

1 motion should be denied.

2 II. ARGUMENT

3 “The filing of a notice of appeal is an event of jurisdictional significance—it confers
4 jurisdiction on the court of appeals and divests the district court of its control over *those aspects*
5 *of the case involved in the appeal.*” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58
6 (1982) (per curiam) (emphasis added).

7 Intervenor’s jurisdictional argument fails because the remedial aspect of the case is—
8 obviously—not involved in the appeal. That’s why Intervenor’s precise argument has been
9 repeatedly rejected by courts. *See, e.g., Harris v. McCrory*, 1:13-cv-00949-WO-JEP, 2016 WL
10 3129213, at *1 (M.D.N.C. June 2, 2016), *aff’d sub nom. Harris v. Cooper*, 138 S. Ct. 2711
11 (2018) (“Because the remedial phase of this case is not an ‘aspect [] of the case involved in the
12 appeal,’ the Court retains jurisdiction over it.”); *Personhuballah v. Alcorn*, 155 F. Supp. 3d 552,
13 558 (E.D. Va. 2016) (“B]ecause the remedial phase of this case is not an ‘aspect [] of the case
14 involved in the [liability] appeal,’ we retain jurisdiction over it.”). In *Personhuballah*, the
15 Supreme Court has implicitly agreed, summarily denying Intervenor’s subsequent motion for a
16 stay. *See Wittman v. Personhuballah*, 578 U.S. 539, 542–43 (2016) (“The intervenor Members
17 of Congress asked this Court to stay implementation of the Remedial Plan pending resolution of
18 their direct appeal to this Court. We declined to do so.”).

19 Following this common-sense application of *Griggs*, courts routinely proceed with
20 remedial measures even while liability appeals are pending. *See, e.g., Michigan Independent*
21 *Citizens Redistricting Commission*, No. 23A641 (U.S. Jan. 22, 2024); *Harris*, 2016 WL
22 3129213, at *1; *Personhuballah*, 155 F. Supp. 3d at 558. A contrary rule—the rule Intervenor
23 urge—would mean that successful plaintiffs in Voting Rights Act and 14th Amendment cases
24 would be denied the fruits of their victories, as liability appeals collide with the *Purcell* principle
25 and drag on past election-related deadlines.

1 The principal case Intervenorers rely on to support their preferred outcome—*Wright v.*
 2 *Sumter*—is not to the contrary, as the *Wright* court itself recognized. That case explicitly
 3 distinguished *Personhuballah*, noting that “in contrast” to that case “both the liability
 4 determination and the first step of the Court’s remedy—delaying the school board election—
 5 [we]re before the Court of Appeals.” *Wright v. Sumter Cnty. Bd. of Elections & Registration*,
 6 1:14-cv-00042-WLS, 2018 WL 7366501, at *4 (M.D. Ga. July 23, 2018). The court therefore
 7 concluded “that the remedial phase of th[at] case” was “an aspect involved in the appeal.” *Id.*

8 Contrary to Intervenorers’ suggestion, *Coinbase v. Bielski*, 599 U.S. 736 (2023), changes
 9 nothing about the standard set forth in *Griggs*. *Contra* Dkt. # 259 at p. 3. “The sole question
 10 before th[e *Coinbase*] Court [wa]s whether a district court must stay its proceedings while the
 11 interlocutory appeal on arbitrability is ongoing”—obviously not the question here. *Coinbase*,
 12 559 U.S. at 740. In *Coinbase*, the Court straightforwardly applied *Griggs*, concluding that “[t]he
 13 *Griggs* principle resolves this case . . . [b]ecause the question on appeal is whether the case
 14 belongs in arbitration or instead in the district court,” and so “the entire case is essentially
 15 ‘involved in the appeal.’” *Id.* at 741 (quoting *Griggs*, 459 U.S. at 58).

16 Here, of course, the remedial phase is not an aspect of Intervenorers’ appeal, nor could it
 17 be since no remedy has been ordered. Intervenorers are well aware of this, having asked the Ninth
 18 Circuit to hold their merits appeal in abeyance until a party appeals this Court’s remedial order
 19 and obtaining that relief. *See* DktEntry: 59, *Soto Palmer v. Hobbs*, No. 23-35585 (9th Cir. Jan.
 20 5, 2024) (granting Intervenorers’ motion to hold briefing in abeyance pending this Court’s order
 21 adopting a remedial map).

22 Consistent with precedent and common sense, this Court should reject Intervenorers’ latest
 23 efforts to delay this case.¹

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 26 ¹ In light of this Court’s order setting a hearing on February 9, 2024 the State understands that Intervenorers’
 alternative request for a hearing is now largely moot. *See* Dkt. # 258 at p. 7–9. The State disagrees with Intervenorers’
 contention that this Court is required to accept live testimony at the hearing, but if the Court is inclined to hear
 testimony, the State defers to the Court’s preferences.

1 **III. CONCLUSION**

2 The State respectfully requests the Court deny Intervenor–Defendants’ Motion to
3 Suspend Remedial Proceedings.

4 DATED this 5th day February 2024.

5
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11 I certify that this memorandum contains 838
12 words, in compliance with the Local Civil
13 Rules.