

**United States District Court
Northern District of Georgia
Gainesville Division**

**Fair Fight, Inc., Scott Berson, Jocelyn
Heredia, and Jane Doe,**

Plaintiffs,

v.

**True the Vote, Inc., Catherine
Engelbrecht, Derek Somerville, Mark
Davis, Mark Williams, Ron Johnson,
James Cooper, and John Does 1-10,**

Defendants.

Civ. No. 2:20-cv-00302-SCJ

Hon: Steve C. Jones

Defendants’ Motion for Summary Judgment

Pursuant to Federal Rule of Civil Procedure 56, Defendants True the Vote, Inc. (“TTV”), Catherine Engelbrecht, Derek Somerville, Mark Davis, Mark Williams, Ron Johnson, and James Cooper (collectively, “**Named Defendants**”), file this Motion for Summary Judgment.

Federal Rule of Civil Procedure 56(a) 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.” The undisputed facts show that Named Defendants never contacted Challenged Voters directly; that they carefully analyzed the data underlying their Voter Challenges, and that they submitted Voter Challenges in accordance with Georgia law. They never threatened legal, economic, or physical harm to any Challenged Voter. Their purpose was clear and lawful: alert the proper government officials charged with ensuring free and fair elections in Georgia that the Challenged Voters *may* not have been legally eligible to cast ballots in the 2021 Senate Run-off Election in an effort to prevent vote dilution of those voters who were *legally* eligible to cast ballots in that election. Therefore, Named Defendants did not violate § 11(b) of the Voting Rights Act of 1965.

Pursuant to Local Rule 7.1(A)(1), Named Defendants have also filed with their motion a brief citing the legal authorities supporting the motion and the facts relied upon. Pursuant to Local Rule 56.1(B)(1), Named Defendants have included with this Motion a separate numbered statement of the material facts to which the Named Defendants contend there is no genuine issue to be tried. Further, pursuant to the Instructions for Cases Assigned to The Honorable Steve C. Jones, all

citations in the brief in support of this Motion reference the paragraph, page, and/or transcript line numbers where the referenced evidence can be found. III. Case Management, I. Motions for summary judgment.

Pursuant to Local Rule 7.1(E), Named Defendants request oral argument on this Motion. See also III. Case Management, J. Requests for oral argument on motions. This case involves complex federal statutory and constitutional questions of law, some of which have not been addressed directly by the Eleventh Circuit. In addition, the record in this case is substantial. Therefore, oral argument will assist this Court in reaching its judgment on the motion.

WHEREFORE, Named Defendants, pray this Court grant their Motion for Summary Judgment, thereby denying all Plaintiffs' requested relief.

Dated: May 16, 2022

/s/ David F. Guldenschuh

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Respectfully Submitted,

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**Admitted Pro hac vice*