

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

ALPHA PHI ALPHA FRATERNITY INC.
et al.,

Plaintiffs,

v.

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

Defendant.

Case No.
1:21-cv-5337-SCJ

COAKLEY PENDERGRASS *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia, *et*
al.,

Defendants.

Case No.
1:21-cv-5339-SCJ

ANNIE LOIS GRANT *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as Secretary of State of Georgia, *et*
al.,

Defendants.

Case No.
1:22-cv-122-SCJ

**UNITED STATES' NOTICE OF INTERVENTION
PURSUANT TO 28 U.S.C. § 2403(a)**

On October 4, 2023, this Court issued Orders certifying to the Attorney General that the constitutionality of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, has been called into question in *Alpha Phi Alpha Fraternity, Inc. v. Raffensperger*, No. 1:21-cv-5337 (N.D. Ga. Oct. 4, 2023), ECF No. 319; *Pendergrass v. Raffensperger*, No. 1:21-cv-5339 (N.D. Ga. Oct. 4, 2023), ECF No. 272; and *Grant v. Raffensperger*, No. 1:22-cv-122 (N.D. Ga. Oct. 4, 2023), ECF No. 280. The Court requested the Attorney General to submit his position on intervention no later than sixty days from the date of those orders. *Id.*

Subsequently, on October 26, 2023, the Court released an Opinion, Memorandum of Decision, and Order in each case granting partial judgment to the Plaintiffs on their claims under Section 2 and rejecting Defendants' constitutional challenges. *See Alpha Phi Alpha v. Raffensperger*, No. 1:21-cv-5337, 2023 WL 7037537 (Oct. 26, 2023). The Court gave the Georgia General Assembly until December 8, 2023 to adopt remedial plans consistent with its Order and retained jurisdiction "to determine whether the remedial plans adopted by the General Assembly remedy the Section 2 violations," and, "[i]n the event that the State is unable or unwilling to enact [satisfactory] remedial plans by December 8, 2023,"

to “draw or adopt remedial plans.” *Id.* at *143. Defendant Raffensperger has indicated that he “plans to the appeal the rulings in the [*Alpha Phi Alpha*] cases on the merits.” Def.’s Notice of Decision Not to Seek Stay, *Ga. State Conference of the NAACP v. Georgia*, No. 1:21-cv-5338 (N.D. Ga. Nov. 1, 2023), ECF No. 203. A notice of appeal has not yet been filed.

Pursuant to 28 U.S.C. § 2403(a) and in response to the Court’s Certification Order, *Alpha Phi Alpha Fraternity, Inc. v. Raffensperger*, No. 1:21-cv-5337 (N.D. Ga. Oct. 4, 2023), ECF No. 319; *Pendergrass v. Raffensperger*, No. 1:21-cv-5339 (N.D. Ga. Oct. 4, 2023), ECF No. 272; *Grant v. Raffensperger*, No. 1:22-cv-122 (N.D. Ga. Oct. 4, 2023), ECF No. 280, the United States hereby respectfully notifies the Court that it exercises its right to intervene in this proceeding to defend the constitutionality of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. The United States is also submitting a brief today addressing Defendants’ constitutional arguments.

Date: November 3, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2023, I electronically filed the foregoing with the clerk of the court using the CM/ECF system, which will send notification of this filing to counsel of record.

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