

No.

In the

Supreme Court of the United States

In Re LARRY M. SHANE, PAMELA SIMON,
HARRIET LERMAN, HENRY FORD BALL JR.,
AND AMBER J. JONES,

Petitioners,

v.

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES;
MIKE PENCE,
VICE-PRESIDENT OF THE UNITED STATES AND
PRESIDENT OF THE UNITED STATES SENATE;
PAUL RYAN, SPEAKER OF THE HOUSE
OF REPRESENTATIVES, 115TH CONGRESS;
AND MITCH MCCONNELL,
SENATE MAJORITY LEADER,

Respondents.

**PETITION FOR A WRIT OF MANDAMUS
DIRECTED TO THE ABOVE-NAMED
RESPONDENTS AND FOR APPOINTMENT OF
A SPECIAL MASTER TO INVESTIGATE THE
FACTS AND CIRCUMSTANCES OF THE
PRESIDENTIAL ELECTION OF 2016**

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QUESTIONS PRESENTED

Preface

Petitioners believe Donald Trump was unlawfully elected President. This Petition lays out facts and the Court's constitutional authority to resolve this matter of historically unprecedented magnitude. The Petitioners' sole intent is to protect the public good, and trust the Justices of the Court to consider this Petition as American patriots who will not be bound by partisan politics. Our survival as a Republic depends on Americans having the courage and wisdom to consider these questions.

Petitioners present the following Questions:

1. Whether this Court should order a Special Master to be appointed to investigate widespread allegations that the primary and general 2016 presidential elections were corrupted by a Russian cyberwarfare invasion, in collusion with members of the Republican presidential campaign and Republican leaders, and should Robert Mueller be the Special Master to continue the current investigation under the aegis of the Court.
2. Whether the Court should also direct the Special Master to investigate: (a) if the Electors were qualified under the Constitution article II, § 1; (b) if the Electors acted in accordance with the intent of the Framers as delineated particularly in Hamilton's *Federalist No. 68*; and (c) if the Electoral College and the Electors should have adhered to the Constitution and the Framers's

intent for the Electors to evaluate whether the President-elect has evidenced the character, capabilities, and good judgment to serve as President, with no ties whatsoever to foreign nations.

3. If the Special Master finds there was a Russian cyberwarfare invasion to subvert the result of the November 8, 2016, presidential election, and there was collusion on the part of Americans supporting the Republican presidential campaign, and there was a failure of the Electoral College to perform its function as intended by the Framers to protect the nation, then whether the persons presently holding the offices of President and Vice President should be removed; and further, whether the candidate who came in second—with a substantial popular vote plurality—should be declared the President and serve out the balance of the current term; or whether there should be a new vote of qualified Electors adhering to the Framers' intent.

RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioners state they are individual citizens and therefore are neither corporate entities nor subject to having any stock or similar interest held by anyone or any entity nor have any parent company.

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JURISDICTION

This Court has jurisdiction to grant the relief sought:

The Court has primary jurisdiction under the United States Constitution to entertain this action. U.S. Const. Art. III, § 2.

The Court also may issue all writs necessary or appropriate in aid of its jurisdiction and agreeable to usages and principle of law under the All Writs Act. 28 U.S.C.A. § 1651(a).

Because the writ of mandamus is an extraordinary writ, the form of pleadings and motions prescribed by the Federal Rules of Civil Procedure is followed, Supreme Court Rule 17.1 and 17.2; and therefore this Court has jurisdiction to appoint a Special Master to whom the Court customarily confers authority to fix the time and conditions for the filing of additional pleadings and to direct subsequent proceedings, as well as “authority to summon witnesses, issue subpoenas, and take such evidence as may be necessary and such as he may deem it necessary to call for.” F.R.Civ.P. 53.1; Stern Robert L., *Supreme Court Practice*, 8th ed., 2002, p. 576; citing to *Nebraska v. Iowa*, 379 U.S. 996 (1965) and *Illinois v. Missouri*, 384 U.S. 924 (1966).

In an age when only a few people—white, male landowners—could vote, the Framers *did* envision the prospect of foreign intervention in the selection of our nation’s leaders, in particular for the position of chief magistrate, as the presidential position was described during the Convention.

The Framers believed they had built a series of checks and balances strong enough to thwart efforts to subvert their new republic and protect it from foreign enemies.

The base impulses of human beings anticipated by the Framers, such as foreign intrigue and the duplicity of some who would seek political power, have not changed since the Convention.

The Framers could not have anticipated, 230 years ago—when muskets were the weapons of choice—nuclear bombs, ICBMs, the internet, or the use of cyber technology by a hostile foreign nation to attack the core of our democracy—free and fair elections. The Framers could not have envisioned Electors confirming as President a venal, pathological liar with severe personality disorders, financially compromised by the dictator of a foreign hostile nation hiding in the shadows of the interstitial nature of international finance.

At the time the Framers drafted the Constitution in 1787, the first computers would not be invented for 160 years; there were no atomic mushroom-shaped clouds, the internet would not be functional for about 200 years; and psychology had yet to be developed as a discipline, particularly as it is now with the DSM-5, the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

Yet foreseeing such a moment of truth as ours, the Framers provided the Judiciary with the authority to resolve such a crisis.

STATEMENT OF FACTS

The factual basis for this Petition is derived from

- admissions by the named Respondents Donald J. Trump, Mike Pence, Paul Ryan, and Mitch McConnell;
- acts or resolutions of Congress;
- official records of the primary and general elections of 2016; and
- U. S. DC District Court: Misc. Action No. 17-2336 (BAH) Chief Judge Beryl A. Howell; In Re Grand Jury Investigation Memorandum Opinion: “This is a matter of national importance. The United States, through the Special Counsel’s Office (“SCO”), is investigating foreign interference in the 2016 presidential election and potential collusion in those efforts by American citizens....”¹

THE PARTIES

Petitioners

Each of the following Petitioners has standing to maintain this action because they have a vested interest in the outcome of the election. *Diamond v. Charles*, 476 U.S. 54, 66-67, 106 S.Ct. 1697 (1986); *Classic*, 313 U.S. at 318, 61 S. Ct. at 1031.

Petitioner Larry M. Shane is a citizen and resident of the State of Ohio, a registered voter in

¹ Howell, Beryl A., Chief Judge, U. S. DC District Court: Misc. Action No. 17-2336 (BAH); In re Grand Jury Investigation Memorandum Opinion

that swing State, and voted for the Democrat presidential ticket in the November 2016 election.

Petitioner Pamela Simon is a citizen and resident of the Commonwealth of Pennsylvania, a registered voter in that swing State, and voted for the Democrat presidential ticket in the November 2016 election.

Petitioner Harriet Lerman is a citizen and resident of the State of Florida, a registered voter in that swing State, and voted for the Democrat presidential ticket in the November 2016 election.

Petitioner Henry Ford Ball Jr. is a citizen and resident of the State of Michigan, a registered voter in that swing State, and voted for the Democrat presidential ticket in the November 2016 election.

Petitioner Amber J. Jones is a citizen and resident of the State of Wisconsin, a registered voter in that swing State, and voted for the Democrat presidential ticket in the November 2016 election.

Respondents

The named Respondents are federal office holders either responsible for oversight of the affairs of the United States (including the election process) or benefitted by being declared winners in the primary and general elections of 2016, and derived benefit from the acts complained of in this petition.

TESTIMONIAL EVIDENCE**The Statement of an Opposing Party Made by the Party in an Individual or Representative Capacity Is Not Considered “Hearsay.”**

The statement of an opposing party made by the party in an individual or representative capacity is not considered “hearsay.” Fed.R.Evid. 801(d)(2)(A); *United States v. Nixon*, 418 U.S. 683, 700-01, 94 S.Ct. 3090, 3104, 41 L.Ed.2d 1039 (1974). Proponents of such evidence need only show by a preponderance of the evidence that the opposing party made the statement. *United States v. Brinson*, 772 F.3d 1314, 1320 (10th Cir. 2014). (Facebook messages deemed admissible as admissions of a party opponent.)

Parties

Donald J. Trump was declared the winner of the vote of the Electoral College after the November 2016 election for President of the United States, was sworn into office on January 20, 2017, and as the head of the Executive Branch, is charged with enforcement of our nation’s laws.

Mike Pence was the running mate of Donald J. Trump, was sworn into office as Vice President of the United States on January 20, 2017, and presides over the United States Senate.

Paul Ryan is the Speaker of the United States House of Representatives and is charged with oversight of that body.

Mitch McConnell is the Senate Majority Leader and is charged with the oversight of that body.

Respondents Acknowledge Russia's Hacking in Public Testimony.

Donald J. Trump has acknowledged Russia hacked during the 2016 elections:

a. "**President-elect Trump** conceded for the first time that Russia was behind the hacking of Democrats during the presidential election, saying at a news conference that, 'I think it was Russia' ..." Michael Shear, *et al.*, "Trump Says 'I Think It Was Russia' That Hacked the Democrats,"²;

b. "Just out: The Obama Administration knew far in advance of November 8th about election meddling by Russia. Did nothing about it. WHY?"³ and

c. "Since the Obama Administration was told way before the 2016 Election that the Russians were meddling, why no action? Focus on them, not T!"⁴

d. On July 12, 2017, **President Trump** told reporters about his direct questioning of Putin in their meeting about Russian hacking:

"I said, 'did you do it?' And he said no, I did not. Absolutely not," Trump told Reuters. "I then asked him a second time in a totally different way. He said

² *The New York Times*, Jan. 11, 2017, p. 1

³ Tweet, @realDonaldTrump, 6/23/17, 8:43 p.m. ET, <https://twitter.com/realdonaldtrump/status/878413313188802560?lang=en>

⁴ Tweet, @realDonaldTrump, 6/24/17, 4:28 p.m. ET, <https://twitter.com/realdonaldtrump/status/878711517537083392?lang=en>

absolutely not.’...After the meeting in Germany, Putin said Trump asked many questions on Russian hacking. “I think he was satisfied with my answers,” Putin said Saturday, “And I think he noted it and he agreed with it. I think it’s better to ask him.”

A reasonable person would conclude, as Hamilton would, that this inappropriate exchange shows “improper ascendant in our councils.”

Again from USATODAY: “Trump went on to tell Reuters, ‘Look. Something happened and we have to find out what it is, because we can’t allow a thing like that to happen to our election process. So something happened and we have to find out what it is.’”⁵

Mike Pence has acknowledged that Russia hacked during the election:

a. In response to a question by host Chuck Todd, then-Governor **Mike Pence** replied, “Well, I think there’s more and more evidence that, that implicates Russia...”;⁶ and

b. In response to questions by Dana Bash, CNN, Vice President-elect **Mike Pence**, stated, “That’s not to ignore the information and evidence ... that

⁵ [usatoday.com/story/news/politics/2017/07/12/president-trump-russia-election-meddling-putin-told-me-he-didnt-do/473850001](https://www.usatoday.com/story/news/politics/2017/07/12/president-trump-russia-election-meddling-putin-told-me-he-didnt-do/473850001); Reuters, et al.

⁶ Chuck Todd, Meet the Press, NBC, [nbcnews.com/meet-the-press/meet-press-october-16-2016-n667251](https://www.nbcnews.com/meet-the-press/meet-press-october-16-2016-n667251)

we have. That's not to ignore the evidence that we have of Russian involvement in hacking last fall";⁷

Speaker of the House **Paul Ryan** said: "it is 'absolutely unacceptable' that Russia interfered in the U.S. presidential election and urged congressional investigators and special counsel Robert Mueller to get to the truth."⁸

Mitch McConnell told MSNBC's "Morning Joe." "I don't think we need to go through setting up a special committee but we are going to look at Russian involvement in the U.S. election. It's a significant issue."⁹

Russia Is a Hostile Foreign Power and Uses Cyberwarfare against the United States.

Since World War II, Russia has always been an adversary, if not an outright enemy, of the USA.

In the "Countering America's Adversaries Through Sanctions Act" are codified sanctions against Russia.

In 22 U.S.C.A. § 9522(a), sanctions are codified:

a. Executive Order Number "13694 (80 Fed. Reg. 18077, relating to blocking the property of certain persons engaging in significant malicious cyber-enabled activities)"; and

⁷ cnn.com/2017/01/18/politics/mike-pence-russia-hacking-consequences-sanctions/index.html

⁸ usatoday.com/story/news/politics/2017/07/12/paul-ryan-russian-meddling-election-absolutely-unacceptable/471428001/#

⁹ thehill.com/homenews/senate/319609-mcconnell-calls-russian-election-involvement-significant-issue

b. Executive Order Number “13757 (82 Fed. Reg. 1; relating to taking additional steps to address the national emergency with respect to significant malicious cyber-enabled activities)...” See also 22 U.S.C.A. § 9524.

In a Joint Statement to the Senate Armed Services Committee, James Clapper described cyberwarfare as follows:

Cyber Warfare is a 21st Century form of invasion: hacking, propagandizing, stealing campaign plans and voting rolls, to serve Russia’s interest in disrupting Democracies and controlling the affairs of the United States; of which is invasion by an enemy...

Cyber Threat Actors: Russia. Russia is a full-scope cyber actor that poses a major threat to U.S. Government, military, diplomatic, commercial, and critical infrastructure and key resource networks because of its highly advanced offensive cyber program and sophisticated tactics, techniques, and procedures.... etc.¹⁰

¹⁰ See “Joint Statement for the Record to the Armed Services Committee, Foreign Cyber Threats to the United States”; James R. Clapper, Director of National Intelligence; Marcel Lettre, Undersecretary of Defense for Intelligence; Admiral Michael S. Rogers, USN Commander, U.S. Cyber Command Director, National Security Agency, 5 January 2017—unclassified.

Any reasonable person would conclude from the content of the National Intelligence Agency's classified information before November 8, 2016, that an investigation by a Special Master would reveal significantly more dire evidence of activities detrimental to the national security of our democracy.

The cyberwarfare invasion involved the insertion of malware in computer systems in primary elections and general elections conducted in at least 21 states.

The crucial swing state of Wisconsin and 20 others were alerted on 9/23/17 that they were targeted by Russian hackers in the 2016 presidential election by the Feds. ... In June, Homeland Security told Congress that 21 states were targeted during the 2016 presidential race but did not identify the states. Wisconsin was informed by Homeland Security that they were attacked by 'Russian government cyber-actors.'¹¹

The Petitioners Request that the Court Appoint Robert Mueller As a Special Master to Investigate, Free from Political Control.

Robert Mueller has been appointed as a Special Counsel to investigate various matters, including allegations that members of the Donald Trump's

¹¹ nypost.com/2017/09/22/russians-hackers-targeted-election-systems-in-21-states/

election campaign were complicit in colluding with Russians to illegally obtain the office of President via the Electoral College.

All current investigations are subject to Republican partisan political control.

Robert Mueller works within a body of regulations—28 C.F.R. § 600, *et seq.*

Special Counsel Robert Mueller

may be disciplined or removed from office only by the personal action of the Attorney General. The Attorney General may remove a Special Counsel for misconduct, dereliction of duty, incapacity, conflict of interest, or for other good cause, including violation of Departmental policies. The Attorney General shall inform the Special Counsel in writing of the specific reason for his or her removal. (28 C.F.R. 600.7(d))

The Attorney General is subject to summary dismissal by the President.

As a consequence, the Special Counsel is subject, ultimately, to being fired by the President of the United States.

The President is the primary person being investigated; his past reveals decades of financial involvement with Russia. He has acknowledged Russia interfered with the election, and has actively sought to stop any such investigation, including firing FBI Director James Comey.

President Trump further called the snowballing investigation by Special Counsel Robert Mueller a “witch hunt.”

The Electoral College Did Not Follow the Framers’ Intent, and the Election Was Compromised.

Donald Trump lost the national popular vote to Hillary Clinton by about three million votes, but nevertheless was elected by the unlawful vote of the Electors, 304–227, with seven faithless Electors,¹² in an Electoral College process that did not adhere to the Constitution and the Framers’ clear intent as explicitly expressed in *Federalist No. 68*.

Further, the vote was a result of very narrow margins in three swing states: Michigan, Wisconsin, and Pennsylvania. Such narrow margins served to magnify the impact of the Russian cyberwarfare invasion, aided and abetted by members of the Trump campaign, colluding to subvert the result, as Hamilton warned.

The cyberattack could easily produce these narrow margins. The margin of “winning” votes matches exactly the behavior of the hacking program written by Clinton Curtis, who testified under oath to the US House of Representatives Judicial Committee in 2004 that such a hack is quite simple and would quickly propagate from machine to machine.¹³

¹² [archives.gov/federal-register/electoral-college/2016/election-results.html](https://www.archives.gov/federal-register/electoral-college/2016/election-results.html)

¹³ See bradblog.com/?page_id=9437 Jul. 2012 (video and

“On Friday, September 22, the Department of Homeland Security notified nearly half of the U.S. states that their election systems were targeted by Russia-affiliated hackers in an attempt to influence the 2016 election.”¹⁴

“Swing” states were situated so that the probable election results could be altered in the Electoral College by changing the votes of very few people.

Hamilton wanted the Electors to be free from cabals. But all Electors, casting their votes, were subject to the same propaganda campaign generated by Russia, aided and abetted by complicit Americans, before the petitioners voted. The results of the propaganda sought to induce petitioners, and other voters similarly situated, either not to vote for Hillary Clinton in the general election, or to vote for Donald Trump in the general election, or to refrain from voting, or to vote for the Green Party, or otherwise to cast votes to benefit the candidacy of Mr. Trump.

Petitioners reasonably believe, based upon information released daily by various respected journalists, that the result of their votes was sabotaged by this propaganda cyberwarfare.

The Petitioners were not informed that Russia, through a cyberwarfare invasion, had conducted a campaign of disinformation, propagandizing on news outlets and social media in collusion with

transcript); youtu.be/keIVrADzPYU Mar. 7, 2016 (video only)

¹⁴ See techcrunch.com/2017/09/22/electronic-voting-state-hacking-russian-government-cyber-actors/

Americans instrumental to the Republican presidential campaign to promote the election of Donald Trump.

Petitioners and America did not know about some of the cyberwarfare methods until the *New York Times* article on September 7, 2017, *The Fake Americans Russia Created to Influence the Election*.

“In January, the Central Intelligence Agency, the Federal Bureau of Investigation and the National Security Agency concluded ‘with high confidence’ that Mr. Putin had ordered an influence operation to damage Mrs. Clinton’s campaign and eventually aid Donald J. Trump’s.”¹⁵

Russia used social media to propagandize Hillary Clinton, which is now accepted public knowledge. Ongoing Congressional Hearings seek to further understand the extent of Russia’s use of social media to sabotage our elections.

The Petitioners reasonably believe that:

a. Donald Trump obtained the Office of President of the United States with the assistance of actors or agents of the government of Russia who acted in collusion with leading members of his campaign; he has conducted himself in public in such a way as to favor Russia, which exposes his adherence to the Russian government, as well as to the “oligarchs,” who are under the direct control of Vladimir Putin and who have provided him with funding for various real estate projects and

¹⁵ [nytimes.com/2017/09/07/us/politics/russia-facebook-twitter-election.html](https://www.nytimes.com/2017/09/07/us/politics/russia-facebook-twitter-election.html)

businesses; the substance of these types of loans constitutes money laundering. Again, a reasonable person would conclude that Donald Trump's conduct appears to be treason.

b. Post-election, it is empirically clear that the Russian cyberwarfare invasion to sabotage the Democrat candidate's election was intended to help elect the Republican candidate by conducting a propaganda war against Hillary Clinton.

Both the Executive Branch and the Legislative Branch are currently under the control of the Republican party. So it is unrealistic to count on a meaningful inquiry, or to anticipate a reasonable and complete remedy from either of these two branches of government.

Therefore, this Petition asks the Court to exercise its constitutional right and duty to protect our Republic from exactly what the Framers anticipated could endanger our nation's very existence.

As for the Electors' vote, in the 2016 presidential election (the election in which the Petitioners voted subject to regulation by both state and federal law), the Republican Party paid little or no heed to the United States Constitution, Article II, § 1, which provides:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no

Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

There is empirical evidence that Art. II, § 1 was violated. Objective research has revealed perhaps as many as 100 instances where Republican Electors were not qualified under the US Constitution, Federal, or State law.¹⁶

In addition, the major question is whether the Electoral College Electors should be directed to adhere to the Constitution and the original intent of the Framers as clearly expressed in the *Federalist Papers* which addressed the fact that the Constitution did not provide guidance for the conduct and duties of Electors.

APPLICABLE LAW

Article IV

Article IV, § 4, of the United States Constitution states: “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or the Executive (when the Legislature cannot be convened) against Domestic Violence.”

This provision is seen to consist of two clauses: the Guarantee Clause and the Invasion Clause, of

¹⁶ See the extensive documentation at my.pcloud.com/publink/show?code=788otalK

which the Guarantee Clause has been the subject of far more cases.

To protect against Invasion is clear and can be understood without much dispute.

Recently, the Court has even suggested that not all claims under the Guarantee Clause are non-judicial political questions. *New York v. United States*, 505 U.S. 144, 185-86, 112 S.Ct. 2433, 120 L.Ed.2d 120 (1992) (Justice O'Connor). *See also* Erwin Chemerinsky, "Cases Under the Guarantee Clause Should be Justiciable," *University of Colorado Law Review*, Vol. 65, p. 849.

Concerning the election of a president, in *The Federalist No. 68*, Alexander Hamilton wrote:

Nothing was to be more desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly in the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this than by raising a creature of their own to the chief magistracy of the Union?

Donald Trump's election is the embodiment of what Hamilton feared: a Russian dictator has gained "an improper ascendant in our councils."¹⁷

Ninth Amendment and Fourteenth Amendment

The Ninth Amendment states: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Alexander Hamilton opposed adoption of a Bill of Rights, arguing delineation of rights would allow "men disposed to usurp a pretense for claiming" power over matters not specifically stated as rights, *The Federalist No. 84*.

In *Griswold v. Connecticut*, 381 U.S. 479, 493, 85 S.Ct. 1678, 1686, 14 L.Ed.2d 510 (1965), Justice Goldberg, writing in concurrence, noted:

Nor am I turning somersaults with history in arguing that the Ninth Amendment is relevant in a case dealing with a State's infringement of a fundamental right. While the Ninth Amendment—and indeed the entire Bill of Rights—originally concerned restrictions upon federal power, the subsequently enacted Fourteenth Amendment prohibits the States as well from abridging fundamental

¹⁷ See also Article III, § 3, "Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, **giving them aid and comfort.**"

liberties. And, the Ninth Amendment, in indicating that not all such liberties are specifically mentioned in the first eight amendments, is surely relevant in showing the existence of other fundamental personal rights, now protected from state, as well as federal, infringement.

The Declaration of Independence

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

Unalienable rights depend on and include free and fair elections. Free and fair elections are the lifeblood of any democracy and individual freedom.

“Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesbury v. Sanders*, 376 U.S. 1, 17, 84 S.Ct. 526, 535, 11 L.Ed.2d 481 (1964).

Article II, § 1; Amendment XII

Article II, as amended by Amendment XII, establishes the Electoral College as a mechanism by which the popular vote in each state is conveyed to the United State Congress where the Electoral votes are counted to determine who should serve as President and Vice President of the United States.

Among the provisions is a prohibition against any United States Senator, Representative, or a

person holding an office of trust or Profit under the United States from being appointed an Elector.

The evidence developed to date reveals that there are more than 50, possibly as many as 100, of these Electors who were not eligible. Further investigation may reveal many more improprieties under state law, perhaps enough to change the outcome of the Electoral College vote.

The purpose of the Electoral College was far more critical than to merely count the votes. Hamilton foresaw the Electoral College as one check because the Constitutional Convention had

not made the appointment of the President to depend on any pre-existing bodies of men who might be tampered with beforehand to prostitute their votes; but they have referred it in the first instance to an immediate act of the people of America, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment. *Id.*

The members of the Electoral College are not independently selected as the Framers had anticipated, but are chosen in the same process as that by which votes are cast for the candidates for President and Vice President, and these votes are determined by the two major political parties.

When Hamilton noted the “business of corruption, when it is to embrace so considerable a number of men, requires time as well as means,” *id.*, Hamilton could not have anticipated computers, the

internet, or the power to spread propaganda to subvert the result of an American election by a Russian dictator in twenty-first century.

Hamilton wrote: “Nothing could be more ill-judged than that intolerant spirit which has, at all times, characterized political parties” *The Federalist No. 1*. He also wrote in *Federalist No. 1* that Electors were supposed to stop a candidate with “Talents for low intrigue, and the little arts of popularity” from becoming President. Further, Hamilton wrote that Electors were supposed to be “men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice.”

This characterization does not describe a presidential twitter-warrior.

It is not too late to carry out what Hamilton wanted done, which was:

Nothing was to be more desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly in the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this than by raising a creature of their own to the chief

magistracy of the Union?" *The Federalist No. 68* (Hamilton)

The Electoral College was intended to fulfill this function and failed. The Electors did not fulfill their responsibilities as prescribed by Hamilton.

REMEDY

The nature of the remedy depends upon the rights which were violated and the extent thereof, the feasibility of imposing significant criminal penalties to deter repetition and how the remedy can be framed so as to enhance, protect, and preserve the Constitution and the country's security.

Rights Abridged

Voting enjoys constitutional protection. *Norman v. Reed*, 502 U.S. 279, 112 S.Ct. 698 (1992); *Burdick v. Takushi*, 504 U.S. 428, 433, 112 S.Ct. 2059, 2063 (1992).

Voters have a fundamental right to associate politically and to vote for candidates of their choice. *Schulz v. Williams*, 44 F.3d 48, 54-55 (2nd Cir. 1994).

"Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesbury v. Sanders*, 376 U.S. 1, 17, 84 S.Ct. 526, 535, 11 L.Ed.2d 481 (1964).

As part of the social compact, Article IV, § 4, guarantees the States and their citizens "... a Republican Form of Government, and ...(that the United States will) ... protect each of ... (the States)against invasions...."

Post-election, neither the President nor any other “Person holding any Office of Profit or Trust” may receive any financial benefit from a foreign power. U.S. Const. Art. I, §9.

The right to cast a vote and the right to have one’s vote counted are both constitutionally protected. *United States v. Classic*, 313 U.S. 299, 315, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941).

A person’s interest in participating in the political process through voting and having that vote counted is a right both “individual and personal in nature.” *Reynolds v. Sims*, 377 U.S. 533, 561, 84 S.Ct. 1362 [12 L.Ed.2d 506] (1963) as cited in *Griffin v. Burns*, 570 F.2d 1065, 1072 (1st Cir. 1978).

“And the 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.” *Reynolds*, 377 U.S. at 554.

“We do not see how an election conducted under these circumstances can be said to be fair.” *Griffin*, 570 F.2d at 1076.

In this case, the distortion, lies, and propaganda being funded by Russian money is more extreme, more universal, and more corrosive nationwide than any of the above cases.

Scope of Relief

It is difficult to imagine what the relief can be when the enormity of the offense is so widespread. Nevertheless, the remedies sought are

1. removal from office;

2. criminal prosecutions;
3. such other proceedings that will make the country whole, including a perpetual ban against the perpetrators serving in any public life or participating in any form or ownership of media;
4. declare the candidate who came in second, with a substantial popular vote plurality, to be the President and, with her running mate, to serve the balance of the current term; or have qualified Electors revote;
5. correct and prevent this horrific fiasco from occurring again, by the Court affirming that the Framers wrote the *Federalist Papers* to clarify why they established the Electoral College, to protect against any candidate ever being confirmed who is a pathological liar, demagogue, financially compromised by a hostile foreign nation, and has the authoritarian personality and lack of character inclined toward dictatorship.

The relief sought in this Petition is not available in any other court and is greatly needed to protect the public good.

Donald Trump has already threatened to disband the Ninth Circuit United States Court of Appeals when that Court issued decisions contrary to his

views and orders, and has disparaged a United States District Court Judge as a “so-called judge.”¹⁸

Ability to Grant Relief

Only two means of removal of a sitting president from office are described in the Constitution—under Art. II, § 4 (impeachment); and Amendment XXV (removal by the “Vice President and a majority of either the principal officers of the executive departments”)—although the Framers foresaw the possibility of foreign intrigue in the election of President, *The Federalist No. 68* (Hamilton).

Madison described the ways in which history has “divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good.” *The Federalist No. 10*; and, in *The Federalist No. 43*, Madison referred to the Invasion Clause as affording protection in situations wherein a state is exposed to armed hostility from another political entity. Madison stated, even more broadly, that Article IV, § 4, serves to protect a state from “foreign hostility” and “ambitious or vindictive enterprises” on the part of other states or foreign Nations.¹⁹

Madison also saw the judicial branch as the appropriate branch to act in such a crisis as this:

¹⁸ [brookings.edu/.../trump-wants-to-break-up-the-ninth-circuit-how-would](https://www.brookings.edu/.../trump-wants-to-break-up-the-ninth-circuit-how-would)

¹⁹ *State of California v. United States*, 104 F.3d 1086, 1091 (9th Cir. 1997)

In cases where it may be doubtful on which side justice lies, what better umpires could be desired by two violent factions, flying to arms and tearing a State to pieces, than the representatives of confederate States, not heated by the local flame? To the impartiality of judges, they would unite the affection of friends.²⁰

“The granting of equitable relief premised directly upon the Constitution has long been a practice accepted without discussion.” *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 404, 91 S.Ct. 1999 (Harlan concurring, 1971) as cited in *Donahue v. Board of Elections*, 435 F.Supp. 957 (E.D.N.Y. 1976, at 963.

Willful misconduct renders misconduct justiciable. *Hennings v. Grafton*, 523 F.2d 861, 864 (7th Cir. 1975).

“The Supreme Court has ... read the criminal counterpart to the civil rights statutes as conferring federal jurisdiction over corrupt practices in state-run elections for federal office.” *United States v. Saylor*, 322 U.S. 385, 64 S.Ct. 1101, [88 L.Ed.2d 1341] (1944) as cited in *Griffin*, 570 F.2d at 1076.

“Patent and fundamental unfairness” may be a violation of the due process clause. *Gold v. Feinburg*, 101 F.3d 796, 801 (2nd Cir. 1996) citing *Griffin*, 570 F.2d at 1077.

²⁰ *The Federalist No. 43* (James Madison)

The cyberattacks were not a “political act” of one party or a branch of the United States government, but rather a cyberwarfare invasion of the United States by a foreign hostile nation, and claims for violation of Article IV, § 4, are subject to adjudication.

Given that this is the most unprecedented and dangerous moment of truth in the history of our nation, the enormity of the crisis, and the elements described herein, the relief sought in this petition is only available through this, the nation’s highest court.

* * *

As the Supreme Court is the last of the Framers’ checks available to safeguard our Democracy, the Petitioners ask the Court to

1. Appoint Robert Mueller as the Special Master of this Court with all the authority he needs to carry on the investigation in the manner in which he is now doing.
2. Instruct the Special Master to investigate how the current Electoral College process works, and what changes are needed so that the Electors, in the future, act according to the mandates in the Constitution and the *Federalist Papers* to protect against electing a demagogue.
3. Instruct the Special Master to investigate the Russian cyberwarfare invasion against our elections.
4. Upon the receipt of the Special Master’s report, evaluate and carry out the Special

Master's recommendations as the Court deems appropriate and thus grant the relief here sought.

Such a Special Master would be safe from partisan political control of the President, Congress, and other Americans under investigation.

The Electors did not follow the Constitution or the Framers' intent, and confirmed a Russian-compromised President-elect who has obvious, severe personality disorders, which enabled a foreign power "to gain an improper ascendant in our councils," exactly as Hamilton feared.

The Court understands what our Framers intended for the electoral process and the Electors. The Court can clarify this role so that the Framers' intent is adhered to in the future. The Court can shine daylight on how the current Electoral College has not adhered to the Constitution and the Framers' intent. The Court can remedy this dangerous disregard of the Framers' intent.

The Court has the right and duty to defend America against Russia's cyberwarfare invasion. **Free and fair elections are the lifeblood of democracy and individual freedom.** The Court must protect this constitutional right.

Danger to our democracy grows greater each day. The Russian cyberwarfare attacked the integrity of America's free and fair elections. These elections are the foundation of our republic's democracy. Our republic has been a worldwide beacon of freedom for emerging and existing democracies. The Russian cyberwarfare invasion, aided and abetted by the

collusion of Americans, needs to be strongly rebuked and fully remedied without giving any consideration to politics.

The Court also knows the danger of a compromised President who, for example,

- is more concerned with Putin's wants than with American citizens' needs,
- personally thanked Putin for evicting 750 State Department employees, and
- threatened to destroy North Korea before the entire UN.

Such actions taken by the Court, exercising its full authority, will reassure all Americans, and the nations watching, that the United States is fully prepared to defend itself from without and within.

The Petitioners' sole intent is to protect the public good, and trust the Court to protect our Republic so that the right to life, liberty, and the pursuit of happiness is preserved.

This Petition is to protect the public good. The Court has the right to protect America against Russia's Cyber invasion. Petitioners realize the Court knows this emergency Petition is without precedent, as America has never before experienced a hostile foreign power's ascendant in our councils.

CONCLUSION

For the foregoing reasons, this Petition for a Writ of Mandamus should be granted.

Respectfully submitted,

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