

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

DONNA CURLING, *et al.*,

Plaintiffs,

v.

Case No. 1:17-cv-02989

BRAD RAFFENSPERGER, *et al.*,

Defendants.

**MOTION OF COMMON CAUSE GEORGIA FOR LEAVE TO FILE
AMICUS CURIAE BRIEF**

Common Cause Georgia respectfully moves for leave to file the accompanying amicus brief in support of no party. The various Plaintiffs and the State Defendants consent to or do not object to the filing. Amicus has contacted the remaining Defendants but has not yet received a response.

This Court possesses the “inherent authority” to grant leave to file an amicus brief. *Georgia Aquarium, Inc. v. Pritzker*, 135 F. Supp. 3d 1280, 1288 (N.D. Ga. 2015) (citing *In re Bayshore Ford Trucks Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006)). As this Court has recognized, leave to file an amicus brief is appropriate “where the parties ‘contribute to the court’s understanding of the matter in question’ by proffering timely and useful information.” *Id.* (quoting

Conservancy of Southwest Florida v. U.S. Fish & Wildlife Serv., 2010 WL 3603276, at *1 (M.D. Fla. Sept. 9, 2010)).

That is urgently the case here. With just one month until Election Day, there is not a moment to lose to ensure that eligible voters in Georgia are able to cast their votes and have them counted. Protecting the rights of Georgia voters is central to the mission of Amicus Common Cause Georgia. Amicus is a state chapter of Common Cause, a nonpartisan, grassroots citizens' organization dedicated to strengthening public participation in our democracy and making public institutions accountable and responsive to citizens.¹ This Court previously granted Common Cause leave to file an amicus brief at an earlier stage in this litigation. *See* Order dated July 27, 2018, ECF No. 253.

Amicus respectfully submits the attached brief urging the Court to clarify the portion of its September 28, 2020 Opinion and Order instructing the Secretary of State to “direct every county election superintendent . . . [to] maintain a sufficient stock of emergency paper ballots.” Opinion and Order dated Sept. 28, 2020, 64-66, ECF No. 918. As set forth in Amicus’s brief, the minimum threshold provided in Georgia’s regulations – an amount equivalent to at least 10% of registered voters in a polling place – is nowhere near “sufficient” to meet the demands that Georgia

¹ A more comprehensive description of Common Cause Georgia, its interest as amicus, and the information it wishes to call to the Court’s attention are contained in the accompanying brief.

polling places are projected to see on Election Day. *See* Ga. Comp. R. & Regs. 183-1-12-.11(2)(c). As data-based analysis demonstrates, the appropriate number of emergency and provisional ballots is much greater than the regulations contemplate – a number equal to 40% of registered voters assigned to a polling place. Without clarification from the Court, there is a grave danger that polling places will have insufficient stocks of pre-printed ballots, severely burdening voters’ rights and rendering the relevant portion of the Court’s September 28, 2020 Order meaningless.

By addressing these issues, Amicus provides key relevant details that will assist this Court to adjudicate this dispute fully informed of the issues at stake and help protect Georgia voters from disenfranchisement this Election Day.

CONCLUSION

For the foregoing reasons, Amicus requests the Court’s leave to file the accompanying brief. If the Court grants such leave, Amicus requests that the brief be considered filed as of the date of this motion’s filing.

Dated: October 1, 2020

Respectfully submitted,

/s/ F. Skip Sugarman
F. SKIP SUGARMAN
Sugarman Law, LLP
154 Krog St., Suite 190
Atlanta, GA 30307
Tel. (404) 495-4811
skip@sugarman-law.com

Of counsel:

LAWRENCE NORDEN*
(NY Bar No. 2881464)
GOWRI RAMACHANDRAN*
(CA Bar No. 291786)
JOANNA ZDANYS*
(NY Bar No. 5225008)
Brennan Center for Justice
at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
lawrence.norden@nyu.edu
gowri.ramachandran@nyu.edu
joanna.zdanys@nyu.edu
**Not admitted to practice
in Georgia*

LOCAL RULE 7.1(D) CERTIFICATION

By signature below, counsel certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1B.

CERTIFICATE OF SERVICE

I certify that on October 1, 2020, I served the foregoing upon all counsel of record via the Court's electronic case filing (ECF) system.

/s/ F. Skip Sugarman
F. SKIP SUGARMAN
Sugarman Law, LLP
154 Krog St., Suite 190
Atlanta, GA 30307
Tel. (404) 495-4811
skip@sugarman-law.com