at 82, 86.) Elections officials, however, will not count the provisional ballot unless the voter returns to the registrar's office within forty-eight hours and presents a Photo ID. (Id. at 82.)

121. Voters who vote in-person are required to sign a voter certificate certifying that the information provided on the certificate is true, under penalty of perjury. (Oct. 12, 2005, Hr'g Tr. at 34; July 12, 2006, Hr'g Tr. at 24-25; Aug. 22, 2007, Trial Tr. at 83, 85-86, 126.) Making a false statement on the certificate is a felony. (July 12, 2006, Hr'g Tr. at 24, 26; Aug. 22, 2007, Trial Tr. at 84, 86.)

122. The Georgia legislature recently amended the voting laws to increase the penalties for fraudulently casting an absentee ballot and for completing a voter certificate falsely to provide for a term of imprisonment of up to ten years. (Aug. 22, 2007, Trial Tr. at 84.)

123. A voter who presents a Photo ID, or any other form of identification, with an address that differs from the address on the voter's voter registration, may cast a vote, but must do so using a
provisional ballot. (Aug. 22, 2007, Trial Tr. at 88-89.)

2. Absentee Voting in Georgia

124. To obtain an absentee ballot, a voter must send in a request to the local registrar providing his or her name, address, and an identifying number, or must appear in person at the registrar’s office and provide such information. (Oct. 12, 2005, Hr’g Tr. at 31, 46; July 12, 2006, Hr’g Tr. at 42.) A voter wishing to apply for an absentee ballot, however, need not complete a particular form. (Oct. 12, 2005, Hr’g Tr. at 46; July 12, 2006, Hr’g Tr. at 42-43.)

125. Instead, a voter who desires an absentee ballot need only send a letter or piece of paper to his or her county registrar stating that the voter wants an absentee ballot and providing the voter’s name and address. (July 12, 2006, Hr’g Tr. at 42-43, 47; Aug. 24, 2007, Trial Tr. at 29.) If the voter cannot complete such a letter or piece of paper himself, he may obtain assistance from someone else. (July 12, 2006, Hr’g Tr. at 43, 59; Aug. 24, 2007,
126. Similarly, a voter may obtain assistance from someone else when completing an absentee ballot and placing it in the required inner and outer envelopes. (July 12, 2006, Hr’g Tr. at 43, 48-49.)

127. Local elections officials are supposed to compare the signature on an absentee ballot request to the signature on the voter’s registration card. (Oct. 12, 2005, Hr’g Tr. at 32-33; Aug. 22, 2007, Trial Tr. at 93.) If the signatures match, the local elections officials will send an absentee ballot to the address listed on the voter’s registration. (Oct. 12, 2005, Hr’g Tr. at 32-33.) A voter who wishes to vote an absentee ballot need not provide a Photo ID unless that voter registered by mail, did not provide identification, and is voting for the first time by absentee ballot. (Id. at 84-85.)

128. After receiving an absentee ballot, the voter must complete the ballot and return it to the registrar, either by hand-delivery to the registrar’s office by the voter or certain relatives of
the voter, or by mail. (Oct. 12, 2005, Hr’g Tr. at 46-47; Aug. 22, 2007, Trial Tr. at 127.) Even if an absentee ballot contains a postmark indicating that the voter mailed it on an earlier date, elections officials will not count the absentee ballot if the ballot is not received in the registrar’s office by 7:00 p.m. on the day of the applicable election. (Oct. 12, 2005, Hr’g Tr. at 47; Aug. 22, 2007, Trial Tr. at 127.) Exceptions to this rule exist for voters who are members of the military or reside overseas. (Oct. 12, 2005, Hr’g Tr. at 47.)

129. An absentee ballot that arrives in the registrar’s office should be returned in two envelopes—an inner blank “privacy” envelope and an outer envelope that contains an oath signed by the voter. (Oct. 12, 2005, Hr’g Tr. at 32.) Local elections officials compare the signature on the oath contained on the outer envelope to the signature on the voter’s registration card to verify the voter’s identity. (Id. at 32-33, 76; Aug. 22, 2005, Trial Tr. at 93.)

130. Former Secretary of State Cox testified that the
signature verification procedure is the only safeguard currently in place in Georgia to prevent imposters from voting by using absentee ballots. (Oct. 12, 2005, Hr'g Tr. at 33.) The verification process is done manually. (Id.)

131. Absentee ballots are submitted to the local registrars' offices over a forty-day period. (Oct. 12, 2005, Hr'g Tr. at 33.) However, if fifty percent of voters decided to vote by absentee ballot in any given election, local elections officials would have a difficult time completing the necessary signature verifications. (July 12, 2006, Hr'g Tr. at 51.)

132. Once a voter returns an absentee ballot to the registrar's office, the voter cannot change that ballot. (Oct. 12, 2005, Hr'g Tr. at 50-51.) The voter, however, has the right to notify the registrar that the voter intends to cancel the absentee ballot and vote in person. (Id.)

4. The Data Matches

133. In June 2006, former Secretary of State Cox's office
issued a press release indicating that over 600,000 voters lacked either a valid Georgia driver's license or a Photo ID card issued by DDS. (July 12, 2006, Hr'g Tr. at 12-14) Former Secretary of State Cox's office obtained that information from a data match that former Secretary of State Cox authorized. (Id. at 14.) To conduct the data match, former Secretary of State Cox's office provided DDS with a list of registered voters that former Secretary of State Cox's office maintained. (Id. at 14-15, 33-34; Aug. 23, 2007, Trial Tr. at 106-07.) DDS then compared the list of registered voters to its database of individuals who had valid Georgia driver's licenses and Photo ID cards issued by DDS. (July 12, 2006, Hr'g Tr. at 15-17, 33-34; Aug. 23, 2007, Trial Tr. at 107-08.) DDS returned a list of over 600,000 individuals who appeared on the voter registration list and who appeared to lack either a valid Georgia driver's license or a DDS-issued Photo ID card. (July 12, 2006, Hr'g Tr. at 20-21; Aug. 23, 2007, Trial Tr. at 108.)

134. The list returned by DDS intended to match individuals
by last name, date of birth and social security number. (July 12, 2006, Hr’g Tr. at 21.) Individuals whose social security numbers were not in the database appeared on the list as not having a valid Georgia driver’s license or DDS-issued Photo ID card. (Id.)

135. According to former Secretary of State Cox, in ordering the data match, her office was not intending to inflate the numbers of voters who purportedly lacked a Georgia driver’s license or Photo ID card. (July 12, 2006, Hr’g Tr. at 17.) Rather, her office was attempting to identify the smallest number of voters possible who lacked a Photo ID so that her office could do a direct mailing to advise those voters of the 2006 Photo ID Act’s requirements. (Id.)

136. On June 23, 2006, former Secretary of State Cox’s office issued another press release stating that the voters who purportedly lacked a Photo ID were disproportionately elderly or minority voters. (July 12, 2006, Hr’g Tr. at 18.) The numbers used for that press release came from the data match that former Secretary of State Cox’s office ordered. (Id.)
137. Former Secretary of State Cox testified that she was not aware of other data available to her office or to the State that would provide more accurate information concerning the number of voters who lacked a Photo ID. (July 12, 2006, Hr’g Tr. at 17-18.)

138. Former Secretary of State Cox testified that she had learned of a "few dozen" inaccuracies in the data match list of voters. (July 12, 2006, Hr’g Tr. at 21, 35.) Former Secretary of State Cox, however, had no personal knowledge of the data match list’s accuracy. (Id. at 21, 35-36.)

139. Former Secretary of State Cox did not know how many Georgia voters lack any acceptable form of Photo ID under the 2006 Photo ID Act. (July 12, 2006, Hr’g Tr. at 32-33, 38.) Specifically, her office did not match its list of registered voters to federal government databases, to databases of other state government agencies that issue identification cards, or to tribal identification lists. (Id. at 37-38.)

140. After the Court issued its July 14, 2006, Order enjoining
the Photo ID requirement for the July 2006 primary elections, the State Election Board continued to work with DDS representatives to attempt to obtain a list of registered Georgia voters who appeared to lack either a Georgia driver's license or a Georgia Photo ID card issued by DDS. (Sept. 14, 2006, Hr'g Tr. at 26-28; Aug. 22, 2007, Trial Tr. at 134; Aug. 23, 2007, Trial Tr. at 109-110.)

141. In response to the State Election Board's request, the DDS eventually returned a list in August or September 2006 of 106,522 Georgia voters who purportedly lacked a Georgia driver's license or Georgia Photo ID card, and approximately 198,000 other voters who had previously had a Georgia driver's license that either had been canceled, revoked, suspended, or declared invalid. (Pls.' Ex. 22; Sept. 14, 2006, Hr'g Tr. at 30; Aug. 22, 2007, Trial Tr. at 134.)

142. DDS has over eleven million driver's records in its database. (Aug. 22, 2007, Trial Tr. at 135; Aug. 23, 2007, Trial Tr. at 101.)
143. DDS's database includes a number of expired driver's licenses, some with listed expiration dates occurring as early as 1900. (Aug. 22, 2007, Trial Tr. at 135, 138-39; Aug. 23, 2007, Trial Tr. at 104-05.) According to DDS information technology manager Loraine Piro, the earliest reliable expiration date listed in the DDS database likely is from the 1970s. (Aug. 22, 2007, Trial Tr. at 139.)

144. In June 2007, the Secretary of State's Office sent information to DDS and requested that DDS perform another data match. (Aug. 22, 2007, Trial Tr. at 104, 136-37; Aug. 23, 2007, Trial Tr. at 111.) In particular, the Secretary of State's Office sent 5,084,239 voter names to DDS, and requested that DDS use the same matching criteria and procedures as it used to create the August or September 2006 data match. (Aug. 22, 2007, Trial Tr. at 136-37; Aug. 23, 2007, Trial Tr. at 110-11.)

145. DDS ran another data match, and concluded that 4,568,919 of the individuals on the Secretary of State's list had a valid, current Georgia driver's license. (Aug. 22, 2007, Trial Tr. at 104-05.)
104-05; Aug. 23, 2007, Trial Tr. at 111-12; Pls. Ex. 98; State Defs.’ Ex. 37.)

146. DDS, however, was unable to match 198,378 of the records provided by the Secretary of State. (Aug. 22, 2007, Trial Tr. at 104; Pls. Ex. 98; State Defs.’ Ex. 37.)

147. DDS did not run other screens on the database to determine whether it could decrease the number of “no-match” voters. (Aug. 23, 2007, Trial Tr. at 104.)

148. The DDS data matches simply match the voter registration information to the DDS’s own database, and do not indicate whether the voters have Photo ID cards issued by an agency other than DDS. (Aug. 23, 2007, Trial Tr. at 123.)

149. The Secretary of State’s Office also provided DDS with information concerning 1,075,467 registered voters in twenty-two Georgia counties that intend to hold special elections in September 2007. (Aug. 22, 2007, Hr’g Tr. at 107, 137.)

150. DDS ran a data match comparing the Secretary of
State’s list of registered voters in the twenty-two counties with the DDS’s own records. (Aug. 22, 2007, Hr’g Tr. at 107, 137, 155.)

151. DDS’s data match indicated that, of the 1,075,467 registered voters from the twenty-two counties, 948,014 of the voters had valid Georgia driver’s licenses, 792 of the voters had cancelled driver’s licenses, fifty of the voters had canceled permits, ten of the voters had been denied licenses, eight voters had been disqualified, twenty-seven voters had been disqualified from holding a commercial driver’s license (“CDL”), three voters were not licensed, 367 of the voters had revoked licenses, 13,389 of the voters had surrendered licenses; 10,295 of the voters had suspended licenses, and 51,707 of the voters had expired licenses or DDS-issued ID cards. (Pls.’ Ex. 99; State Defs.’ Ex. 38.) Of the 51,707 voters with expired DDS-issued documents, 6,961 of the voters had expired DDS-issued ID cards. (Pls.’ Ex. 99; State Defs.’ Ex. 38.) 49,054 voters appeared as “no matches” on the list, indicating that DDS could not match those voters’ information to
any record in DDS's database. (Aug. 22, 2007, Trial Tr. at 107, 155.)

152. After Secretary of State Handel's office learned that Berrien County, Georgia, also planned to hold elections on September 18, 2007, the office requested that the DDS run another data match for registered voters in Berrien County. (Aug. 22, 2007, Trial Tr. at 158.)

153. Although Secretary of State Handel's office has information pertaining to the race, gender, and age of voters, Secretary of State Handel's office did not use the DDS data match to determine how many of the individuals appearing on the no-match lists are African-American or elderly. (Aug. 22, 2007, Trial Tr. at 119-20, 159.)

5. Attempts to Educate Voters

154. After the Photo ID requirement received preclearance from the Justice Department, Secretary of State Cox ensured that the Elections Division conducted necessary training, distributed
necessary supplies, and did everything possible to ensure that the
Photo ID requirement was carried out in every election, including
the elections held on August 26, 2005, September 20, 2005,
September 27, 2005, and November 8, 2005. (Oct. 12, 2005, Hr'g
Tr.) The Elections Division also provided information to the public
concerning the Photo ID requirement via the website for the
Secretary of State's Office and through other public information
efforts. (Id.)

155. The State Election Board has promulgated rules and
regulations to enforce the 2006 Photo ID Act. (July 12, 2006, Hr'g
Tr. at 38, 70.) To former Secretary of State Cox's knowledge, no
copies of those rules and regulations have been mailed to any
registered voters. (Id. at 38.) Former Secretary of State Cox
testified that her office would mail copies of the rules and
regulations to voters who requested copies. (Id.) Former Secretary
of State Cox's office shared the rules and regulations with the
county registrars. (Id.) Former Secretary of State Cox's office also
posted the rules and regulations on its website. (Id.)

156. Before the State Election Board adopted the rules and regulations, it posted those rules and regulations for comment. (July 12, 2006, Hr’g Tr. at 39, 70.)

157. The State Election Board drafted a letter to give to voters who came to vote in-person during the July 18, 2006, primary election that described the requirements of the 2006 Photo ID Act and explained where to obtain a Voter ID card. (July 12, 2006, Hr’g Tr. at 71-72.) The State Election Board made that letter available to any organization that wished to distribute the letter; however, no testimony indicated that any organization had distributed the letter. (Id. at 76.)

158. The State Election Board received some comments concerning the content of the letter and its readability during the hearing in which the State Election Board approved the letter. (July 12, 2006, Hr’g Tr. at 115, 133-34.) The State Election Board did not ask a literacy expert to review the letter to determine whether
the average Georgia voter can read and understand the letter. (Id.)

159. The letter to be provided to voters during the July 2006 primary instructed the voters that they could vote a provisional ballot if they lacked a Photo ID. (Pls.’ Ex. 12.) The letter to be provided to voters at the polls during the July 2006 primary did not contain a statement informing voters who voted provisional ballots that they had to return with a Photo ID within forty-eight hours to have their provisional ballots counted. (Id.) Instead, the State intended to have poll workers give verbal instructions concerning the forty-eight hour requirement to voters who receive provisional ballots. (July 12, 2006, Hr’g Tr. at 134.)

160. Prior to the July 2006 primary, the State Election Board made information concerning the process and requirements for obtaining Voter ID cards available to local registrars, and placed that information on its website. (July 12, 2006, Hr’g Tr. at 72.)

161. Prior to the July 2006 primary, the State Election Board also used television and radio paid public service announcements
("PPSAs") to inform voters of the Photo ID requirement and the process and locations for obtaining Voter ID cards. (July 12, 2006, Hr'g Tr. at 73-74.)

162. The television PPSAs that ran prior to the July 2006 primary elections were thirty-second advertisements that ran on channels that were members of the Georgia Association of Broadcasters. (July 12, 2006, Hr'g Tr. at110-11.) The total number of Voter ID cards issued increased after the State Election Board began running its PPSAs. (Id.)

163. The radio PPSAs that ran prior to the July 2006 primary ran on the Clear Channel network, which consists of 115 radio stations in Georgia. (July 12, 2006, Hr'g Tr. at 110-11, 132-33.) The network has a total estimated listening population of 900,000, including individuals who reside in neighboring states. (Id. at 111.) Some of the radio PPSAs that ran prior to the July 2006 primary aired very early on Saturday and Sunday mornings. (Id.)

164. After the Court issued its July 14, 2006, Order, the State
Election Board discontinued its voter education efforts with respect to the 2006 Photo ID Act. (Sept. 14, 2006, Hr’g Tr. at 24.)

165. On September 1, 2006, the State Election Board held a meeting that addressed, among other things, voter education efforts for the 2006 Photo ID Act. (Sept. 14, 2006, Hr’g Tr. at 30-31.)

166. At the September 1, 2006, meeting, the State Election Board approved a letter to be mailed to approximately 305,000 voters listed on the DDS match report created in August or September 2006. (Sept. 14, 2006, Hr’g Tr. at 31.)

167. On September 13, 2006, the State Election Board began to mail that letter directly to those 305,000 voters, mailing 30,000 letters each day. (Sept. 14, 2006, Hr’g Tr. at 32-33, 54-56.)

168. On or about September 13, 2006, the Elections Division of the Secretary of State’s Office sent a memorandum to county registrars that attached the letter mailed to the voters and that requested that the registrars also distribute the letter. (Sept. 14,
2006, Hr‘g Tr. at 36-37."

169. In September 2006, the State Election Board also adopted a voter education program for the 2006 Photo ID Act. (Sept. 14, 2006, Hr‘g Tr. at 33-34.) The plan called for the State Election Board to distribute the letter mailed to voters to counties, local civic groups, churches, and other interested groups for further distribution. (Id. at 35-36, 57.) The plan also called for the State Election Board to resume running the PPSAs, and to develop an e-mail list to distribute the letter mailed to voters. (Id. at 37-38.) The plan also called for the State Election Board to provide the list of voters who purportedly lack Georgia driver’s licenses or Georgia Photo ID cards to local political parties and candidates, and to telephone the individuals on the list. (Id.) Finally, the plan called for the State Election Board to produce a brochure concerning the 2006 Photo ID Act’s requirements, for distribution through the Elections Division of the Secretary of State’s Office. (Id.)

170. The State Election Board placed information concerning
the 2006 Photo ID Act's requirements on the Secretary of State's website, and individuals who visited that website could access information through a link. (Sept. 14, 2006, Hr'g Tr. at 39-40.)

171. Although the State Election Board developed a list of organizations to which it planned to distribute the letter to be mailed to certain voters in September 2006, and the letter that it planned to distribute at the polls in July 2006, it had not distributed the letters to those organizations as of September 14, 2006. (Sept. 14, 2006, Hr'g Tr. at 41-43, 48.)

172. Further, the State Election Board found that it lacked sufficient funding in September 2006, to telephone each of the approximately 305,000 Georgia voters who purportedly lacked a Georgia driver's license or Georgia Photo ID card. (Sept. 14, 2006, Hr'g Tr. at 43.)

173. The State Elections Board approved a brochure concerning the Photo ID requirement to be distributed by the Elections Division of the Secretary of State's Office; however, that
brochure had not been distributed as of September 14, 2006. (Sept. 14, 2006, Hr’g Tr. at 43-44.)

174. On September 5, 2006, the State Election Board resumed running PPSAs on television stations. (Sept. 14, 2006, Hr’g Tr. at 37.)

175. On September 6, 2006, the State Election Board resumed running PPSAs on radio stations. (Sept. 14, 2006, Hr’g Tr. at 37-38, 60-61.) The PPSAs ran on the same radio stations on which the PPSAs aired before the July 2006 primary elections. (Id.)

176. In February 2007, Secretary of State Handel’s office began discussing a plan to educate voters concerning the Photo ID requirement. (Aug. 23, 2007, Trial Tr. at 134.)

177. Secretary of State Handel’s office eventually developed such an education plan. (State Defs.’ Ex. 1; Aug. 22, 2007, Trial Tr. at 149; Aug. 23, 2007, Trial Tr. at 132.)

178. The education plan includes three phases: (1) July 2007 through September 2007, which will focus on the September 18,
2007, elections and educating the voters in the twenty-three counties affected by those elections; (2) September 2007 through November 2007, which will focus on educating voters in counties that are holding elections on November 6, 2007; and (3) November 2007 through February 2008, which will focus on educating voters across the state. (State Defs.' Ex. 1; Aug. 22, 2007, Trial Tr. at 149-50; Aug. 23, 2007, Trial Tr. at 135.)

179. Although Secretary of State Handel's office has demographic information about voters, including age, gender, and race information, Secretary of State Handel's office did not take that information into account in developing the education plan. (Aug. 22, 2007, Trial Tr. at 119-20, 159.) According to Secretary of State Handel, she intended to reach out to as many voters as possible. (Id. at 119-20.)

180. Robert Simms, Deputy Secretary of State, testified that the Secretary of State's Office will measure the success of its voter education plan, in part, by determining whether counties are able
to conduct elections in a fair, efficient, and successful manner and whether the counties comply with applicable State laws. (Aug. 22, 2007, Trial Tr. at 145, 151-54; Aug. 23, 2007, Trial Tr. at 133.) Mr. Simms further testified that the Secretary of State’s Office also will measure the success of its voter education plan by determining whether more people obtain Voter ID cards, vote absentee, or vote provisional ballots that are counted, and by determining whether voters who choose to participate in elections are able to do so. (Aug. 22, 2007, Trial Tr. at 152; Aug. 23, 2007, Trial Tr. at 133.)

181. Secretary of State Handel’s office’s budget for educating voters is $500,000 for fiscal year 2008, which runs from July 1, 2007, through June 30, 2008. (Aug. 22, 2007, Trial Tr. at 131.) As of August 24, 2007, Secretary of State Handel’s office had spent between $123,000 and $125,000 on the Photo ID education effort. (Aug. 23, 2007, Trial Tr. at 150.)

182. Secretary of State Handel testified that she will have an opportunity in January 2008 to ask for additional voter education
funds if her office determines that such funds are necessary. (Aug. 22, 2007, Trial Tr. at 131; Aug. 24, 2007, Trial Tr. at 27.) At this point, Secretary of State Handel plans to request more voter education funds, and believes that her request will be granted. (Aug. 22, 2007, Trial Tr. at 131.) In the event that the request for additional funds is denied, or in the event that Secretary of State Handel's office uses all of the $500,000 funds prior to January 2008, Secretary of State Handel plans to adjust her budget to make funds available for the Photo ID education effort. (Aug. 24, 2007, Trial Tr. at 26.)

183. Secretary of State Handel's office developed a letter, dated August 8, 2007, to mail to the voters in the counties holding elections on September 18, 2007, who appeared on the DDS no match list. (Aug. 22, 2007, Trial Tr. at 106; StateDefs.' Ex. 4; Pls.' Ex. 68.)

184. The August 8, 2007, letter states, in relevant part:

Our records indicate that you are a registered voter who may not have a Driver's License or Photo ID card issued
by the Georgia Department of Driver Services (DDS). As Georgia’s Secretary of State, I would like to take this opportunity to provide you important information about voting procedures in Georgia.

Georgia law requires registered voters to show photo identification when voting in person. This photo identification requirement applies to all September 18, 2007 Special Elections and all future elections. You are not required to include any identification when you vote absentee by mail.

If you do not have a valid or expired, Driver’s License or a Photo ID issued by Georgia DDS you can still use one of the following:

- Any valid state or federal government issued Photo ID, including a free voter ID card issued by your county registrar or DDS

- Valid U.S. passport

- Valid employee photo ID from any branch, department, agency, or entity of the U.S. Government, Georgia, or any county, municipality, board, authority, or other entity of this state

- Valid U.S. military photo ID

- Valid tribal photo ID

If you DO NOT have one of these forms of identification, you are eligible to receive a FREE Georgia voter
identification card. To receive this voter identification card, please contact any DDS office or your county registrar's office...

For more information, you can call 1(877) 725-9797. Or, please visit our website at www.GaPhotoID.com or call our office at (404) 656-2871.

(Pls.' Ex. 68 (emphasis in original); State Defs.' Ex. 4 (same).) The letters provide the address and phone number for the voter's county registrar's office. (Pls.' Ex. 68; State Defs.' Ex. 4.)

185. Secretary of State Handel's office did not have the August 8, 2007, letter reviewed by a literacy expert prior to mailing it. (Aug. 22, 2007, Trial Tr. at 162-63.)

186. Secretary of State Handel's office did not hire a literacy expert to examine the August 8, 2007, letter, partly because the office had only limited funds for the voter education initiative. (Aug. 23, 2007, Trial Tr.)

187. The August 8, 2007, letter originally was mailed to the voters in twenty-two counties who appeared on the DDS match as a no-match, as having a suspended, canceled, surrendered, or
revoked license, or as being not licensed or denied a license. (Aug. 22, 2007, Trial Tr. at 108, 156-57; Aug. 23, 2007, Trial Tr. at 141-43.)

188. During the week of August 15, 2007, Secretary of State Handel’s office mailed the August 8, 2007, letter to voters in the twenty-two counties who appeared on the DDS match as having an expired DDS-issued Photo ID card; however, the letter was not mailed to voters in the twenty-two counties who appeared on the DDS match as having expired Georgia driver’s licenses. (Aug. 22, 2007, Trial Tr. at 109-112; Aug. 23, 2007, Trial Tr. at 143.) An expired Georgia driver’s license is an acceptable form of Photo ID for purposes of the 2006 Photo ID Act. (Aug. 22, 2007, Trial Tr. at 158; Aug. 23, 2007, Trial Tr. at 173.)

189. During the week of August 17 through August 20, 2007, Secretary of State Handel’s office also sent a copy of the August 8, 2007, letter to Berrien County, Georgia, voters who appeared on a DDS data match run for that county as being a no-match, as having
a suspended, canceled, surrendered, or revoked license, or as being not licensed or denied a license. (Aug. 22, 2007, Trial Tr. at 158; Aug. 23, 2007, Trial Tr. at 144-45.)

190. Secretary of State Handel’s office has developed a brochure addressing the Photo ID requirement that the office plans to mail before the September 18, 2007, elections, to the voters who received the August 8, 2007, letter. (Aug. 22, 2007, Trial Tr. at 162.)

191. Secretary of State Handel’s office did not have the brochure document reviewed by a literacy expert. (Aug. 22, 2007, Trial Tr. at 162.)

192. Secretary of State Handel’s office also developed a postcard that the office plans to send to the voters who were sent the August 8, 2007, letter. (Aug. 23, 2007, Trial Tr. at 147-48; State Defs.’ Ex. 13.) Secretary of State Handel’s office plans to mail the postcards to voters during the week of September 3, 2007. (Aug. 23, 2007, Trial Tr. at 148.)
193. Further, Secretary of State Handel's office developed an updated Georgia Voter Information Guide that includes information concerning the Photo ID requirement. (State Defs.' Ex. 3; Aug. 23, 2007, Trial Tr. at 217-18.)

194. Secretary of State Handel's office also developed a flyer that includes information about the Photo ID requirement. (State Defs.' Ex. 14.) The flyer also is available in a poster format. (State Defs.' Ex. 15.)

195. Secretary of State Handel's office also plans to make automated telephone calls to the voters who were mailed the August 8, 2007, letter. (Aug. 23, 2007, Trial Tr. at 149.)

196. Secretary of State Handel's office also purchased paid radio advertisements concerning the Photo ID requirement for the weeks of August 13, August 20, and August 27, and contemplated purchasing radio advertisements for later weeks. (Aug. 22, 2007, Trial Tr. at 160, 174; Aug. 23, 2007, Trial Tr. at 158; State Defs.' Ex. 26.)
197. The paid radio advertisements have run, and are scheduled to run, on the Clear Channel Network, which includes certain traffic reports, as well as the Georgia News Network. (Aug. 22, 2007, Trial Tr. at 174-75; State Defs.’ Ex. 26; Aug. 23, 2007, Trial Tr. at 158; Aug. 24, 2007, Trial Tr. at 11.) Secretary of State Handel’s office chose the Clear Channel Network, in part, because that network already has a contract with the State of Georgia, and using the network would allow Secretary of State Handel’s office to bypass the often-lengthy State procurement process. (Aug. 24, 2007, Trial Tr. at 11.)

198. The paid radio advertisements are concentrated to cover the area that includes twenty-two of the counties that are holding elections on September 18, 2007. (Aug. 22, 2007, Trial Tr. at 174-75; Pls.’ Ex. 117.)

199. Secretary of State Handel’s office did not perform a demographic analysis of the listening audience for the radio stations that are to run the paid radio advertisements, and did not
measure the audience of those radio stations within the areas of the twenty-three counties that are holding September 18, 2007, elections. (Aug. 22, 2007, Trial Tr. at 174-75.)

200. Secretary of State Handel's office had planned to run unpaid public service announcements ("PSAs") prior to the September 18, 2007, elections; however, no such PSAs had run as of the date of the trial. (Aug. 22, 2007, Trial Tr. at 180; Aug. 24, 2007, Trial Tr. at 10.)

201. Secretary of State Handel's office has not purchased television or billboard advertisements addressing the Photo ID requirement to run prior to September 18, 2007. (Aug. 22, 2007, Trial Tr. at 160; Aug. 24, 2007, Trial Tr. at 12.)

202. The voter education plan developed by Secretary of State Handel's office also includes asking nongovernmental organizations and chambers of commerce to partner with the office in getting information concerning the Photo ID requirement to voters. (Aug. 23, 2007, Trial Tr. at 153-54.)
203. Secretary of State Handel's office sent a letter requesting assistance in notifying voters about the Photo ID requirement to a number of non-governmental organizations in the twenty-three counties who are holding elections in September 2007. (Aug. 23, 2007, Trial Tr. at 150-52; State Defs.' Exs. 5-6.)

204. Secretary of State Handel's office has received responses to the letter sent to the non-governmental organizations that include requests for materials, and has provided materials to the requesters for distribution. (Aug. 23, 2007, Trial Tr. at 152, 155.) The materials included for distribution include the Voter ID brochure and flyer. (Id. at 152.)

205. Secretary of State Handel's office has provided the Voter ID brochure, the flyer, and the poster to the registrars for twenty-two of the counties that are holding September 18, 2007, elections, and will mail those materials to the registrars in other counties. (Aug. 23, 2007, Trial Tr. at 153; Aug. 24, 2007, Trial Tr. at 8.) Secretary of State Handel's office also has provided those materials to some
registrars in person. (Aug. 23, 2007, Trial Tr. at 153.)

206. Secretary of State Handel’s office also wrote a letter to the libraries located in the twenty-three counties that are holding September 18, 2007, elections. (Aug. 23, 2007, Trial Tr. at 154-55; State Defs.’ Exs. 11-12.) Secretary of State Handel’s office enclosed materials relating to the Photo ID requirement with those letters. (Aug. 23, 2007, Trial Tr. at 155; Aug. 24, 2007, Trial Tr. at 7.)

207. Secretary of State Handel’s office requested that Governor Sonny Perdue also speak about the Photo ID requirement. (Aug. 23, 2007, Trial Tr. at 220.)

208. Secretary of State Handel’s office also sent a letter to all of the members of the Georgia General Assembly who represent constituents in the twenty-three counties that plan to hold September 18, 2007, elections, requesting that those legislators assist in informing voters of the Photo ID requirement. (Aug. 23, 2007, Trial Tr. at 155-56, 220.)
209. The 2006 Photo ID Act also has been the subject of numerous newspaper articles and television news reports.

210. Additionally, Secretary of State Handel’s office has written editorials and articles, which the office has provided to newspapers in the twenty-three counties that are holding September 18, 2007, elections. (Aug. 23, 2007, Trial Tr. at 168-70; Aug. 24, 2007, Trial Tr. at 13-14.)

211. Further, Secretary of State Handel’s office contacted representatives from several utility companies, and requested that the utility companies include information about the Photo ID requirement in their bills. (Aug. 23, 2007, Trial Tr. at 156-57; State Defs.’ Ex. 18.) SCANA, a gas marketer that operates throughout Georgia, has agreed to include that information on its bills. (Aug. 23, 2007, Trial Tr. at 157.)

212. Secretary of State Handel’s office also created a website for the Voter ID requirement, www.gaphotoid.com. (Aug. 23, 2007, Trial Tr. at 159; Aug. 24, 2007, Trial Tr. at 12; State Defs.’ Ex. 25.)
That website contains information pertaining to the Photo ID requirement, and is accessible both directly by typing in the website address or via a link from the Secretary of State’s webpage. (Aug. 23, 2007, Trial Tr. at 159; Aug. 24, 2007, Trial Tr. at 13.) The website began operating during the first week of August 2007. (Aug. 23, 2007, Trial Tr. at 161.)

213. Secretary of State Handel’s office also presented information concerning the Photo ID requirement and the process for issuing Voter ID cards to the county registrars during a statewide, mandatory registrar training held on August 13 through August 15, 2007. (Aug. 23, 2007, Trial Tr. at 161-62; Aug. 24, 2007, Trial Tr. at 15-19; State Defs.’ Exs. 27, 29-30.) Additionally, Secretary of State Handel’s office plans to hold additional training for registrars between September 2007 and December 2007, and to make on-line training available to registrars. (Aug. 23, 2007, Trial Tr. at 162.) The registrars, in turn, are responsible for training poll workers. (Aug. 23, 2007, Trial Tr. at 163.)
214. Secretary of State Handel also is scheduled to speak to voters concerning the Photo ID requirement prior to the September 18, 2007, elections. (Aug. 24, 2007, Trial Tr. at 14.) Secretary of State Handel’s appearances prior to the September 18, 2007, elections primarily will target voters in the twenty-three counties that are holding the September elections. (Id.)

215. According to Secretary of State Handel, her office began distributing educational materials to voters at the optimal time—approximately six weeks prior to the September 18, 2007, elections—as the educational efforts will lead up to the September 18, 2007, elections and provide a sense of urgency. (Aug. 24, 2007, Trial Tr. at 46.)

5. **Obtaining a Voter ID Card**

216. The State purchased equipment to create Voter ID cards. (July 12, 2006, Hr’g Tr. at 67; Sept. 14, 2006, Hr’g Tr. at 46.) The State selected a vendor for the equipment, and the equipment was installed in all of Georgia’s 159 counties. (July 12, 2006, Hr’g
Tr. at 67.)

217. Registrars received training concerning the Voter ID card equipment during the Georgia Registrars Convention held in May 2006. (July 12, 2006, Hr’g Tr. at 67.) Twenty to thirty counties also requested, and received, individual training from the vendor of the equipment. (Id.)

218. Counties began issuing Voter ID cards during June or July 2006. (July 12, 2006, Hr’g Tr.) As of July 12, 2006, Georgia counties had issued a total of 420 Voter ID cards, 109 of which were issued by Atlanta metropolitan area counties. (Id.)

219. Counties issue a temporary Voter ID card to voters on the day that the voters appear to request the Voter ID card. (July 12, 2006, Hr’g Tr. at 68-69; Aug. 22, 2007, Trial Tr. at 122-23.) The temporary Voter ID cards are valid for forty-five days. (July 12, 2006, Hr’g Tr. at 68-69.) The vendor is responsible for mailing permanent Voter ID cards to the voters, and usually does so within three days after the voters request the cards. (Id.) The counties
may issue an unlimited number of temporary Voter ID cards, and the counties have supplies of applications for the Voter ID cards. (Id. at 69.)

220. The State contracted with the vendor of the Voter ID card equipment for the vendor to provide 10,000 Voter ID cards. (July 12, 2006, Hr’g Tr. at 123.) The State’s contract with the vendor, however, provides that the State may purchase additional Voter ID cards if necessary. (July 12, 2006, Hr’g Tr. at 123; Aug. 24, 2007, Trial Tr. at 31.) If the State needs to purchase additional Voter ID cards, Secretary of State Handel’s office will pay for the purchase. (Aug. 24, 2007, Trial Tr. at 31.)

221. The State Election Board’s rules and regulations specify the hours that registrars’ offices must remain open. (Aug. 22, 2007, Trial Tr. at 114-15.) The rules and regulations specifically require that the registrars’ offices remain open from eight a.m. to five p.m. on the Monday through Friday during the week prior to an election. (Id.) No provision exists requiring the offices to be open at night, on
weekends, or on holidays. (Id. at 115.)

222. Under the State Election Board’s rules and regulations, a voter may present his or her voter registration application as a form of identification in order to obtain a Voter ID card from a county registrar. (July 12, 2006, Hr’g Tr. at 23, 26-27.) To register to vote, an individual need not provide a social security number, and is not required to provide any other identifying documentation, including a Photo ID. (July 12, 2006, Hr’g Tr. at 23-24, 26-27; Aug. 22, 2007, Trial Tr. at 93, 96.) A voter thus could register to vote, provide his or her voter registration application to the registrar, and, once his or her voter registration application is accepted, obtain a Voter ID card, all without showing any other form of identifying information. (July 12, 2006, Hr’g Tr. at 23-24, 26-27; Aug. 22, 2007, Trial Tr. at 96.) In theory, a voter who registered fraudulently several years ago now may use his or her fraudulent voter registration application to obtain a Voter ID card, which he or she may use to vote in person. (July 12, 2006, Hr’g Tr. at 24, 27.)
223. A voter also may use other non-Photo ID documents to obtain a voter identification card. (July 12, 2006, Hr'g Tr.)

224. Former Secretary of State Cox testified that the process of obtaining a Voter ID card is an additional step that an individual must go through to vote in person. (July 12, 2006, Hr'g Tr. at 28.) To that extent, the Voter ID card process could serve as a deterrent to fraud. (Id.)

225. As of 5:00 p.m. on September 13, 2006, the State of Georgia had issued 953 Voter ID cards. (Sept. 14, 2006, Hr'g Tr. at 46.)

192. Through July 2007, the State of Georgia had issued 2,830 total Voter ID cards through the registrars’ offices. (Aug. 22, 2007, Trial Tr. at 151.) Between August 1, 2007, and August 23, 2007, the State of Georgia issued 198 additional Voter ID cards through the registrars’ offices. (Aug. 24, 2007, Trial Tr. at 21.)
D. Expert Testimony

1. Dr. Sheryl Gowen

The State Defendants moved to exclude Dr. Sheryl Gowen's expert testimony, arguing that Dr. Gowen was not qualified to offer that testimony, and that Dr. Gowen's opinions did not satisfy Daubert's relevance and reliability requirements. For the reasons stated in the Court's separate Order addressing the State Defendants' Motion to Exclude Reports and Testimony of Plaintiffs' Experts, the Court agrees with the State Defendants that Dr. Gowen's opinions and testimony fail to satisfy Daubert and have little, if any, relevance to the issues before the Court. The Court therefore does not consider those opinions and testimony.

2. Dr. Trey Hood

The State Defendants also moved to exclude Dr. Trey Hood's expert testimony, arguing that Dr. Hood was not qualified to offer that testimony, and that Dr. Hood's opinions did not satisfy Daubert's relevance and reliability requirements. For the reasons
stated in the Court's separate Order addressing the State Defendants' Motion to Exclude Reports and Testimony of Plaintiffs' Experts, the Court agrees with the State Defendants that Dr. Hood's opinions and testimony fail to satisfy *Daubert*, and, for the most part, are irrelevant to the issues before the Court. The Court therefore does not consider those opinions and testimony.

**III. Conclusions of Law**

**A. Standing**

1. "Article III of the United States Constitution limits the power of federal courts to adjudicating actual 'cases' and 'controversies.'" *Nat'l Alliance for the Mentally Ill, St. Johns, Inc. v. Bd. of County Comm'rs of St. Johns County*, 376 F.3d 1292, 1294 (11th Cir. 2004). "The most significant case-or-controversy doctrine is the requirement of standing." *Id.* "In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." *Id.* (quoting *Warth v. Seldin*,}
422 U.S. 490, 498 (1975)).

2. To satisfy the standing requirement, a party must show: (1) that he has suffered an injury in fact; (2) that the injury is fairly traceable to the challenged action of the defendant; and (3) that it is likely, as opposed to merely speculative, that the injury "will be redressed by a favorable decision." Bischoff v. Osceola County, Fla., 222 F.3d 874, 883 (11th Cir. 2000).

3. "An association has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 181 (2000). To possess standing, however, an organizational plaintiff must show that one of its constituents otherwise has standing to sue. Doe v. Stincer, 175 F.3d 879, 882 (11th Cir. 1999); see also Nat'l Alliance for the Mentally Ill, 376 F.3d
at 1296 (noting, with respect to organizational plaintiffs, that failure to identify injured constituent prevented organizational plaintiffs from asserting associational standing).

4. The party invoking federal jurisdiction bears the burden of showing that it has standing to assert its claim. Fla. Pub. Interest Research Group Citizen Lobby, Inc. v. Envtl. Prot. Agency, 386 F.3d 1070, 1083 (11th Cir. 2004). The party asserting that it has standing must support each element of the standing showing “in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation.” Id. (quoting Bischoff, 222 F.3d at 878). Thus, in connection with a motion to dismiss, a party may simply “provide ‘general factual allegations of injury resulting from the defendant’s conduct.’” Id. (quoting Bischoff, 222 F.3d at 878). Similarly, in connection with a request for a preliminary injunction, a party's standing may be judged based on the allegations of the party's complaint. Bischoff, 222 F.3d at
882 n. 8 (citing Church v. City of Huntsville, 30 F.3d 1332, 1336 (11th Cir. 1994)). At the summary judgment stage, however, a plaintiff may not simply rest on mere allegations, but instead "must set forth by affidavit or other evidence specific facts which for purposes of the summary judgment motion will be taken to be true."   Id. (quoting Bischoff, 222 F.3d at 878).

5. Given the above standard, during the trial on the merits, the organizational Plaintiffs were required to come forth with evidence showing that they each had at least one member who otherwise would have standing to sue in his own right, or that the organizations had standing independent of their membership. Stincer, 175 F.3d at 882. As Plaintiffs acknowledged at trial, all of the organizational Plaintiffs except Plaintiff NAACP failed to make that showing. Consequently, the Court need only examine whether Plaintiff NAACP has presented sufficient evidence to establish that it has standing.

6. Plaintiff NAACP first argues that it has standing to sue on
behalf of its members. As the Court previously concluded, Plaintiff Eugene Taylor's testimony as to whether he is a member of Plaintiff NAACP is not credible. Plaintiff NAACP consequently cannot establish standing based on Plaintiff Eugene Taylor's membership.

7. Further, although Mr. DuBose testified that he was generally aware of at least five individuals who would be affected by the Photo ID requirement, Mr. DuBose did not provide the names of those individuals, or even indicate whether those individuals actually were members of Plaintiff NAACP. Mr. DuBose's testimony consequently does not satisfy Plaintiff NAACP's burden to identify a member who otherwise would have standing to sue in his or her own right. *Stincer*, 175 F.3d at 882. Consequently, Plaintiff NAACP does not have standing to sue based on an injury to its members. *See also Ind. Democratic Party v. Rokita*, 458 F. Supp. 2d 755, 815-16 (S.D. Ind. 2006), aff'd, 472 F.3d 949 (7th Cir. 2007), *pet'n for cert. filed*, No. 07-25 (U.S. July 2, 2007) (finding organizational plaintiffs lacked standing to sue on
behalf of members where organizational plaintiffs failed to identify single member who did not already possess required photo identification or have injury beyond mere offense at having to present photo identification in order to vote).

8. Alternatively, Plaintiff NAACP argues that it has standing to sue in its own right, based on the possibility that it may have to re-allocate resources to educate its members concerning the Photo ID requirement and to ensure that its members who lack Photo ID cards obtain those. In support of this argument, Plaintiff NAACP cites to Havens Realty Corp. v. Coleman, 455 U.S. 363 (1982), and Central Alabama Fair Housing Center, Inc. v. Lowder Realty Co., 236 F.3d 629 (11th Cir. 2001). Both Havens Realty and Central Alabama Fair Housing Center, however, are Fair Housing Act cases, which involve special sets of circumstances. Rokita, 458 F. Supp. 2d at 815-16. Plaintiff NAACP simply has not demonstrated that the United States Court of Appeals for the Eleventh Circuit would extend the standing analysis applied in those Fair Housing
Act cases outside the context of housing discrimination, and the Court therefore declines to do so here. Id.

9. Additionally, Plaintiff NAACP, like the organizational plaintiffs in Rokita, failed to show that it already has expended resources in connection with the Photo ID requirement, but instead simply presented testimony indicating that at some undetermined time in the future, it may have “to divert unspecified resources to various outreach efforts.” Rokita, 458 F. Supp. 2d at 816. As the Rokita court noted, “[s]uch imprecise and speculative claims concerning potential future actions designed to combat speculative discrimination are a far cry from the kind of organizational expenditures found to convey standing in Havens.” Id. The Court therefore declines to apply Havens and its progeny to conclude that Plaintiff NAACP has standing to sue in its own right.

10. Further, the Court finds that, like the organizational plaintiffs in Rokita, any injury that Plaintiff NAACP would suffer would be of its own making. Rokita, 458 F. Supp. 2d at 816-17.
Indeed, as the Rokita court noted:

[T]he claimed injury suffered by the Organization Plaintiffs is entirely of their own making since any future reallocation of resources would be initiated at the Organization Plaintiffs' sole and voluntary discretion. Such an optional programming decision does not confer Article III standing on a plaintiff. As the D.C. Circuit observed: "The diversion of resources . . . might well harm the [plaintiff's] other programs, for money spent on testing is money that is not spent on other things. But this particular harm is self-inflicted; it results not from any actions taken by [defendant], but rather from the [plaintiff's] own budgetary choices.

Id. (quoting Fair Employment Council of Greater Wash., Inc. v. BMC Mktg. Corp., 28 F.3d 1268, 1276 (D.C. Cir. 1994)).

11. Additionally, the Court agrees with the Rokita court that

[T]he interpretation of Havens proffered by [Plaintiff NAACP], if accepted, would completely eviscerate the standing doctrine. If an organization obtains standing merely by expending resources in response to a statute, then Article III standing could be obtained through nothing more than filing a lawsuit. Such an interpretation flies in the face of well-established standing principles. Indeed, "[a]n organization cannot, of course,
manufacture the injury necessary to maintain a suit from its expenditure of resources on that very suit. Were the rule otherwise, any litigant could create injury in fact by bringing a case, and Article III would present no real limitation.

Rokita, 458 F. Supp.2d at 817 (quoting Spann v. Colonial Vill., Inc., 899 F.2d 24, 27 (D.C. Cir. 1990)). Consequently, the Court declines to find that Plaintiff NAACP has standing to pursue this case.

12. For the reasons discussed above, the Court finds that Plaintiff NAACP has failed to establish that it has standing to sue on behalf of its members, or that it has standing to sue in its own right. Consequently, Plaintiff NAACP may not pursue this lawsuit.

13. Additionally, for the following reasons, the Court finds that the individual Plaintiffs, Plaintiff Bertha B. Young and Plaintiff Eugene Taylor, also have failed to demonstrate that they have standing.

14. First, although Plaintiff Bertha B. Young lacks a Photo ID
that is acceptable for purposes of the 2006 Photo ID Act, she testified unequivocally that she can and will obtain a Photo ID card from her local registrar if the Court upholds the Photo ID requirement. Plaintiff Bertha B. Young further testified that she can go to her registrar's office, which is approximately two miles away from her house, by taking a bus. Although Plaintiff Bertha B. Young contends that the bus ride would take approximately one hour, she also testified that her sons and friends often drive her there. Indeed, Plaintiff Bertha B. Young uses a bank across town, and her friends or family members drive her there. Under those circumstances, the Court simply cannot find that requiring Plaintiff Bertha B. Young to obtain a Photo ID card will impose a significant burden on her, or that Plaintiff Bertha B. Young has shown, by a preponderance of the evidence, that she has suffered, or is in imminent danger of suffering, an injury in fact because of the 2006 Photo ID Act. In particular, Plaintiff Bertha B. Young has not shown that she has suffered "an invasion of a legally protected interest
which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (quotation marks and citations omitted). Plaintiff Bertha B. Young therefore lacks standing to pursue this lawsuit.

15. Similarly, Plaintiff Eugene Taylor testified that he has not voted since sometime in the 1980s, and that, if the Court upholds the Photo ID requirement, he can and will get a Photo ID card from his local registrar to allow him to vote. Plaintiff Eugene Taylor testified that his daughter will drive him to get the Photo ID card, and the evidence in the record indicates that Plaintiff Eugene Taylor’s local registrar’s office is approximately the same distance from Plaintiff Eugene Taylor’s home as is his polling place. Consequently, the Court cannot find that Plaintiff Eugene Taylor is in danger of suffering “an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” *Lujan*, 504 U.S. at 560 (quotation
marks and citations omitted). Further, although Plaintiff Eugene Taylor contends that his daughter may have to take off time from work to take him to the registrar’s office, Plaintiff Eugene Taylor has not demonstrated that he will suffer any harm from his daughter taking off from work, and he may not use any alleged injury to his daughter from missing work to support his own claim of standing. Plaintiff Eugene Taylor therefore lacks standing to pursue this action.

16. In sum, the Court finds that Plaintiffs have failed to prove, by a preponderance of the evidence, that they have standing to pursue this action. The Court therefore may not entertain this case. Consequently, the Court need not address Plaintiffs’ substantive challenge to the 2006 Photo ID Act. In an abundance of caution, however, the Court will address the merits of that challenge.
B. Undue Burden

1. Standard for Obtaining a Permanent Injunction

17. A court may grant a preliminary injunction "only if the moving party shows that: (1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." Klay v. United Healthgroup, Inc., 376 F.3d 1092, 1097 (11th Cir. 2004) (quoting Siegel v. Lepore, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc) (per curiam). "The standard for a permanent injunction is essentially the same as for a preliminary injunction except that the plaintiff must show actual success on the merits instead of a likelihood of success."

During closing arguments, Plaintiffs' counsel apparently contended that the 2006 Photo ID Act burdens voters' right to freedom of association. Plaintiffs, however, did not allege in their Second Amended Complaint that the 2006 Photo ID Act violated the First Amendment or otherwise violated voters' right to freedom of association. Plaintiffs consequently may not assert such a claim at this time.
Id. (quoting Siegel, 234 F.3d at 1213). Additionally, “most courts do not consider the public interest element in deciding whether to issue a permanent injunction.” Id.

18. A plaintiff seeking to enjoin enforcement of a state statute bears a particularly heavy burden. “[P]reliminary injunctions of legislative enactments—because they interfere with the democratic process and lack the safeguards against abuse or error that come with a full trial on the merits—must be granted reluctantly and only upon a clear showing that the injunction before trial is definitely demanded by the Constitution and by the other strict legal and equitable principles that restrain courts.” Bankwest, Inc. v. Baker, 324 F. Supp. 2d 1333, 1343 (N.D. Ga. 2004) (quoting Ne. Fla. Chapter of the Ass’n of Gen. Contractors of Am. v. City of Jacksonville, 896 F.2d 1283, 1285 (11th Cir. 1990)).

2. **Success on the Merits**

19. The Supreme Court has made it clear that voting is a fundamental right, Burdick v. Takushi, 504 U.S. 428, 433 (1992),
under the Fourteenth Amendment in the context of equal protection, 

20. Indeed, in Wesberry v. Sanders, 376 U.S. 1 (1964), the Court observed:

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. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right.

376 U.S. at 17-18.

21. Similarly, in Reynolds v. Sims, 337 U.S. 533 (1964), the Court stated:

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.
337 U.S. at 561-62.


23. The equal right to vote, however, is not absolute. Dunn, 405 U.S. at 336.

24. Instead, states can impose voter qualifications and can regulate access to voting in other ways. Dunn, 405 U.S. at 336.


26. The qualifications and access regulations established by the states, however, cannot unduly burden or abridge the right to vote. Tashjian v. Republican Party, 479 U.S. 208, 217 (1986) ("[T]he power to regulate the time, place, and manner of elections does not justify, without more, the abridgment of fundamental
rights, such as the right to vote.”) (citing Wesberry, 376 U.S. 1); see also Dunn, 405 U.S. at 359-60 (striking down Tennessee’s durational residency voting requirement of one year in state and three months in county); Beare v. Briscoe, 498 F.2d 244, 247-48 (5th Cir. 1974) (invalidating provisions of Texas Constitution and implementing statute requiring persons who wished to vote in any given year to register each year during registration period beginning on October 1 and ending on January 31 of following year) (per curiam). In particular, the Supreme Court has observed that wealth or the ability to pay a fee is not a valid qualification for voting. Harper v. Va. State Bd. of Elections, 383 U.S. 663, 666-68 (1966) (citations omitted; footnote omitted).

27. A number of Supreme Court cases have set forth standards for determining whether a state statute or regulation concerning voting violates the Equal Protection clause.

28. In Dunn, the Supreme Court stated that a court must examine: “the character of the classification in question; the
individual interests affected by the classification; and the
governmental interests asserted in support of the classification.”
**Dunn**, 405 U.S. at 335.

29. Another Supreme Court case indicates that the Court should “consider the facts and circumstances behind the law, the
interests which the State claims to be protecting, and the interests
of those who are disadvantaged by the classification.” **Kramer**, 395
U.S. at 626.

30. Those cases apply strict scrutiny when examining state
statutes or regulations that limit the right to vote. **Kramer**, 395 U.S.
at 627 (“[I]f a challenged state statute grants the right to vote to
some bona fide residents of requisite age and citizenship and
denies the franchise to others, the Court must determine whether
the exclusions are necessary to promote a compelling state
interest.”); see also **Hill v. Stone**, 421 U.S. 289, 298 (1975) (“in an
election of general interest, restrictions on the franchise of any
character must meet a stringent test of justification”).
31. In a more recent line of cases, the Supreme Court has not necessarily applied the strict scrutiny test automatically to regulations that relate to voting. Burdick, 504 U.S. at 433-34; Tashjian, 479 U.S. at 213 (quoting Anderson v. Celebreeze, 460 U.S. 780, 789 (1983)).

32. Indeed, the Supreme Court observed in Burdick:

Election laws will invariably impose some burden upon individual voters. Each provision of a code, “whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least to some degree—the individual’s right to vote and his right to associate with others for political ends. Consequently, to subject every voting regulation to strict scrutiny and to require that the regulation be narrowly tailored to advance a compelling state interest, as petitioner suggests, would tie the hands of States seeking to assure that elections are operated equitably and efficiently. Accordingly, the mere fact that a State’s system “creates barriers . . . tending to limit the field of candidates from which voters might choose . . . does not of itself compel close scrutiny.”
Instead, . . . a more flexible standard applies. A court considering a challenge to a state election law must weigh "the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate" against "the precise interests put forward by the State as justifications for the burden imposed by its rule," taking into consideration "the extent to which those interests make it necessary to burden the plaintiff's rights."

Under this standard, the rigorousness of our inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens First and Fourteenth Amendment rights. Thus, as we have recognized when those rights are subjected to "severe" restrictions, the regulation must be "narrowly drawn to advance a state interest of compelling importance." But when a state election law provision imposes only "reasonable, nondiscriminatory restrictions" upon the First and Fourteenth Amendment rights of voters, "the State's most important regulatory interests are generally sufficient to justify" the restrictions.

Burdick, 504 U.S. at 433-34 (citations omitted).
33. The Court finds that the appropriate standard of review for evaluating the 2006 Photo ID Act is the Burdick sliding scale standard.

34. Under that standard, the Court must weigh "the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate" against "the precise interests put forward by the State as justifications for the burden imposed by its rule," taking into consideration "the extent to which those interests make it necessary to burden the plaintiff's rights," Burdick, 504 U.S. at 433-34.

a. The Asserted Injury

35. For the reasons discussed below, the Court finds that Plaintiffs simply have failed to prove that the character and magnitude of the asserted injury to the right to vote is significant. Although Plaintiffs contended at the preliminary injunction hearings that many voters who do not have driver's licenses, passports, or other forms of photographic identification have no transportation to
a voter registrar's office or DDS service center, have impairments that preclude them from waiting in often-lengthy lines to obtain Voter ID cards or Photo ID cards, or cannot travel to a registrar's office or a DDS service center during those locations' usual hours of operation because the voters do not have transportation available, Plaintiffs failed to produce admissible evidence to that effect at trial. Indeed, the two named Plaintiffs both testified that they could and would travel to their local registrars' office to obtain a Photo ID card if the Court upheld the 2006 Photo ID Act, and their testimony, contrary to Plaintiffs' arguments, did not establish that either of the two named Plaintiffs would suffer an undue burden from traveling to the local registrar's office to obtain a Photo ID card. In particular, although the two named Plaintiffs testified that their children would have to take time off from work to take them to the registrar's office, the testimony in the record demonstrates that the two named Plaintiffs' children regularly take the two named Plaintiffs places, and that transportation may be available from
other sources, including rides from friends. Additionally, although Plaintiff Bertha B. Young stated that her bus ride to the registrar’s office would take one hour each way, she also testified that her friends could drive her, and it appears from the record that her friends and employer regularly transport her.

Similarly, Mr. Dewberry testified that he could walk one-quarter of a mile to the registrar’s office to obtain a Voter ID card, and stated that obtaining a Voter ID card would not be a significant hardship for him. Consequently, the Court cannot find that the Photo ID requirement is unduly burdensome for Mr. Dewberry.

Likewise, Annie Johnson testified that she goes to Americus at least once a month, that her friends or family members drive her there, and that she would obtain a Voter ID card the next time she went to Americus. This testimony fails to support Plaintiffs’ contention that requiring Ms. Johnson to obtain a Voter ID card would unduly burden her right to vote.
Further, although Plaintiffs contended at the preliminary injunction hearing that many voters who lack an acceptable Photo ID for in-person voting are elderly, infirm, or poor, and lack reliable transportation to a DDS service center or a county registrar's office, the evidence in the record fails to support that contention. Even if the Court accepted Dr. Hood's testimony indicating that a higher percentage of the individuals who appear on the DDS no-match lists are elderly, or are African-American or other minorities, the testimony in the record established that the large numbers reported on the DDS no-match list were far from reliable. Additionally, as previously noted, Plaintiffs proffered precious little admissible evidence showing that voters who lacked Photo ID had no transportation to a DDS office or a county registrar's office. Further, even if a voter's name appears on a DDS no-match list, the voter still may have some other form of acceptable Photo ID, and neither Dr. Hood's analysis nor the DDS no-match list purported to

6The undersigned appeared on one of the no-match lists. (July 12, 2006, Hr'g Tr. at 78.)
address that issue. Plaintiffs thus simply have not satisfied their burden of proving that the 2006 Photo ID Act unduly burdens minority or elderly voters.

36. Although Plaintiffs argue that the State's education efforts are irrelevant to the question of whether the 2006 Photo ID Act unduly burdens voters, the Court finds this argument unpersuasive. The Court's earlier rulings on the preliminary injunction motions, which found that the Photo ID requirements in the 2006 Photo ID Act unduly burdened voters, hinged in large part on the fact that many of the voters who might lack a Photo ID had no real notice of the Photo ID requirement or of how to get a Photo ID or vote absentee. At the trial, however, the evidence revealed that the State made exceptional efforts to contact voters who potentially lacked a valid form of Photo ID issued by the DDS and who resided in the twenty-three counties that planned to hold September 18, 2007, elections, and to inform those voters of the availability of a Voter ID card, where to obtain additional information, and the
possibility of voting absentee without a Photo ID. The evidence in the record indicates that the State also provided information to voters in general by advertising on the Clear Channel radio network, and by partnering with libraries and nongovernmental organizations. Additionally, the Photo ID requirement has been the subject of many news reports, editorials, and news articles. Under those circumstances, Plaintiffs are hard-pressed to show that voters in Georgia, in general, are not aware of the Photo ID requirement.

Although Plaintiffs’ counsel argued that the voter education materials provided by the State were misleading or did not provide sufficient information, the materials informed the voters of the Photo ID requirement for in-person voting, explained who was eligible for a free Voter ID card, invited voters to contact their local registrars or the Secretary of State for further information, provided a toll-free telephone number, and, in the August 8, 2007, letter, provided the address and telephone number for the voters’ respective local registrar’s offices. That information was sufficient to convey the necessary message to the voters.

Additionally, although Dr. Gowen opined that the Flesch-Kincaid readability score for the materials provided to the voters was so high that a large percentage of Georgia voters could not understand the materials, that testimony is irrelevant. As discussed in the Court’s Order granting the State Defendants’ Motion to Exclude, the materials as analyzed by Dr. Gowen differed in several significant respects from the materials as actually given to the voters.
37. Additionally, individuals who do not have an acceptable Photo ID for in-person voting can obtain an absentee ballot and vote absentee by mail without providing an excuse. Although Plaintiffs contend that the average Georgia voter cannot read and understand the absentee ballot request form, there is no requirement that a voter complete that form. Instead, a voter need only write his name, address, and date of birth on a piece of paper, indicate in which election he wishes to vote absentee, and mail the piece of paper to his registrar. If he cannot do this, or if he cannot complete the absentee ballot request form, he can obtain assistance from a family member. Similarly, if the voter cannot read and complete the absentee ballot, a family member can help him. The State thus has not, as Plaintiffs contend, completely barred voters who lack Photo ID from voting.

38. The Court acknowledges that in its previous Orders addressing the preliminary injunction motions, it concluded that the Photo ID requirement severely burdened voters. It is important to
note, however, that the preliminary injunction motions were made at an earlier stage of the litigation and were made under more relaxed evidentiary standards. Here, however, Plaintiffs must actually prove their contentions by a preponderance of the evidence, using evidence reduced to an admissible form. Plaintiffs have failed to do so here.

39. Additionally, the Orders on the preliminary injunction motions were written under factual backgrounds that differ significantly from the admissible evidence presented to the Court at trial. In the case of the 2005 Photo ID Act, voters had no alternative for obtaining a Photo ID except to go to the DDS service centers or the Glow Bus. The evidence at the time indicated that the Glow Bus ran only sporadically and could not have possibly traveled to all of Georgia's 159 counties in time for the relevant elections, and also indicated that the DDS service centers often had long lines and long wait times. Further, under the 2005 Photo ID Act, voters either had to pay for their Photo ID card to vote in-
person or swear to an affidavit of indigency, perhaps falsely. Voters also might have been required to pay fees to obtain the documents necessary to obtain a Photo ID Card from DDS.

40. At the time of the July 12, 2006, and September 14, 2006, preliminary injunction hearings, the evidence indicated that the State had given voters a choice of obtaining a free DDS-issued Photo ID card for voting purposes or a free Voter ID card issued by their local registrars. Unfortunately, the evidence indicated that the State had begun voter education efforts only shortly prior to those hearings, and that the voter education efforts used by the State did not appear to be reasonably calculated to reach the voters who lacked Photo ID. The Court's primary concern in connection with those hearings was that voters likely would not have sufficient time to learn about the Photo ID requirement, to discover how to obtain a Photo ID, and to travel to their respective DDS service centers or registrar's offices to obtain a Photo ID. Under those circumstances, the Court found that the Photo ID requirement was likely to cause
voters without Photo ID to refrain from voting, and, consequently, the Photo ID requirement was an undue burden on the right to vote.

41. Here, however, the State has undertaken a serious, concerted effort to notify voters who may lack Photo ID cards of the Photo ID requirement, to inform those voters of the availability of free DDS-issued Photo ID cards or free Voter ID cards, to instruct the voters concerning how to obtain the cards, and to advise the voters that they can vote absentee by mail without a Photo ID. Although the State’s educational effort may not be as extensive as Plaintiffs would like, the evidence demonstrates that the educational effort is reasonably calculated to inform voters of the change in the law and to inform voters what action they need to take. Additionally, the State’s educational effort began sufficiently early to afford most voters who lack a Photo ID a reasonable opportunity to obtain one. The Court therefore finds that the 2006 Photo ID Act does not significantly burden the right to vote.
42. Similarly, at the time of the previous hearings, the State had not publicized no-excuse absentee voting by mail as an alternative to voting in person with a Photo ID. By the time of the trial, however, the State has reached out to voters to explain the availability of that option.

43. Plaintiffs appear to argue that the requirement of obtaining a Photo ID, in and of itself, significantly burdens the right to vote. The Court finds this argument unpersuasive. Indeed,

Election laws will invariably impose some burden upon individual voters. Each provision of a code, “whether it governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least to some degree—the individual’s right to vote and his right to associate with others for political ends.”

Rokita, 458 F. Supp. 2d at 821-22 (quoting Anderson v. Celebreeze, 460 U.S. 780, 788 (1983)). Plaintiffs simply have not presented sufficient admissible evidence to show that the Photo ID
requirement severely burdens the right to vote. Indeed, as the court noted in Rokita:

Despite apocalyptic assertions of wholesale voter disenfranchisement, Plaintiffs have produced not a single piece of evidence of any identifiable registered voter who would be prevented from voting pursuant to [the 2006 Photo ID Act] because of his or her inability to obtain the necessary photo identification. Similarly, Plaintiffs have failed to produce any evidence of any individual ... who would undergo any appreciable hardship to obtain photo identification in order to be qualified to vote.

Id. at 822-23. Additionally, although Plaintiffs claim to know of people who claim that they lack Photo ID, Plaintiffs have failed to identify those individuals. Id. at 823. The failure to identify those individuals “is particularly acute” in light of Plaintiffs’ contention that a large number of Georgia voters lack acceptable Photo ID. Id. Further, although Plaintiffs Eugene Taylor and Bertha B. Young and Mr. Dewberry and Ms. Johnson state that they prefer to vote in person rather than voting absentee by mail, “this abrogation of their personal preferences is not a cognizable injury or hardship.” Id. at
823 n.71. As the Rokita court noted, voters who lack Photo ID undoubtedly exist somewhere, but the fact that Plaintiffs, in spite of their efforts, have failed to uncover anyone "who can attest to the fact that he/she will be prevented from voting" provides significant support for a conclusion that the Photo ID requirement does not unduly burden the right to vote. Id. at 823. Consequently, the Court declines to apply a strict scrutiny analysis to Plaintiffs' contentions.

b. State Interest

44. The State and the State Defendants assert that the 2006 Photo ID Act's Photo ID requirement is designed to curb voting fraud. "A state indisputably has a compelling interest in preserving the integrity of its election process." Purcell v. Gonzalez, 127 S. Ct. 5, 7 (2006). As the Supreme Court has noted:

Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy. Voter fraud drives honest citizens out of the democratic process and breeds distrust of our
government. Voters who fear their legitimate votes will be outweighed by fraudulent ones will feel disenfranchised. "[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

Id. (quoting Reynolds v. Sims, 377 U.S. 330, 336 (1972)).

c. **Extent to Which the State's Interest In Preventing Voter Fraud Makes It Necessary to Burden the Right to Vote**

45. Finally, the Court must examine the extent to which the State's interest in preventing voter fraud makes it necessary to burden the right to vote. Plaintiffs argue that the 2006 Photo ID Act is not narrowly tailored to the State's proffered interest of preventing voter fraud because the State Defendants failed to show that any incidents of in-person voter fraud had occurred.\(^8\) Plaintiffs also

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\(^8\)Although Plaintiffs contend that the State Defendants have not proffered admissible evidence as to the interest supporting the 2006 Photo ID Act, Plaintiffs actually bear the burden of proof in this case. In any event, the evidence in the record is sufficient to support a finding that the State Defendants introduced the 2006 Photo ID Act in an effort to prevent fraud in voting.
argue that the State had a number of significantly less burdensome alternatives available to prevent in-person voting fraud, such as the voter identification requirements it previously used and numerous criminal statutes penalizing voter fraud, to discourage voters from fraudulently casting ballots or impersonating other voters. Those arguments, however, presuppose that the Court will apply a strict scrutiny analysis. Because the Court has concluded that the 2006 Photo ID Act does not unduly or significantly burden the right to vote, a strict scrutiny analysis is not appropriate.

46. Rather, the appropriate inquiry is whether the Photo ID requirement is rationally related to the interest the State seeks to further—preventing fraud in voting. The Court finds that the Photo ID requirement is rationally related to that interest.\(^9\) Although Plaintiffs may argue that no documented cases of in-person voter

\(^9\)In a previous Order, the Court speculated that the Photo ID requirement probably was not even rationally related to the asserted justification of preventing voting fraud. That speculation, however, is not binding on the Court and, frankly, proved to be inaccurate.
fraud exist in Georgia, “the State is not required to produce such documentation prior to enactment of a law.” Rokita, 458 F. Supp. 2d at 826.

47. Additionally, Plaintiffs complain that any real problem with voting fraud exists in the absentee voting area, and that the State has failed to take steps to address that problem. This argument, once again, presumes that the Court will apply a strict, or heightened, scrutiny analysis. In any event, it is clear that “the legislature has wide latitude in determining the problems it wishes to address and the manner in which it desires to address them.” Rokita, 458 F. Supp. 2d at 829. As the Supreme Court has noted:

Evils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. The legislature may select one phase of one field and apply a remedy there, neglecting the others.

d. Summary

48. For the reasons discussed above, the Court finds that Plaintiffs have not demonstrated that the Photo ID requirement places an undue or significant burden on the right to vote. Additionally, Plaintiffs have failed to demonstrate that the Photo ID requirement is not reasonably related to the State’s interest in preventing fraud in voting. For those reasons, the Court finds that Plaintiffs have failed to succeed on the merits of their claim that the 2006 Photo ID Act violates the Equal Protection Clause because it imposes an undue burden on the right to vote.

3. Irreparable Harm

For the reasons discussed supra Part III.B., Plaintiffs have failed to show that the 2006 Photo ID Act’s Photo ID requirement unduly or significantly burdens the fundamental right to vote. Plaintiffs thus have failed to prove that they or other Georgia voters will suffer irreparable harm if the Court declines to enter a permanent injunction.
C. Threatened Injury to Plaintiffs Weighed Against the Damage to the State

Next, the Court must weigh the threatened injury to Plaintiffs against the damage to the State caused by a permanent injunction. As noted above, Plaintiffs simply have failed to prove that the Photo ID requirement unduly or significantly burdens the right to vote. On the other hand, the State has a compelling interest in preventing fraud in voting, and entering a permanent injunction will greatly interfere with the State's chosen method of protecting that interest. This factor therefore counsels against entering a permanent injunction.

D. Public Interest

As previously noted, most courts do not consider the public interest factor in determining whether a permanent injunction should issue. Klay, 376 F.3d at 1092. In any event, a permanent injunction would not serve the public interest. For the reasons discussed above, Plaintiffs simply have failed to prove that the Photo ID requirement unduly or significantly burdens the right to vote.
vote. On the other hand, preventing voter fraud serves the public interest by ensuring that those individuals who have registered properly to vote are allowed to vote and to have their votes counted in any given election. This factor therefore counsels against granting a permanent injunction.

E. Summary

In sum, the factors for granting permanent injunctive relief do not weigh in favor of Plaintiffs. In particular, Plaintiffs have failed to prove actual success on the merits of their claim that the 2006 Photo ID Act’s Photo ID requirement unduly burdens the right to vote. Plaintiffs also have failed to show that they will suffer irreparable harm if the Court does not grant a permanent injunction, much less that any harm to Plaintiffs outweighs the harm to Defendants that would occur if the Court granted permanent injunctive relief. Additionally, entering a permanent injunction would not serve the public interest. For those reasons, the Court
declines to enter a permanent injunction, and finds in favor of the State Defendants on Plaintiffs’ undue burden claim.

IV. Conclusion

ACCORDINGLY, the Court DISMISSES this case, and DIRECTS the Clerk to CLOSE this case. The Court DIRECTS the Clerk to enter judgment in favor of the State Defendants.

IT IS SO ORDERED, this the 6th day of September, 2007.

[Signature]

UNITED STATES DISTRICT JUDGE