libertarian since that time.

6. I am a member of the Libertarian Party of Georgia. I am a Lifetime member of the National Libertarian Party.

7. I was nominated on January 19, 2020, to be the Libertarian Party of Georgia's candidate for U.S. Representative in Georgia's Thirteenth Congressional District.

8. I want to appear on the general-election ballot in 2020 as the nominee of the Libertarian Party of Georgia.

9. My policy positions include: (1) Stop Undeclared Wars; (2) Abolish VA. Give disabled veterans Congress's health care plan; (3) Privatize Health Care; (4) Eliminate Student Loan Program. Make existing loans bankruptable; (5) Reduce Federal Spending; (6) Protect Second Amendment Rights; (7) Abolish TSA; (8) Stop NSA surveillance of Americans; and (9) Repay National Debt by Selling Federal Lands and other Assets

10. I filed my notice of candidacy with the Secretary of State on March 2, 2020, and the qualifying fee was paid on the same day.

11. According to the Secretary of State, I am required to file a nomination petition containing at least 24,503 valid signatures in order to appear on the general-election ballot.

12. I had planned to launch my petition drive by collecting signatures at a polling place in Douglas County, which is the only county wholly within the Thirteenth Congressional District, during the March 24 Presidential Preference Primary. I found a polling place where I could set up a table just outside of the 150-foot buffer zone required by Georgia law, and I coordinated my plans with county election officials.

13. The coronavirus pandemic, and the Secretary of State's postponement of the March 24 primary, have severely hampered my petitioning efforts.

14. Because I am over the age of 65, I believe that it has been and continues to be unlawful for me to engage in petitioning.

15. Governor Kemp's latest order requires me to remain sheltered in place through at least June 12, which is past the date of the rescheduled primary. That means that I will not have an opportunity to collect signatures at that time.

16. I believe that, in light of the coronavirus pandemic, it would be impossible for me to gather the required number of signatures to appear on the general-election.

17. I was also the Libertarian Party of Georgia's nominee for U.S. Representative in Georgia's Thirteenth Congressional District in 2018.

18. In 2018, I timely filed my notice of candidacy and paid the qualifying fee. I made a genuine effort to qualify for the ballot, but I was unable to gather the required number of signatures.

19. I spent approximately 120 hours circulating my nomination petition, mostly by going door to door in my district. I was only able to gather approximately 620 signatures, a rate of approximately five signatures per hour.

20. Among the difficulties I faced while petitioning are these:

- a. entire subdivisions barred by the presence of "No Soliciting" signs;
- b. an entire subdivision barred by emphatic "No Trespassing" signs;
- c. individual houses barred by "No Trespassing" signs;
- d. houses with inaccessible front doors (behind screened porches or gates);
- e. voters at home who do not answer their doors;
- f. voters who refuse to provide their birthdates for fear of identity theft;
- g. entire communities that are gated;

h. the Federal legal requirement to pay owners of corporate property owners to petition on the corporate property in order to avoid illegal “in-kind” contributions from corporations (I never actually did this, but I did inquire of the Federal Election Commission about the matter).

21. My experience in 2018 convinces me that it is virtually impossible to qualify for the general-election ballot in Georgia as a third-party candidate for U.S. Representative under present law. The number of signatures required is simply too great to gather in the allotted time.

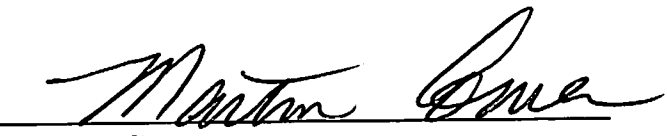
22. My experience in 2018 also convinces me that gathering signatures door-to-door is likely to be even harder in 2020 because of the pandemic. People are going to be even less likely to open their doors to petitioners while there remains a possibility of catching a potentially deadly disease. And this is likely to continue well after the shelter-in-places orders are lifted.

23. I had planned to try a different approach to petitioning in 2020 by gathering signatures at polling places. But the pandemic disrupted those plans. As a result, I do not have any reasonable way to obtain ballot access in 2020.

24. I believe that the requirement to pay \$5,220 to the Secretary of State of Georgia as a condition to appear on the ballot is a sufficient barrier to ballot access for the purpose of excluding "non-serious" candidates.

25. I am a serious candidate. I have been actively campaigning for the seat since shortly after the 2018 election.. One of my main campaign activities is communicating with politicians (mostly current office holders) by mail. I have an online presence in the form of my CowenforCongress.com website. I am active on Twitter @mlcowen. I am active on my CowenforCongress Facebook page. I have performed community service recently with the Libertarian Party of Atlanta. I met with a potential Libertarian candidate and a party activist recently in Newnan. I assisted the Libertarian Party of Georgia with its recent fund raising efforts in support of the present litigation (court costs) by promoting the fundraiser online on social media. In February 2020, I mailed hundreds of letters to my Clayton County neighbors and to a single street in Douglas County to prepare the way for door-to-door petitioning at those homes.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May 7, 2020.


Martin Cowen
Jonesboro, Georgia

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

**James L. “Jimmy” Cooper,
III**, et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his
official capacity as Secretary of
State of the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Declaration of
Hugh Esco**

1. My name is Hugh Esco. I am a registered voter in Georgia’s Sixth Congressional District.
2. I am a founding member, longtime officer, and current secretary of the Georgia Green Party.
3. The Georgia Green Party filed with the Secretary of State, its governing documents in 1996 and is an accredited members of the Green National Committee, recognized by the Federal Elections Commission as the Green Party of the United States.

4. The Georgia Green Party is a political body within the meaning of O.C.G.A. § 21-2-170. The party is registered under O.C.G.A. § 21-2-110(a) and (b).

5. The Georgia Green Party has participated in every presidential election since 1996 and expects to do so again this year. The party is prepared to submit its slate of presidential electors before the June deadline, to pay the qualifying fees, and to meet all of the other qualifications to have its presidential candidate appear on the ballot in the 2020 general election.

6. The Georgia Green Party held a nominating convention in Bonaire Georgia nominating two candidates for Congressional offices on February 22, 2020. At that time, we also provided for 16 individuals to serve as presidential electors for the Green Party's presidential slate to be nominated by the national party's Quadrennial Presidential Nominating Convention, July 10th through 12th, 2020, originally planned for Detroit, but now expected to be an online event.

7. The party had planned to begin gathering signatures for its slate of presidential electors shortly thereafter, but the petition form available on the Secretary of State's website was out of date—it only had space for 15 electors. (Georgia had 15 electors in 2004 and 2008.) I contacted the

Secretary of State's office multiple times about the issue, but the office did not post an updated form until March 24, 2020. At that point, the state was already in the throes of the pandemic, and we could not begin petitioning.

8. Over the course of my involvement with the Georgia Green Party, I have coordinated or otherwise been involved with numerous petition drives. I have coordinated or been involved with petition drives for Green Party candidates for President, other statewide offices, U.S. Representative, members of the Georgia General Assembly and candidates for county offices. I have also coordinated or been involved with the Georgia Green Party's petitions attempting to qualify to nominate candidates for statewide office by convention under O.C.G.A. § 21-2-180. As a result of those petition drives, I have over the years filed tens of thousands of signatures with the Georgia Secretary of State, having personally collected perhaps seven or ten thousand of those signatures, myself.

9. In my experience, without cash to hire full time petition circulators, Georgia's signature requirements for independent and political-body candidates for U.S. Representative are not realistically achievable, even without the challenges of pandemic conditions.

10. The number of signatures required is simply too high to collect in

the time available, and the time afforded for this activity extends across vast swaths of the calendar when the average voter is not thinking about elections. This is particularly true because the Secretary of State's office routinely rejects a high proportion of signatures as invalid. In 2016, for example, the Secretary of State rejected nearly half of the signatures collected for the Green Party's nominee for President, Dr. Jill Stein. Also in 2016, I have been told that the Secretary of State rejected more than half of the signatures collected by independent candidate Rocky De La Fuente. Our efforts to pre-validate signatures against the list of registered voters show that inexperienced circulators rarely do better than a 50% validation rate and that even our most experienced petition circulators rarely top a 70% validation rate. As a result of the low validation rates, in my experience, a party or candidate needs to collect at least double the number of raw signatures as are required.

11. In my view, the sheer burden of collecting tens of thousands of signatures is compounded by at least four additional factors. First is that 'traditional public fora' where petitioning has long been Constitutionally protected and used to take place, such as public streets and town squares, have become increasingly privatized into shopping malls and the like.

Second is that the automobile has insulated voters from circulators.

Potential signers drive right past our circulators as they go to park at privatized strip malls and shopping centers, generally inaccessible to our petitioning activities. Third is that concerns about identity theft have made many potential signers wary about sharing their personally identifying information like birth dates and home addresses. And fourth is that petition circulators, even when canvassing legally on public property, are often harassed by police officers and others unaware or unconcerned about the Constitutional right to petition necessary to comply with the law. Green Party petitioners have been harassed repeatedly, given ‘move-along’ orders and ‘criminal trespass warnings’ by uniformed law enforcement, threatened with arrest and on at least one occasion, arrested, while gathering signatures in public parks, and this makes it very difficult to attract and maintain volunteers willing to serve as circulators.

12. It might be possible for a candidate to meet the requirement with paid petition circulators, but that would take a huge sum of money.

Professional petition circulators typically charge \$2-\$5 per signature collected (with costs escalating as deadlines approach), plus expenses for travel, lodging and incidentals. Based on my experience with paid petition

circulators, I would estimate that an independent or political-body candidate for U.S. Representative would need more than \$75,000, and that number is also not a realistic fundraising goal for the ballot access efforts of a candidate for an emerging political party not beholden to monied corporate interests. Either a candidate would have to have immense personal wealth or the ability to raise that money within the limits of federal campaign finance laws. But I have found that raising money for signature-gathering is very difficult. Donors generally do not want to give money for that purpose. A few election cycles ago, our work to run Cynthia McKinney, who had served six terms in Congress for a come-back bid as a Green were aborted due to her campaign's inability to raise the cash necessary to overcome the ballot access barriers.

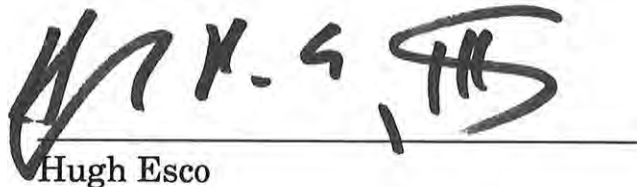
13. At least three Green Party candidates for U.S. Representative have made a genuine effort to satisfy Georgia's ballot-access requirement but were unsuccessful.

14. I do believe, however, that Georgia's new signature requirement might be achievable in a normal year. The presidential petitions of Jill Stein and perhaps as well that for Rocky De La Fuente would have been successful but (a) for the Secretary of State's petition-checking process that invalidates so many signatures, (b) for the resolution of our 2012 ballot access challenge

half way through the 2016 petitioning window, and (c) that taking advantage of the interim relief provided by Judge Story's Order required that we abandon nearly a thousand signatures collected on the 21-2-180 petition (to qualify a political body to nominate by petition, candidates for state-wide office), to take advantage of the interim relief provided under the 21-2-170 for independent candidates.

15. My experience with petitioning in Georgia convinces me that gathering signatures door-to-door is likely to be even harder in 2020 because of the pandemic. People are going to be even less likely to open their doors to petitioners while there remains a possibility of catching a potentially deadly disease. And this is likely to continue well after the shelter-in-place orders are lifted.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May ^{8th}_____, 2020.



Hugh Esco

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

James L. “Jimmy” Cooper, III, et al.,

Plaintiffs,

vs.

Brad Raffensperger, in his official
capacity as Secretary of State of
the State of Georgia,

Defendant.

Case No. 1:20-cv-01312-ELR

**Declaration of
Joe Reed**

1. My name is Joe Reed. I am 62 years old. I am a registered voter in Georgia’s House District 129, and I meet all of the qualifications for the office of State Representative.

2. I am a semi-retired educator. I still teach approximately 15 to 20 hours per week.

3. I am running as an independent candidate for State Representative in Georgia’s House District 129, which includes parts of Butts, Monroe, Jasper, and Jones counties.

4. I am running because I am disgusted with both of the major parties. I have voted for Republicans, Democrats, and Libertarians in the past.

5. I have developed an extensive platform, which is available on my website: <https://www.joereed4gastatehouse.com/>.

6. I filed my notice of candidacy with the Secretary of State on March 3, 2020, and I paid the qualifying fee on the same day.

7. According to the Secretary of State, I am required to file a nomination petition containing at least 1,710 valid signatures in order to appear on the general-election ballot.

8. Having decided last year that I wanted to run as an independent, I started collecting signatures very early in the 180-day period.

9. I went door-to-door gathering signatures in communities in my district, walking between four and eight miles on each outing. Because I am semi-retired, I spent 15-20 hours per week collecting signatures from January until the first week of March. In total, I was able to gather approximately 1,000 signatures at the rate of 8-10 signatures per hour.

10. After the first week of March, however, the wheels fell off my petitioning campaign. Even before the governor declared a public health emergency, people I solicited would not come to their door at a much greater rate than before the coronavirus pandemic emerged.

11. That led me to try a different strategy. I took out some targeted Facebook ads to publicize planned campaign events in town squares in my district at which I would set up a table and solicit signatures in a central location. Those ads yielded a strong negative reaction, accusing me of endangering public

health, on my campaign's Facebook page. I decided that I would have to cancel those events rather than risk further enflaming my would-be constituents. Since then, I have been unable to gather a single signature.

12. Because of the negative reaction to my Facebook ad, I have not yet resumed petitioning even though it may now be technically legal for me to do so in a limited way as long as I maintain six feet between myself and prospective signers. I am concerned that resuming my petitioning efforts now would upset people in my district who remain anxious about the virus and its effects.

13. In addition, many of the signatures I obtained before the pandemic hit were from the elderly and other people who stay at home during the day. Based on my understanding of the governor's shelter-in-place orders, it may be unlawful for these kinds of people to open their doors to petitioners like me until at least June 12.

14. If and when I do decide to resume petitioning, I don't think I'll be able to gather signatures at the same rate as I was before the pandemic hit. Based on the reactions I've received since then, I don't think petitioning will be back to normal at all this summer.

15. I will certainly try, but, under the circumstances of this pandemic, I don't think I have a realistic means of obtaining the signatures I need for ballot access.

16. Attached to this declaration as exhibit A is a true and correct copy of a letter that I emailed to the Secretary of State's office on May 2, 2020. I have yet to receive a reply.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on May 6, 2020.

A handwritten signature in cursive script, reading "Joe Reed", is written over a horizontal line.

Joe Reed
Jackson, Georgia

Joe Reed

Running to Represent You in Georgia House District 129
P.O. Box 302, Jackson, GA 30233
770-441-1683

JoeReed4GAStateHouse@gmail.com

<https://www.facebook.com/joereed4gastatehouse>

<https://www.joereed4gastatehouse.com>



The Office of Secretary of State
2 Martin Luther King Jr., Drive
802 West Tower
Atlanta, GA 30334

May 2, 2020

Dear Secretary of State Raffensperger,

I can barely imagine the challenges you are facing as an elected official during this pandemic. Preparing for a major election would be a monumental task without the implementation of new equipment and the tremendous health crisis. My request as an Independent candidate for House District 129 is that you work with Governor Kemp to remove the signature requirement for this election for all independent and small party candidates.

I began my efforts to secure more than 1700 signatures in January. Being in rural Georgia I could not sit outside a Walmart asking for signatures. Instead I walked 15-25 miles a week and collected about 1000 signatures over a ten-week span. Then COVID-19 began to have an impact. In the month of March, I collected fewer than 50 signatures. In April, I didn't collect any. I decided it was too unsettling to knock on someone's door and ask for a signature. There's no way to guarantee a safe situation for the resident or for me.

During that time, I know you pushed back the deadline by at least a month. But I have lost two months, and with the elderly and infirm residents being asked to shelter in place until at least mid-June, I will never be certain which door to knock on and which would be a disconcerting intrusion. In addition, no one is predicting that political campaigning will be back to normal during this election cycle and soliciting signatures is much more challenging than just spreading a message.

If you don't believe that the signature requirement should be removed or, at the very least, severely reduced, I ask that you spend a day walking with me as I attempt to get the signatures required of me by state law. While I believe you're too busy to do that, I do want you to fully understand the requirement imposed on me and many other candidates.

I wish you the best in these challenging times and I look forward to a prompt response to my request.

Sincerely,

Joe P. Reed
Candidate for Georgia House District 129

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- Exhibit 18 Order, *Cowen v. Raffensperger*, Civ. No. 1:17-CV-4660-LMM (N.D. Ga. Sept 23, 2019) (ECF 113)
- Exhibit 19 Def's Resp. to Pls. Statement of Undisputed Material Facts, *Cowen v. Raffensperger*, Civ. No. 1:17-CV-4660-LMM (N.D. Ga. Aug. 07, 2019) (ECF 97)
- Exhibit 20 Declaration of Scott Chambers
- Exhibit 21 Declaration of Jimmy Cooper
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