

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

**SOLICITOR GENERAL  
BRIAN W. WHITESIDE  
Plaintiff**

**v.**

**CIVIL ACTION No.**

**Brad Raffensperger in his official capacity of the Secretary of State for the  
State of Georgia, Rebecca N. Sullivan, David Worley, Matthew Mashburn,  
and Anh Le in their official capacities as members of the State Election Board**

**Defendant.**

**COMPLAINT FOR INJUNCTIVE AND DECLARTORY RELIEF  
52 U.S.C. 10301, 42 U.S.C. 1983; First, Fourteenth and Fifteenth  
Amendments of the United States Constitution**

1.Plaintiff files this Complaint for voting rights, pursuant to Section 2 of the  
Voting Rights Act of 1965 (52 U.S.C. 10301) and 42 U.S.C. Seeking prospective  
declaratory and injunctive relief  
against Brad Raffensberger, in his official capacity as the Georgia Secretary of  
State; Rebeca N. Sullivan, David J. Worley, Matthew Mashburn, and Anh Lee in  
their official capacities as members of the State of Georgia Election Board and  
shows the following:

Defendants are officials employed to regulate election laws and procedures in the  
State of Georgia. All Defendants and Plaintiffs are within the Jurisdiction of the

United States District Court for The Northern District Atlanta Division. The before mentioned Court is the proper jurisdiction for this complaint. All material facts occurred, and all parties reside, in this jurisdiction.

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Plaintiff is Solicitor General Brian W. Whiteside of Gwinnett County. His job is to prevent harm to Gwinnett Citizens. His duty is to prosecute ordinance violations and misdemeanor criminal cases. He has fifteen years' experience as a Gary Police Officer and Gwinnett Sheriff Deputy. In Gary, Indiana, he was assigned to an "In Progress Response Crime Unit. "(Cruiser Cars) This special response unit calculated possible future crime events or victims. The goal of the unit was to prevent crime by analytical research, and actual rapid on scene response. If crime could not be prevented, the duty of the unit was to instantly respond to crime events. The duty then became to prevent harm to citizens. This unit also responded to bank robberies, home invasions, burglary in progress, assaults in progress, rapes in progress. In Gary, Indiana he had on the scene knowledge of over seventy homicides or murders. The Solicitor General has been involved in two "Civil Disturbances" (Riots) As a Gwinnett County Deputy the Solicitor has experience in Court Duty, Jail Duty, Warrant Service and Crowd Control. The Solicitor General has witnessed "crowd fights' at various events he

has been on the scene. The Solicitor General has twenty-two years as a Criminal Defense Attorney, and three years as Gwinnett Solicitor.

**3**

On March 25, 2021, Voting Bill SB202 was passed by the Georgia legislature. SB 202 amended Georgia Code Section 21-2-414, relating to restrictions on campaign activities and public opinion polling within the vicinity of polling place, cellular phone use prohibited , prohibition of candidates from entering certain polling places and penalty as follows: (a) No person shall solicit votes in any manner or by any means or method ,nor shall any person distribute or display any campaign material ,nor shall any person give offer to give or participate in the giving of any money or gift , including but not limited to ,food and drink to an elector, nor shall any person solicit signatures for any petition , nor shall any person, other than election officials discharging their duties, establish or set up or establish or set up any tables or booths on any day in which ballots are being cast.: (1) Within 150 feet of the outer edge of any building within a polling place is established ;(2) Within any polling place ;or (3) Within 25 feet of any voter in line to vote at any polling place. These restrictions shall not apply to conduct occurring in private offices or areas which cannot be seen or heard by such electors.(e) This Code section shall not be construed to prohibit a poll officer from distributing materials

71 ,as required by law ,which are necessary for the purpose for instructing electors or  
72 distributing materials prepared by the Secretary of State which are designed to  
73 solely for the purpose of encouraging voter participation in the election being  
74 conducted or from making available self -service water from an unattended  
75 receptacle to an elector waiting in line to vote.” Anyone in violation of this Code  
76 section shall be guilty of a misdemeanor. The punishment can be up to 12 months  
77 in custody or a \$1000.00 fine.

78 The Gwinnett County Solicitor states SB202 Section 33 lacks the criminal  
79 elements of both intent and harm.

80 An intent to commit a crime cannot be proven in SB202 Section 33. If there are no  
81 political items, speech or actions. The element of harm cannot be proven. There is  
82 no victim or damage to property. The “victim” becomes the receiver of a  
83 humanitarian act without political purpose. The law is overbroad. Criminal intent  
84 cannot be proven by the humanitarian act of giving food or water without any  
85 political purpose, materials clothing or speech. The provision of imprisonment or  
86 fine violates the 8<sup>th</sup> Amendment to the Constitution of The United States. This  
87 provision is Cruel and Unusual Punishment. SB 202 Section 33 punishes the act  
88 of giving nourishment without a criminal purpose. (8<sup>TH</sup> Amendment; Excessive  
89 bail shall not be required, nor excessive fines imposed, nor cruel and unusual  
90 punishment inflicted.) The law as revised, commands law enforcement to obey and

91 unlawful order, due a lack of intent and harm. The law as revised gives citizens the  
92 right to resist an unlawful arrest. The law destroys trust in law enforcement, and  
93 can cause chaos, riots, and resisting arrest at the polls. The Solicitor General has  
94 had riot duty. His intent is to protect citizens and police.

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97 The adequate remedy at law will be to void the prohibition on gifts of food and  
98 liquids by citizens without political purposes. No criminal elements exist to  
99 enforce or prosecute the revision

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102 The State is also aware that the elements of intent and harm must be present to  
103 commit a crime. The 8th Amendment of the U. S. Constitution is violated by the  
104 States action.

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107 Harm by disturbances and protest caused by an unconstitutional law will injury  
108 EMT persons, Fire persons, Police and Citizens.

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112 Plaintiff has a clear legal right to protect citizens, and first responders from  
113 violations of the United States Constitution. Plaintiff has a right to protect citizens,  
114 fire, persons and police from possible disturbances.

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116 WHEREFORE, plaintiff prays that the court issue an Injunction and Declaratory  
117 relief. Furthermore, the Plaintiff prays this court will adjudge that:

- 118 1. The Solicitor has a right to protect human beings in Gwinnett County.
- 119 2. By banning the gift of foods and liquids without political purpose Section 33  
120 SB202 is void.
- 121 3. The Bill SB 202 Section 33 provisions of fine and imprisonment for non-  
122 political actions are void and unconstitutional.
- 123 4. By not allowing humanity at the polls imposed by SB 202 Section 33, the  
124 State of Georgia endangers the health and safety of the community.

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127 This the 31<sup>h</sup>, day of July 2021.

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Brian W. Whiteside  
131 Gwinnett County Solicitor General

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**CERTIFICATE OF COMPLIANCE AND OF SERVICE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing COMPLAINT FOR NJUNCTIVE AND DECLARATORY RELIEF has been prepared in Times New Roman 14, a font and type selection approved by the Courtin L.R. 5.1(C), and that I provided notice and a copy of the foregoing using the CM/ECF system which will automatically send e-mail notification of such filing toall attorneys of record.

Respectfully submitted this 1st day of September 2021.

Brian Whiteside  
Georgia Bar No. 756040  
Solicitor General of Gwinnett County.  
75 Langley Drive,  
Lawrenceville, GA 30046  
Email:  
brian.whiteside@gwinnettcountry.com

*Counsel for Plaintiffs*

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) \_\_\_\_\_

**DEFENDANTS**

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) \_\_\_\_\_

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

BRIAN WATKINS DC

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.